

# GRAVITY®

## FRANCHISE DISCLOSURE DOCUMENT

GRAVITY FRANCHISING LLC  
a Washington limited liability company  
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Pacific, WA 98047  
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We offer franchise agreements for Gravity® Drive Thrus (which may also operate under the name GC®). Gravity Drive Thrus provide coffee, energy drinks, other beverages, and certain food items and merchandise through the operation of a retail Gravity drive thru.

The total investment necessary to begin operation of a Gravity franchise ranges from \$431,675 to \$1,672,095. This includes approximately \$77,249 to \$104,500 that must be paid to the franchisor or an affiliate.

We also offer area development agreements for Gravity Drive Thrus in which an area developer agrees to develop multiple Gravity Drive Thrus within a prescribed territory. The total investment necessary to begin operation of a Gravity Coffee Area Development franchised business for five (5) to ten (10) Drive Thrus ranges from \$190,400 to \$346,900, all of which must be paid to the franchisor or its affiliates. Additional amounts are required for the development of each Drive Thru; the total investment necessary to begin operation of the first Drive Thru under the Area Development franchised business is as stated above (\$54,900 is credited from the area development fee for the first Drive Thru). The total investment necessary to begin operation of subsequent Drive Thrus will be as described in our disclosure documents in effect at the time (\$45,000 is credited from the area development fee for the second Drive Thru, and \$30,000 for each subsequent Drive Thru).

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosure in different formats, contact Erika Christiansen, President of Operations, PO Box 7557, Bonney Lake, WA 98391, (253) 447-8740.

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

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

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

Issuance date: September 24, 2021

## 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:

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<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 I.
<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 J 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 Gravity 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 Gravity franchisee?</b>	Item 20 or Exhibit I list 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 L](#).

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

## Special Risks to Consider About *This Franchise*

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor first by non-binding mediation in Seattle, Washington, and if that process does not result in resolution, by arbitration or litigation only in Seattle, Washington. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, litigate with the franchisor in Washington than in your own state.
2. **Spousal Liability.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the Franchise Agreement, even if your spouse has no ownership interest in the franchise. This Guarantee will place both your and your spouse's marital and personal assets (perhaps including your house) at risk if your franchise fails.
3. **Supplier Control.** You must purchase all or nearly all of the inventory and supplies necessary to operate your business from Franchisor, its affiliates, or from suppliers that Franchisor designates at prices that the Franchisor or they set. These prices may be higher than prices you could obtain elsewhere for the same or similar goods. This may reduce the anticipated profit of your franchised business.
4. **Short Operating History.** This Franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise with a longer operating history.
5. **Financial Condition.** The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.

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

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EXHIBITS:

- A. Franchise Agreement
- B. Area Development Agreement
- C. Franchise Continuing Guaranty
- D. Area Development Continuing Guaranty
- E. Form of Non-Disclosure and Non-Competition Agreement
- F. Franchise Application and Confidentiality Agreement
- G. Franchisee Closing Questionnaire
- H. Sample General Release
- I. Franchisee Information
- J. Financial Statements of Gravity Franchising LLC
- K. Table of Contents of Manual
- L. State Administrators and Agents for Service of Process
- M. State Specific Addenda to Franchise Disclosure Document, Franchise Agreement, and Area Development Agreement
- N. State Effective Dates
- O. Receipts

## **ITEM 1**

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

To simplify the language in this disclosure document, “we,” “our,” “us” or “Gravity Franchising” means Gravity Franchising LLC, the franchisor. “You” or “your” means the individual, corporation, partnership, limited liability company, or other entity who buys the franchise, and in the case of any entity, “you” also includes the entity’s owners or partners.

#### Our Business

We are a Washington limited liability company and conduct business under the name of our company, Gravity Franchising LLC. We franchise businesses that operate “Gravity®” or “GC®” drive thrus (each a “Drive Thru”) with an inspiring, compelling customer environment, and a superior customer experience, that specialize in coffee and energy drinks (the “Gravity Products”), and may also offer a choice of smoothies, foods, other beverages, branded merchandise, and other products and services. We have no other business activities. We neither presently operate, nor intend to operate, Drive Thrus. We have offered franchises for Gravity Drive Thrus since the issuance date of this disclosure document. We have not previously offered franchises in any other line of business. We were incorporated on July 9, 2018 as “GC Coffee Franchising LLC”, but had no operations until 2020; we changed our name to Gravity Franchising LLC on April 9, 2020.

#### Our Parents, Predecessors, and Affiliates

We do not have any parent company.

Our affiliate Gravity Coffee Company LLC (“GCC”), a Washington limited liability company, has since 2016 operated businesses of the type being franchised, and currently operates 12 Drive Thrus. GCC created the Gravity concept and system and has licensed us to use the Gravity system in connection with our operations and to sublicense the system to franchisees. GCC may be considered our predecessor.

Our affiliate GC Ventures LLC, a Washington limited liability company, currently operates 4 Drive Thrus and will be the primary owner and operator of new affiliate-owned Drive Thrus for the foreseeable future. Gravity Group LLC, a Washington limited liability company, operates our flagship Drive-Thru near our headquarters. Otherwise, GCC, GC Ventures LLC, and Gravity Group have not offered franchises in this or any other line of business.

Our affiliate Beyond Distributing LLC (“Beyond”), a Washington limited liability company, has since 2019 supplied coffee products, supplies and branded merchandise to our company-owned and franchised Drive Thrus. Our affiliate Zato Coffee LLC (“Zato”), a Washington limited liability company, has since 2021 supplied roasted coffee to our company-owned and franchised Drive Thrus. Our affiliate Grav-IT LLC (“Grav-IT”), a Washington limited liability company, has since 2021 supplied information technology services and equipment to our company-owned and franchised Drive Thrus. Our affiliate GC Collection LLC (“GC Collection”), a Washington limited liability company, has since 2021 supplied branded apparel to our company-owned and franchised Drive Thrus.



Our principal business address and that of our affiliates is 1155 Valentine Ave SE, Pacific, WA 98047. The names and principal business addresses of our agents for service of process are listed in Exhibit L.

### The Franchise

We offer qualified candidates a franchise that includes the right to operate a single retail Gravity Drive Thru under the trade names "GC®" and "Gravity®," along with "Stay Grounded®," using the business format established by GCC and identified by GCC's trademarks. The location of the Drive Thru is chosen by the franchisee subject to our review and acceptance according to our site selection criteria. The Drive Thru must be operated in accordance with our standards and specifications. Franchisees must sign a franchise agreement (see Exhibit A) and pay the required fees. We may change the form and terms of the agreements used with other franchisees in the future.

We also offer our area development program under this disclosure document. Under the area development program we assign a defined area (the "Development Area") within which you must develop and operate a specified number of Drive Thrus within a specified period of time (the "Development Obligation"). The Development Area may be one or more cities, counties, or states, or some other defined area. If you participate in this program, you will sign an area development agreement (see Exhibit B) which will describe your Development Area and your development schedule and other obligations, and you must pay the required fees. You will sign a separate franchise agreement for each Drive Thru you open under the area development agreement on our then-current form, except as otherwise provided in your area development agreement.

The purchase option agreement attached to the franchise agreement as Exhibit F gives us the right to require you to transfer your assets to us in exchange for a purchase price we will pay you based on a formula set in the purchase option agreement. See FDD Item 17(o). If the real estate underlying the Drive Thru is owned by any person or entity affiliated with you, the purchase option agreement also gives us the right to require the owner to transfer the real estate to us for fair market value determined by a neutral appraiser. If we exercise our option, you may defer our right to purchase if you make upgrades to your location according to our then-current specifications.

### General Market and Competition

We believe that the market for services and products offered by Drive Thrus is established and year-round, although sales volumes will vary due to weather and seasonality, which may be more pronounced in some geographical areas or at some locations. Cash flow should be managed on an annual basis due to sales differences by season. The primary markets for these products and services consist of individuals and families. There is substantial competition in the retail coffee business. Examples of competitors include national, regional and local, franchised and independently owned coffee businesses, mail order, restaurants, grocery stores, bulk food stores, department stores and convenience stores. You should consider these competitive factors before deciding to sign a franchise agreement.

## Industry-Specific Laws and Regulations

A wide variety of federal, state, and local laws, rules, and regulations have been enacted that may impact the operation of your Drive Thru, and may include those which: (a) establish general standards, zoning, permitting restrictions and requirements and other specifications and requirements for the location, construction, design, maintenance and operation of the business premises; (b) set standards pertaining to employee health and safety; (c) regulate matters affecting (i) the health, safety and welfare of your customers, such as general health and sanitation requirements for restaurants as well as laws and regulations relating to access by persons with disabilities, (ii) employee practices concerning the storage, handling, cooking, and preparation of food, (iii) restrictions on smoking and (iv) availability of and requirements for public accommodations and requirements for fire safety and general emergency preparedness; (d) establish requirements for food identification and labeling; and, (e) regulate advertisements. State and local agencies inspect food service businesses to ensure that they comply with these laws and regulations. You should investigate whether there are regulations and requirements that may apply in the geographic area in which you are interested in locating your business and should consider both their effect and cost of compliance.

You should understand that the process by which Gravity Products are produced, and the labeling and signage for the Gravity Products, may be subject to state or local laws covering coffee and energy drink products, and the impact of various food and agriculture or health department codes and regulations on the Gravity Products and its preparation and other processes is uncertain and could be material. It is possible that adjustments to the Gravity Products production, in-store handling and preparation processes, and labeling and signage will require modifications from state to state and also at the local level, including possibly additions or changes to equipment requirements or facility layout and operations. We have not reviewed every state and local jurisdictions' codes in this or any other regard.

It is your sole and continuing responsibility, to identify, investigate, satisfy, and comply with all laws, ordinances and regulations applicable to your Drive Thru, including employment, workers' compensation, insurance, corporate, tax, public health and similar laws and regulations, because they vary from place to place, can change over time, and may affect the operation of your business.

You should independently research and review the legal requirements of the food services industry with your own attorney before you sign any binding documents or make any investments.

## **ITEM 2 BUSINESS EXPERIENCE**

The following is a list of our directors, principal officers, and other individuals who will have management responsibility relating to the sale or operation of franchises offered by this disclosure document, and includes his or her principal positions and employers during the past five years.

### **Maximo Ansola III – Chief Executive Officer**

Maximo Ansola III has been our CEO and Director since our inception in July 2018. He has also been the CEO of our affiliate GCC since August 2015.

### **Mark Miller – President of Sales**

Mark Miller has been our President of Sales, as well as Chief Operating Officer of our affiliates Gravity Energy LLC and Zato, since September 2019. Before joining us, he was Inventory Manager for Smith Brothers Farms in Kent, Washington from May 2008 to September 2019.

### **Erika Christiansen – President of Operations**

Erika Christiansen is a licensed attorney and has been our President of Operations, as well as President for our affiliate Gravity Energy LLC, since June 2021. Prior to that, she was our In-House Counsel, as well as for our affiliate GCC, from June 2020 to May 2021. Before joining us, she was In-House Counsel for TVI, Inc. (dba Savers and Value Village) in Bellevue, Washington from August 2019 to March 2020; In-House Counsel for Johnny Rockets in Wilbraham, Massachusetts from December 2018 to July 2019; and Associate Counsel for The Patron Spirits Company in Las Vegas, Nevada from February 2012 to October 2018.

### **Michael Spence – Vice President of Sales**

Mike Spence has been our Vice President of Sales, as well as Chief Technology Officer for our affiliate GCC, since August, 2021. Before joining us, Mike was President of SelbySoft, Inc. in Puyallup Washington since 2015.

### **Zoey Haver – Controller**

Zoey Haver has been our Controller, as well as for our affiliate GCC, since March 2019. Before joining us, she was an Accountant with Saturn Group LLC in Bellevue, Washington from August 2017 to March 2019. Prior to that she was a student.

### **Mariah O’Neil – In-House Counsel**

Mariah O’Neil has been our In-House Counsel, as well as for our affiliate GCC, since September 2021. Before joining us, she was an Associate Attorney for Phillips Burgess PLLC in Tacoma, Washington from January 2021 to September 2021; an Administrative Assistant with NW Monitoring LLC in Gig Harbor, Washington from December 2020 to January 2021; an Administrative Assistant with PC Medical Billing in Gig Harbor, Washington from February 2018

to December 2020; and an Administrative Assistant with Pacific Coast Medical Billing in Gig Harbor, Washington from April 2016 to January 2018.

### **ITEM 3 LITIGATION**

No litigation is required to be disclosed in this Item.

### **ITEM 4 BANKRUPTCY**

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

### **ITEM 5 INITIAL FEES**

Initial Franchise Fee. You must pay a \$54,900 lump sum franchise fee when you sign the franchise agreement. If this is your second or subsequent Gravity franchise, (i) the initial fee is \$45,000 for the second Gravity Coffee franchise, and (ii) \$30,000 for the third or subsequent Gravity franchise.

Opening Inventory, Supplies and Smallwares. Before you open you must purchase most of your initial inventory and supplies from our affiliates. The cost of this initial inventory and supplies from our affiliates typically ranges from \$8,000 to \$20,000.

Initial IT Services and Equipment. Before you open, you must have certain information technology equipment and services installed by us under one of the following offered service plans:

- Platinum is a white-glove service plan that includes the complete on-site installation of the POS System, audio system, network system, and security camera system. We provide: 2 installers on-site for 3 days; all associated equipment and hardware; installation, mounting, and testing; and limited training. You are responsible for: ensuring all cabling is done and internet connection(s) established prior to arrival, per our specifications. The fee you pay us for the Platinum service is currently \$20,000, and includes the cost of equipment and hardware. We may increase the fee at any time to cover our increased costs. You must also pay for our employees' travel expenses (airfare, lodging, and local transportation) to provide you the on-site services, which is estimated to be approximately \$2,150 to \$3,600.
- Gold is a white-glove service plan that includes the on-site installation of the POS System and network system. We provide: 1 installer on-site for 3 days; all equipment and hardware, installation, and testing for these two systems; and limited training. You are responsible for: ensuring all cabling is done and internet connection(s) established prior to arrival, per our specifications; all mounting, including drilling holes, for the POS System and network system; purchasing all equipment and hardware for the audio system and security camera system; and arranging for the installation, mounting, and testing of the audio system and security camera system. The fee you pay us for the Gold service is

currently \$15,000, and includes the cost of the POS System and network system equipment and hardware. We may increase the fee at any time to cover our increased costs. You must also pay for our employees' travel expenses (airfare, lodging, and local transportation) to provide you the on-site services, which is estimated to be approximately \$1,075 to \$1,800.

- Silver is a self-install service plan that includes our remote support for your own installation of the POS System and network system. We provide: remote support (backend assistance) for the POS System and network system for the duration of the day you arrange for installation, and the duration of your "go live" day. You are responsible for: purchasing all required equipment and hardware; arranging for the on-site installation, mounting, and testing of the POS System, audio system, network system, and security camera system; and providing us adequate advance notice of you installation and "go live" days. The fee you pay us for the Silver IT service is \$4,999, and **does not** include the cost of any equipment or hardware. You must purchase the required equipment and hardware separately, some from us (for an estimated current cost of about \$5,750) and the rest from designated Suppliers (for an estimated current cost of about \$6,750).

Area Development Fee. If you are offered an Area Development franchise, you will sign our current form of area development agreement and you must pay an area development fee, equal to \$54,900 for the first Drive Thru, plus \$45,000 for the second Drive Thru, plus \$30,000 multiplied by the number of remaining Drive Thrus in your Development Obligation. The area development fee for five (5) to ten (10) Drive Thrus is \$189,900 to \$339,900. When we accept the site for each Drive Thru, you will sign a separate franchise agreement, and pay us the initial franchise fee. However, we will credit the area development fee paid against the initial franchise fee due as follows: \$54,900 for the first Drive Thru, \$45,000 for the second Drive Thru, and \$30,000 for each subsequent Drive Thru, until the area development fee is exhausted.

Optional Payments. Optional initial payments to us include the following:

- We offer an optional consultation to assist you in finding and implementing a security system (which we must approve), for a one-time fee of \$250.

Variability; Non-Refundable. Initial fees are uniform for all franchises which we presently offer under this disclosure document, and are not refundable under any circumstances. If you receive existing customers or assets from us or our affiliate, you may pay additional amounts for goodwill or assets under a separate purchase agreement.

**ITEM 6  
OTHER FEES**

<b>Type of fee<sup>(1)</sup></b>	<b>Amount<sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
Continuing Royalty	7% of Gross Sales <sup>(2)</sup>	At such times and in the manner as we specify, currently weekly	
Marketing Fee	Up to 2% of Gross Sales <sup>(2)</sup> ; currently 1% of Gross Sales	Same as Continuing Royalty	The " <b>Marketing Fee</b> " is in addition to the 2% of Gross Sales, which you must spend on local advertising under Section 8.2 of your franchise agreement, if required by us.
Co-op Advertising <sup>(5)</sup>	We establish the minimum amount, subject to change by vote of the Co-op, but not lower than the minimum amount we establish (typically between 0.5% and 2% of Gross Sales).	As determined by the Co-op	We and our affiliates are entitled to one vote for each company-owned or affiliate-owned Drive Thru in the Co-op. Your contributions to a Co-op Advertising Region will be credited against your Local Advertising Expenditure (see Item 11).
Initial Training Program	Our then-current training fees (currently \$350 per person per day) for each person in excess of three (3) trainees.	Upon demand	We provide an Initial Training Program (see Item 11) for up to three (3) persons at our training facilities in Pacific, Washington or at another Drive Thru location that we determine, at no additional charge. However, you must pay our then-current training fees for each person in excess of three (3) persons.

<b>Type of fee<sup>(1)</sup></b>	<b>Amount <sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
On-Site Opening Assistance	You must reimburse us for our employees' travel expenses, which is estimated to be approximately \$3,600 to \$6,000. <sup>(4)</sup>	Upon demand	This amount includes two (2) trainers for approximately five (5) days.
Additional or Remedial Training	Our then-current daily training fee (currently \$350 per day) and reimbursement of our employees' travel expenses. <sup>(4)</sup>	Upon demand	You only pay if we provide remedial or additional training which may be mandatory or optional.
Certification Training	Our then-current training fee (currently \$350 per day) and reimbursement of our employees' travel expenses. <sup>(4)</sup>	Upon demand	You must have a Certified Training Store if and when you and your affiliates own and operate five (5) or more Drive Thrus (see Item 11).
Assistance provided at your request	Our out-of-pocket expenses and our employees' travel expenses, <sup>(4)</sup> wages and other expenses.	Upon demand	Assistance at your request is at our discretion and is subject to our scheduling and capacity requirements.
Training Cancellation / Rescheduling Fee	You must pay us our then-current per-day training fee plus travel expenses <sup>(4)</sup> for each day our on-site trainers are on site but unable to train because you are not ready or must otherwise delay the on-site training.	Upon demand	You only pay if you or any of your employees cancel or reschedule any scheduled on-site training without giving us prior notice.
Customer Experience Program Fee	Franchisee's pro rata costs of the program.	Same as Continuing Royalty	You must participate in our mystery shopper and customer experience feedback program.

<b>Type of fee<sup>(1)</sup></b>	<b>Amount <sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
Payments for Authorized Gravity Products and Services	Products and services are charged at the then-current prices that we publish to franchisees.	Upon purchase or billing	You must buy certain Authorized Gravity Products and Services that we designate from us or our affiliates. See Item 8 for additional disclosures.
Approval of Suppliers	You must pay our costs to review a new supplier, including inspection of the supplier's facilities, equipment, product testing, etc. Our costs are difficult to predict and depend on the supplier; its location; and the item(s) proposed to be supplied.	Upon demand	You pay only if you request us to approve a new supplier.
Information Systems (Technology) Fee <sup>(6)</sup>	Our then-current reasonable charges. The current fee is \$739 per month, per Drive Thru, plus any travel expenses <sup>(4)</sup> for onsite support.	Upon demand	We may sell, license or sublicense Information Systems (see Items 8 and 11) and related services provided by us or third parties. See Note 6.
Monthly Schedule Management Software Fee	Approximately \$80 per Drive Thru	Upon demand	If you elect to use our recommended schedule management software, we will collect the associated monthly software subscription fee
Monthly Music Subscription Fee	\$25	Upon demand	You must subscribe to the music service we designate.



<b>Type of fee<sup>(1)</sup></b>	<b>Amount <sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
Email Account Fee	Our then-current reasonable charges. The current fee is \$4-\$10 per month per user	Upon demand	You must pay this fee for each email account you are required to maintain (plus any additional accounts you choose) that uses one or more of our domains.
Computer Setup Fee	Our then-current reasonable charges. The current fee is \$250 per computer (laptop or desktop).	Upon demand	Upon your request and our availability, we will remotely assist you with the setup of a new computer with our Information Systems
Relic POS Fee	Our then-current reasonable charges. The current fee is \$795 per year, plus \$25 per month per POS terminal	Upon demand	You must pay this fee if we implement a new POS System and you fail to timely convert to the new POS System, requiring us to maintain aspects of the prior POS System. Payment does not absolve the obligation to timely convert or other remedies.
Intranet Service Fee	Our then-current intranet service fee. We have not begun to collect the intranet service fee. We anticipate that when we begin to collect the fee it will be up to \$100 per month.	Same as Continuing Royalty	The fee is based on our costs for providing intranet services and the fee may be periodically adjusted based on our vendor's charges.
Audit	Cost of audit plus interest on the underpayment at the highest rate allowable by law (not to exceed 18% per annum).	Upon demand	You must pay the cost of the audit only if the audit shows an underpayment of 2% or more of Gross Sales for any month.

<b>Type of fee<sup>(1)</sup></b>	<b>Amount <sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
Assignment	20% of our then-current initial franchise fee (currently, \$10,000)	Upon submission of your request to transfer	Payable when you sell or assign your franchise.
Concurrent assignment of a franchise agreement to a subsidiary of you	Our direct and indirect costs and expenses, including reasonable attorneys' fees (presently estimated to range from \$500 to \$2,000).	Upon demand	Only payable if you sign and concurrently assign a franchise agreement to a wholly owned subsidiary.
Private Offering	The greater of (a) \$5,000 or (b) our reasonable costs and expenses associated with reviewing the proposed offering.	Upon submission of your request	Only payable if you offer securities in a private offering.
Review of revised entity information	Our direct and indirect costs, including attorneys' fees, to review revised entity information (presently estimated to range from \$500 to \$2,000).	Upon demand	Due only if you are an entity and make a change in owners and officers. You must advise us within ten (10) days of any change in the information previously provided.
Late Fee	Interest of 18% per annum, or the highest interest rate allowable by law, on any unpaid amounts.	Upon demand	Due only if you are late making payments. Interest accrues from the date of the underpayment.
Charges for unpaid checks, drafts or electronic payments	Our costs and expenses arising from the non-payment, including bank fees in the amount of at least \$50 and other related fees incurred by us.	Upon demand	Payable only if any check, draft, electronic or other payment is unpaid because of insufficient funds or otherwise.

<b>Type of fee<sup>(1)</sup></b>	<b>Amount <sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
EFT Late Fee	\$100	Upon demand	Payable if you fail to provide an updated electronic funds transfer form upon switching designated bank accounts.
Renewal Fee	Our then-current renewal fee (currently \$5,000).	Upon signing a renewal franchise agreement	
Reimbursement of our expenditures	Actual expenditures made on your behalf and our costs and expenses resulting from your default.	Upon demand	Payable only if we advance, pay or become obligated to pay sums on your behalf, or if we incur costs (including internal costs) as a result of your default.
Background and credit check expenses	Our costs and expenses to conduct criminal background checks and credit checks on you and your owners.	Upon demand	We may conduct such checks at any time before or during the term of your franchise agreement, in our discretion.
Insurance	Cost of insurance plus our costs in obtaining the insurance for you.	Upon demand	Payable only if you do not obtain and maintain the requisite insurance coverage. We may, at our option, purchase insurance for you and you must reimburse us.

<b>Type of fee<sup>(1)</sup></b>	<b>Amount <sup>(3)</sup></b>	<b>Due Date</b>	<b>Remarks</b>
Damages, Liquidated Damages, Costs and Attorneys' Fees	Will vary under circumstances.	As incurred	Payable if your non-compliance with the franchise agreement causes us to incur damages or expenses, or if we prevail in arbitration or litigation. You also pay any statutory remedies, and liquidated damages equal to the average monthly royalty payment for the prior twelve (12) months, multiplied by the number of months left in the term.

- (1) All fees are imposed by and are payable to us or our affiliates and are non-refundable. All fees that we currently impose in this state are uniform, except that we may exempt certain franchisees from participation in Co-op Advertising Regions. For example, we may exempt franchisees that operate Drive Thrus at non-traditional venues (see Item 12) or whose agreements do not require participation. Franchises sold prior to the date of this disclosure document may require the franchisees or franchisee to pay fees on a basis other than as described in this Item.
- (2) "Gross Sales" is defined in the franchise agreement as: "the total of all sales made and revenue and income derived by Franchisee, whether in cash or for credit or barter, or other means of exchange (and, if for credit or barter, whether or not payment is received therefor), on account of any and all goods, merchandise, services or products sold in or from the Drive Thru, or which are promoted or sold under any of the Marks, whether or not Company offers such services or products in its other locations, including: (a) revenues from sales of any nature or kind whatsoever, derived by Franchisee or by any other person or Entity (including Franchisee's Affiliate(s)) from the Drive Thru; (b) sales of Authorized Gravity Coffee Products and Services at any location, whether in compliance or in contravention of this Agreement; (c) the full sale price to the consumer for items sold through third-party delivery services, with no discount for the delivery service's fee or commission; and (d) the proceeds of any business interruption insurance, after the satisfaction of any applicable deductible. Notwithstanding the foregoing, 'Gross Sales' shall exclude the following: (i) sums representing sales taxes collected directly from customers by Franchisee in the operation of the Drive Thru, and any sales, value added or other tax, excise or duty charged to customers which is levied or assessed against Franchisee by any federal, state, municipal or local authority, based on sales of specific goods, products, merchandise or services sold or provided at or from the Drive Thru,

provided that such taxes are actually transmitted to the appropriate Governmental Authority; (ii) sums representing tips, gratuities or service charges paid directly by customers to employees of Franchisee or paid to Franchisee and promptly, and to the extent, remitted to such employees by Franchisee in lieu of direct tips or gratuities; and (iii) proceeds from isolated sales of equipment and trade fixtures not constituting any part of Franchisee’s products and services offered for resale at the Drive Thru nor having any material effect upon the ongoing operation of the Drive Thru required under this Agreement.”

- (3) Specified dollar amounts are subject to an inflation adjustment annually in proportion to the change in the Consumer Price Index, U.S. Average, all items, maintained by the U.S. Department of Labor (or any replacement index selected by us).
- (4) Travel expenses include the costs and expenses of airfare, hotel/lodging, local transportation, meals, and a per diem charge that we will determine.
- (5) As of the date of this disclosure document, we have not formed any Co-op Advertising Regions. As disclosed in Item 11, at all meetings of Co-op Advertising Regions, each participating franchisee is entitled to one vote per Drive Thru that franchisee operates in the Co-op Advertising Region and we and our affiliates are entitled to one vote for each company-owned or affiliate-owned Drive Thru in the Co-op Advertising Region, or such other vote as may reasonably be determined by us.
- (6) Currently the Information Services Fee covers your POS System software subscription and IT support services up to 16 hours per month total, as described in our Manual—currently, basic Microsoft Office and laptop/desktop support (licensing, password resets, add/remove user accounts, email setup, and printer setup) for up to 2 laptops or desktops; general backend support for POS System (adding new establishments, adding new admins); and network support if using our default system (firmware updates, access point tuning). (See Item 11).

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

Type of Expenditure <sup>(1)</sup>	Amount		Method of Payment	When Due	To Whom Payment is to be Made
	Low	High			
Initial Franchise Fee	\$54,900	\$54,900	Lump Sum	On signing franchise agreement	Us

Type of Expenditure <sup>(1)</sup>	Amount		Method of Payment	When Due	To Whom Payment is to be Made
	Low	High			
Rent (first three (3) month's) and Lease Security Deposit <sup>(2)</sup>	\$14,000	\$44,000	As arranged	As specified in the lease	Landlord/mortgagee/sub-lessor
Permitting and Design <sup>(3)</sup>	\$10,000	\$50,000	As arranged	Before Opening	Design professionals; government agencies
Building Construction <sup>(4)</sup>	\$150,000	\$500,000	As arranged	Before Opening	Designated or approved suppliers
Optional Site Selection Services <sup>(5)</sup>	\$0	\$20,000	As arranged	Before Opening	Designated or approved suppliers
Construction Management Services <sup>(6)</sup>	\$0	\$35,000	As arranged	Before Opening	Designated or approved suppliers
Site Work <sup>(7)</sup>	\$5,000	\$500,000	As arranged	Before Opening	Third-party suppliers
Kitchen, Restaurant and Bar Furnishings, Fixtures, and Equipment <sup>(8)</sup>	\$105,000	\$250,000	As arranged	Before Opening	Designated or approved suppliers
Signs and Exterior <sup>(9)</sup>	\$16,000	\$50,560	As arranged	Before Opening	Designated or approved suppliers
Information Systems, including POS System <sup>(10)</sup>	\$21,975	\$24,835	As arranged	Before Opening	Us; Affiliates; Designated or approved suppliers
Back Office Furniture, Equipment and Supplies <sup>(11)</sup>	\$1,500	\$2,500	As arranged	Before Opening	Third-party suppliers

Type of Expenditure <sup>(1)</sup>	Amount		Method of Payment	When Due	To Whom Payment is to be Made
	Low	High			
Smallwares <sup>(12)</sup>	\$4,400	\$7,700	As arranged	Before Opening	Us; Affiliates; Designated or approved suppliers
Opening Inventory and Supplies <sup>(13)</sup>	\$5,000	\$20,000	As arranged	Before Opening	Us; Affiliates; Designated or approved suppliers
Travel Expenses for Initial Training, IT Installation, and Opening Assistance <sup>(14)</sup>	\$6,900	\$21,600	As arranged	As incurred	Travel, lodging, meals, and transportation suppliers; Us
Security Deposits (Other than Lease), Utility Deposits, Business License <sup>(15)</sup>	\$700	\$3,000	As arranged	Before Opening and first ninety (90) days from opening	Utilities; government agencies
Grand Opening Promotion <sup>(16)</sup>	\$12,000	\$15,000	As arranged	Before opening and during three (3) months following opening	Third-party suppliers
Professional Services <sup>(17)</sup>	\$2,500	\$10,000	As arranged	Before opening	Third-party suppliers
Insurance – Three (3) Months <sup>(18)</sup>	\$1,800	\$3,000	As arranged	As arranged	Insurance companies and agencies
Additional Funds- Three (3) Months <sup>(19)</sup>	\$20,000	\$60,000	As arranged	As incurred	Third-party suppliers, employees, etc.

Type of Expenditure <sup>(1)</sup>	Amount		Method of Payment	When Due	To Whom Payment is to be Made
	Low	High			
TOTAL <sup>(20)</sup>	\$431,675	\$1,672,095			

**Note: All amounts are non-refundable unless otherwise noted.**

- (1) Expenditures. This table shows the estimated expenditures required to develop one (1) Drive Thru. Except shipping charges, fees charged by us are uniform. We do not finance any fees.
- (2) Rent; Security Deposit. Most of our franchisees will lease the Drive-Thru location. We estimate that a standard Drive-Thru will need from 400 to 750 square feet of floor space and at least 10,000 square feet of exterior space for parking, circulation, etc.

We have attempted to estimate a range of rent expenses, and these figures represent a security deposit equal to one month's rent, no rent due during construction, and rent for the first three (3) months of operations. However, it is not possible for us to estimate your rent expenses with much certainty, due to the material differences in these costs from location to location, and because some institutional landlords may charge a variable rent based on a percentage of your sales, with no fixed minimum rental charge. You should investigate rents in your own area.

We anticipate a small percentage of our new franchisees will choose to purchase and develop the real property on their own. Because of the wide variation in the cost of real property and other development costs, it is not possible for us to reasonably estimate the cost of site development. The total cost will vary with such factors as Drive-Thru site size and type, configuration, government permits and fees, property size, remodeling needs, and location. All Drive Thrus must meet all of our Standards.

- (3) Permitting and Design. You are responsible for engaging appropriate licensed professionals to prepare all necessary construction drawings for the specific site and dimensions of the Drive Thru. This category estimates your likely fees for architectural and design services to develop construction drawings, the cost of building permits which you must obtain before you begin construction work, and the services of a design professional that you must engage for administration of the construction process. The permitting process and attendant costs can vary substantially by local jurisdiction and you are responsible for investigating these costs. We may on a case by case basis, and in our sole discretion, allow the development of a Drive Thru model that is different from our standard model.
- (4) Building Construction. The cost of construction and remodeling depends on the size and condition of the premises, the local cost of contractors and other trades and the location



of your Drive Thru. The amount may be less if the lessor provides a construction allowance for tenant improvements and on how you negotiate the terms of your lease. The construction costs generally range from \$150,000 to \$500,000. If you are not constructing a new building, this estimate assumes you select a site that is in good condition that meets applicable building codes, and therefore does not require exterior repair, seismic work or retrofitting, or other accessibility improvements to meet local codes. Any additional costs can vary widely depending upon a multitude of factors, including zoning and leasehold requirements, local regulations and other factors.

- (5) Optional Site Selection Service. You may use our approved site selection company or a third-party vendor to identify your site. A list of approved site selection vendors will be provided to you. The low estimate assumes that you locate the site without assistance from a third party. The high estimate assumes you use a third-party to locate your site.
- (6) Construction Management Service. You must use a construction management service designated or approved in writing by us, unless you are qualified in our sole discretion to act as your own construction manager. A list of approved construction management vendors will be provided to you. The low estimate assumes that we allow you to act as your own construction manager. The high estimate assumes you use a third party vendor to manage the construction of your Drive-Thru, which vendor may be located outside of your area and must travel to visit the site multiple times.
- (7) Site Work. If the site you select requires work to prepare the site for building construction, including grading, excavation, landscape irrigation, and the installation of driveways, you will incur costs for this site work. Site work costs can vary widely depending on a multitude of factors, including zoning and leasehold requirements, local regulations and other factors.
- (8) Kitchen, Restaurant, and Bar FF&E. Figures for this category include tables, chairs, espresso machine, coffee grinders, blenders, refrigerator, sink, ice machine, shelving, and other food and beverage equipment.
- (9) Signs. Four (4) "Gravity," "GC," or "Stay Grounded" signs, four (4) "Drive Thru" signs, and four (4) "Open" signs are required and included in these figures.
- (10) Information Systems. Figures for this category include costs for the minimum equipment and hardware required for the POS System, network system, audio system, camera system, and alarm system; the installation of these Information Systems; and three (3) months of our monthly information systems and email account fees, schedule management software fees, and music service fees. We have not included the cost of any other hardware or software maintenance agreements. See Item 11. You must obtain a high-speed communications connection (such as DSL or cable internet connection services), and may be required to have a backup communications connection to meet our specifications. You may be required to upgrade to a T-1 line under certain circumstances. Your initial

investment will depend on your location, and any modifications needed for hook up and installation.

- (11) Back Office FF&E. Figures for this category include the cost of a small desk, chair, personal computer, printer and phone system.
- (12) Smallwares. Figures for this category include the cost of ice scoops, serving spoons, shot glasses, shakers, food pans, tongs, and other coffee related utensils and items.
- (13) Opening Inventory and Supplies. Figures for inventory assume an opening inventory and replenishment for the first fourteen (14) days of operation and include coffee, cups, straws, sleeves, syrups, sauces, dairy, food, plastic and paper goods, etc., which may have COD requirements if you do not meet credit criteria. The amount you pay will vary depending upon the amount of products you order, your staff size and business volume.
- (14) Travel Expenses. You must arrange and pay for transportation, meals and lodging for all your trainees while attending the Initial Training Program. The amount you spend will depend upon several factors, including the number of people you send for training, the distance you have to travel and the type of accommodations you choose. These amounts approximate the lodging, meal, and local transportation costs for one (1) to three (3) people for ten (10) days at \$300 per person per day, and airfare to range from \$300 to \$1,000 per person. The high and low estimates also include airfare, lodging, and local transportation for two (2) trainers for up to five (5) days for our on-site opening assistance; and the high estimate includes the airfare, lodging, and local transportation for two (2) installers for up to three (3) days for our on-site information systems installation service. We estimate lodging and local transportation for our trainers and installers to be approximately \$300 per day, per person (\$400 in major metropolitan areas). We estimate airfare to range from \$300 to \$1,000 per person.
- (15) Other Deposits; Business License. The figures provided for utility deposits do not include any special connection and/or tap fees, or sales taxes, which are based upon projected sales. You may also have to obtain a license to do business in the city or county where you conduct business; this will depend upon your local ordinances.
- (16) Grand Opening Promotion. You must carry out a grand opening promotion for your Drive Thru in accordance with our standards, spending not less than \$5,000 on marketing. You will pay any third party advertising vendors directly, but all grand opening advertising must be agreed upon by you and us in advance, and all advertising must conform to our standards and specifications. We generally also require the grand opening to include a free drink promotion of one (1) size per person for three (3) days, for which you must cover the costs of goods.
- (17) Professional Services. This estimate includes the cost related to professional (i) legal services you will need for the review of this disclosure document and its Exhibits, as well as entity formation and lease negotiation, and (ii) bookkeeping and accounting services in the initial set up and planning of your business.

- (18) Insurance. You must maintain certain types and amounts of insurance coverage according to our Standards, as disclosed in Item 8.
- (19) Additional Funds. Additional Funds is an estimate of certain funds needed to cover business (not personal) expenses during the first three (3) months of operation of your business. You will need capital to support on-going costs of your business, such as payroll, utilities, taxes, loan payments and other expenses, if revenues do not cover business costs. This is only an estimate, and we cannot guarantee that the amounts specified will be adequate. You may need additional funds during the first three (3) months of initial operation or afterwards. In addition, Additional Funds relate only to costs associated with the Drive Thru and do not cover any owners' draw or personal, "living," unrelated business or other expenses you may have, such as royalty payments, debt service on any loans, state sales and/or use taxes on goods and service, and a variety of other amounts not expressly described and included in the notes above.
- (20) Total. All of the above figures are estimates of certain initial start-up expenses for a single Drive Thru. The "Total" figure listed in the above chart does not include compensation for your time or labor, costs for obtaining a vehicle (if needed), or any development fees.

In preparing the figures in this chart, we relied on our affiliates' experience constructing and developing Drive Thrus in Washington.

Because costs can vary, we strongly recommend before making any decision to purchase the franchise that you: (a) obtain independent estimates from third-party vendors and your accountant of the costs which would apply to your proposed establishment and continued operation of a Drive Thru; (b) research applicable regulations and their impact on your costs and operations; and (c) carefully evaluate the adequacy of your total financial resources and reserves.

**YOUR ESTIMATED INITIAL INVESTMENT**  
**(Area Development Agreement – Assumes Commitment from 5 to 10 Drive Thrus)**

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment is to be Made
	Low	High			
Initial Development Fee <sup>(1)</sup>	\$189,900	\$339,900	Lump sum	On signing area development agreement	Us
Professional Services <sup>(2)</sup>	\$500	\$7,000	As Arranged	As Arranged	Third-party suppliers
<b>TOTAL</b>	<b>\$190,400</b>	<b>\$346,900</b>			

**Note: All amounts are non-refundable unless otherwise noted.**

- (1) Initial Development Fee. As described in Item 5, upon signing an area development agreement, you must pay an area development fee, equal to \$54,900 for the first Drive Thru, plus \$45,000 for the second Drive Thru, plus \$30,000 multiplied by the number of remaining Drive Thrus in your Development Obligation. The area development fee for five (5) to ten (10) Drive Thrus is therefore \$189,900 to \$339,900. When we accept the site for each Drive Thru, you will sign a separate franchise agreement, and pay us the initial franchise fee. However, we will credit the area development fee paid against the initial franchise fee due as follows: \$54,900 for the first Drive Thru, \$45,000 for the second Drive Thru, and \$30,000 for each subsequent Drive Thru, until the area development fee is exhausted.
- (2) Professional Services. This estimate includes the cost related to professional (i) legal services you will need for the review of the area development agreement, as well as entity formation, and (ii) bookkeeping and accounting services in the initial set up and planning of your business.

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

### General Comments.

In operating your Drive Thru, you must adhere to our Standards. Our "Standards" are the then-current specifications, standards, policies, procedures and rules we prescribe for the development, ownership and operation of Drive Thrus. We may identify our Standards by (i) designating the specific equipment, ingredients, food items, beverage products, services, or supplies that you must or may use or sell by brand name, manufacturer, supplier, model number or minimum features or comparable specifications; (ii) providing minimum standards for quality, including freshness or appearance; (iii) supplying you with prototype drawings, trade dress specifications, and other detailed operating instructions and procedures; (iv) providing you with recipes and designated sources of supply; or (v) a combination of these approaches.

These Standards promote uniformity among Gravity Drive Thrus, ensure consistency in the quality of the products and services that Gravity Drive Thrus serve to customers, and strengthen customer confidence in the trademarks, service marks, trade names, logotypes or commercial symbols owned by us or our affiliates. Our Standards will be communicated to you through the Manual, bulletins, electronic communications and other directives. We may revise the Standards in our discretion as frequently as we believe is necessary through written or electronic bulletins, supplements to the Manual, or postings on our network-wide intranet. You must conform to all changes in our Standards at your cost within the time we allow.

We estimate that 70% to 90% of your expenditures for leases and purchases in establishing your Drive Thru, and 70% to 90% of your expenditures on an ongoing basis during the operation of your Drive Thru, will be for goods and services that are subject to our Standards and sourcing restrictions (that is, from us, our affiliates, or from Suppliers we designate or approve).

## Real Estate – Drive Thru

You are solely responsible for locating the site of your Drive Thru, subject to our acceptance. You may engage a site selection company designated or approved by us to assist you with the site selection process. We will notify you in writing whether the proposed site is accepted or rejected within thirty (30) days after you submit a site review request package (or about fifteen (15) days after receipt of additional information which we request). You may not relocate your Drive Thru without our prior written consent.

If you do not have a location when you sign your franchise agreement, you must purchase or lease a site for your Drive Thru within one hundred eighty (180) days from the effective date of your franchise agreement. You must submit your proposed lease to us for acceptance at least fifteen (15) days before you sign it, and provide a fully signed copy promptly following signing. If we accept the proposed lease, we will notify you of our acceptance. Your lease must: (i) not obligate us in any manner; (ii) be for a term not less than the term of your franchise agreement (plus your successor term); (iii) not contain any term that is inconsistent with your franchise agreement; and (iv) not contain a non-competition covenant that restricts us or our affiliates or our franchisees. In addition, your lease must include the lease addendum that is attached to the franchise agreement as Exhibit C, unless such terms are otherwise incorporated into the lease to our satisfaction.

If you are purchasing the site for your Drive Thru, you must submit the contract for purchase and sale to us for acceptance at least fifteen (15) days before you sign it, and provide a fully signed copy within fifteen (15) days following signing.

You must cause your Drive Thru to be constructed, equipped and improved in compliance with our Standards and design criteria. Unless you are qualified, in our sole discretion, to manage the project, you must engage a construction management service designated or approved by us to manage the construction and build out of the Drive Thru. Also, you may employ only licensed and bonded architects, engineers and general contractors recommended or approved by us. All plans and modifications to your site must be submitted to us for our review and acceptance before you start construction. We will notify you in writing within approximately thirty (30) days whether the plans and modifications are accepted or rejected. Before starting construction, your Operating Principal and general contractor must attend a site development meeting with our construction and development team at our headquarters in Pacific, Washington, unless your Operating Principal and general contractor have previously attended a site development meeting with our construction and development team. The site development meeting will be scheduled at a mutually acceptable time and will be approximately one-half day in duration. We do not charge a fee for the meeting. However, you must bear all travel expenses to attend the meeting.

You may not open your Drive Thru until you receive written authorization from us to do so, which may be subject to our satisfactory inspection of your Drive Thru.

## Goods, Services, Supplies, Fixtures, Equipment, and Inventory from Approved or Designated Suppliers

You must advertise, sell, and serve all of the products we authorize. At all times, you must purchase and maintain in inventory (in such quantities as are needed to meet reasonably anticipated consumer demand) such types and quantities of the beverages, foods, smoothies, and other food items and products (which may include specialty foods, packaged foods, hats, apparel and retail items, and gift or loyalty card programs) as specified by us, which are prepared, sold and manufactured in strict accordance with our recipes and Standards, including specifications as to ingredients, brand names, preparation and presentation (“Authorized Gravity Products and Services”).

You must purchase all beverages, products, sauces, syrups, food products, other ingredients and raw materials, paper goods, packaging, uniforms, other supplies, equipment, Information Systems (defined below), furnishings, fixtures, software, or other goods and services that are grown, produced, manufactured, or created under our trade secrets, proprietary recipes, specifications or formulas (“Proprietary Products”) only from our designated Suppliers (defined below). We will not be obligated to reveal our trade secrets, recipes, specifications or formulas of the Proprietary Products to you or any third party. You must purchase, use and maintain in stock Proprietary Products in quantities needed to meet reasonably anticipated consumer demand.

We may designate certain non-proprietary beverages, sauces, syrups, food products, other ingredients and raw materials, paper goods, packaging, uniforms, other supplies, equipment, Information Systems, furnishings, fixtures, or other goods and services, other than Proprietary Products, that you may or must use or offer and sell at your Drive Thru (“Non-Proprietary Products”). You may use, offer or sell only those Non-Proprietary Products that we expressly authorize in writing. You may only purchase Non-Proprietary Products from us or our affiliates, if we sell them, or from producers, manufacturers, suppliers, or service providers we designate or approve (“Supplier”) in writing.

We and our affiliates are currently the only approved Suppliers of coffee beans, bottled or canned beverages, syrups, sauces, flavors, powders, apparel, certain Information Systems, and branded paper and plastic products. In addition, we currently have designated Suppliers for the following Proprietary Products and Non-Proprietary Products: coffee and beverage equipment (including espresso machines, grinders, ice bins, refrigerators, and blenders), signs, menu boards, the POS System, and other Information Systems. We may modify the lists of Proprietary Goods and Non-Proprietary Goods and designated Suppliers at any time through updates to our Manual or updates to postings on our secure intranet, in which case we will allow you a reasonable amount of time to exhaust current inventories and begin purchasing new Proprietary Goods and Non-Proprietary Goods from an approved or designated Supplier. In the future, we may identify Proprietary Goods and Non-Proprietary Goods for which we, Beyond, or another affiliate is the exclusive Supplier.

You must participate in our customer experience program, which provides mystery shopper and customer experience feedback services.

## Information Systems / Point-of-Sale System

As more fully described in Item 11, you must purchase, use and maintain the Information Systems (including the POS System) specified in the Manual in accordance our Standards. "Information Systems" includes all electronic based hardware, software, middleware, web-based solutions, wireless, electronic interfaces, cabling, and other electronic devices, including, computer systems, data systems, network systems, printer systems, internet systems, telecommunication systems, menu systems, security systems, digital media systems, video and still digital cameras, power systems, music systems, and required service and support systems and programs. "POS System" means the point-of-sale and cash collection systems. You must also obtain the required service contracts, support contracts and other similar arrangements.

## Advertising and Marketing.

All marketing and promotion of your Drive Thru must conform to our Standards. You must submit to us samples of all advertising and promotional materials that have not been prepared or previously approved by us. Your Drive Thru must participate in promotions that we institute from time to time for all Gravity Drive Thrus, or for all Gravity Drive Thrus within a particular market area, subject to applicable law. You must participate in common directory listings as we may designate for a particular market area. We retain the right to develop and control all advertising using our trademarks on the internet.

## Insurance

You must maintain policies of insurance. We specify the types and amounts of coverage required under these policies and may require different and/or additional kinds of insurance at any time, including excess liability insurance. Each insurance policy must contain a waiver of all subrogation rights against us and our affiliates and any successors and assigns, and must provide for forty-five (45) days' (or fewer if limited by applicable state law) prior written notice to us of any cancellation or expiration of the policies. Our current insurance requirements are:

### COMMERCIAL GENERAL LIABILITY:

Bodily Injured and Property Damage:	\$2,000,000 per occurrence combined general; \$5,000,000 combined aggregate.
Personal Injury and Advertising Injury:	\$1,000,000 any one person or organization.
Products/Completed Operations:	\$2,000,000 annual aggregate.
Fire Legal Liability:	\$1,000,000 any one fire.
Water and Liquid Damage Legal Liability:	\$1,000,000 any one occurrence, unless covered in General Liability policy.

PROPERTY:

Goods, fixtures, furniture, equipment, and other personal property located at your premises

100% of their full replacement cost.  
Maximum deductible of \$10,000. Insurance to include coverage for loss of income and extra expenses, for the actual loss incurred, and include coverage for your obligations to us and our affiliates.

OTHER:

Workers' Compensation:

STATUTORY

Employer's Liability:

\$1,000,000 per employee, bodily injury by disease;  
\$1,000,000 policy limit, bodily injury by disease;  
\$1,000,000 per employee, bodily injury by accident.

Umbrella Liability:

\$2,000,000 any one occurrence;  
\$2,000,000 annual aggregate.

Cyber Liability

\$1,000,000 annual aggregate

These requirements are subject to change. You must initially and periodically give us a certificate of insurance, in a form acceptable to us, evidencing this coverage, and naming us and our designated affiliates as additional insureds.

Alternative Suppliers

If you wish to procure authorized Non-Proprietary Products from a Supplier other than us or one we have previously approved or designated, you must deliver written notice seeking approval of the Supplier, which notice must: (i) identify the name and address of such Supplier; (ii) contain the information we request or require (e.g. financial, operational and economic information regarding its business); and (iii) identify the authorized item you seek to purchase from the Supplier. We will, upon request, furnish you with the general, but not manufacturing, specifications for the Non-Proprietary Products, if they are not in the Manual. The proposed Supplier must comply with our requirements regarding insurance, indemnification and non-disclosure, and must have demonstrated to our reasonable satisfaction: (a) its ability to supply products or services meeting our Standards; (b) its reliability with respect to delivery and consistent quality of products or services; and (c) its ability to price the proposed products or services competitively. The proposed Supplier must, at our request, furnish at no cost product samples, specifications and other information we may require, and allow us or our representatives to inspect the proposed Supplier's facilities and establish economic terms, delivery, service and other requirements consistent with our other distribution relationships for other Drive Thrus.



We will notify you of our decision within sixty (60) days after we receive your request for approval and all requested back-up information. Among the factors we may consider in deciding whether to approve a proposed Supplier are the effect that such approval may have on our and our franchisees' ability to obtain the lowest distribution costs with the quality and uniformity of product offered system-wide by our franchisees. We may also require a Supplier to agree in writing: (i) to provide us free samples on request of any Non-Proprietary Product it intends to supply; (ii) to faithfully comply with our specifications; (iii) to sell any product bearing our trademarks only to our franchisees and franchisees and only under a trademark franchise agreement in the form we provide; (iv) to provide to us duplicate purchase invoices for our records and inspection; and (v) to comply with our reasonable requests. If we approve the proposed Supplier, we may revoke our approval if the Supplier fails to continue to meet any of our criteria, or if we substitute the Non-Proprietary Product with a Proprietary Product and designate a different Supplier.

You or your proposed Supplier must reimburse us for our reasonable costs to review the Supplier's application, reasonable costs and expenses to inspect and audit the Suppliers' facilities, equipment, and food products, and all product testing costs paid by us to third parties.

Other than as described above in this Item 8, we currently do not sell any services or products to franchisees, though we reserve the right to in the future.

#### Purchasing Arrangements

We and our affiliates do not currently but may in the future receive rebates, promotional allowances and volume discounts from certain suppliers based on the volume of products purchased. We anticipate that any such payments will be based on either a percentage or flat amount. We did not receive any such payments in our fiscal year ending April 30, 2021.

Our founder Maximo Ansola III owns our affiliates Beyond, Zato, Grav-IT, and GC Collection, which are suppliers to our franchisees.

We or our affiliates may derive revenue from sales or leases to you for goods or services that we or our affiliates supply, which may include a markup on goods or services that we procure at volume and resell to you. We did not have any franchisees in our fiscal year ending April 30, 2021 and therefore did not receive any such revenue in our last fiscal year.

Currently, there are no purchasing or distribution cooperatives. Currently, we negotiate certain purchase arrangements with suppliers, including price terms, for the benefit of franchisees.

We may, from time to time, authorize you to test market products or services. You must cooperate with us in connection with the test marketing and follow our rules and directions. You must operate your Drive Thru in compliance with our Standards and applicable law. We do not provide material benefits to you based on your use of designated suppliers but purchasing from designated suppliers is one of your obligations under your franchise agreement, and we may either require you to purchase replacement products from a Supplier or terminate your franchise agreement if you purchase from unapproved sources.

**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.**

<b>Obligation</b>	<b>Section in Franchise Agreement (FA) and Area Development Agreement (ADA)</b>	<b>Disclosure Document Item</b>
a. Site selection and acquisition/lease	FA: Sections 5.1 and 5.2, Exhibit C	Items 8, 11 and 12
	ADA: Sections 3.1, 3.2, and Article 7	
b. Pre-opening purchases/leases	FA: Sections 5.2, 5.3, 6.3, 9.1, 9.2, 9.3, 9.4, and Exhibit C	Items 5, 6, 7, and 8
	ADA: Sections 3.1, 3.2, and Article 7	
c. Site development and other pre-opening requirements	FA: Sections 5.3, 6.2, 6.4, 9.1, 9.2, 9.3, and 9.4	Items 5, 6, 7, and 11
	ADA: Sections 3.1, 3.2, and Article 7	
d. Initial and ongoing training	FA: Article 6	Items 6, 7, and 11
	ADA: Article 4	
e. Opening	FA: Sections 4.5, 5.3, 6.2 and 6.3	Items 7 and 11
	ADA: Section 3.1	
f. Fees	FA: Sections 3.2.2, Article 4, Article 6, Sections 7.14.3, 8.4, 9.3.4, 10.3, 13.2.1(m), 13.5.1 and Exhibit F	Items 5, 6, 7 & 11
	ADA: Article 6 and Sections 8.3(f) and 12.14	
g. Compliance with standards and policies/operating manual	FA: Article 7	Items 8, 11
	ADA: Sections 7.1, 9.4, 11.2, and Exhibit A	
h. Trademarks and proprietary information	FA: Article 11, Sections 12.2, and 12.3	Items 13, 14 and 17
	ADA: Section 9.4	
i. Restrictions on products/services offered	FA: Articles 7 and 9	Item 16
	ADA: Not applicable	

<b>Obligation</b>	<b>Section in Franchise Agreement (FA) and Area Development Agreement (ADA)</b>	<b>Disclosure Document Item</b>
j. Warranty and customer service requirements	FA: Section 9.6	Item 11
	ADA: Not applicable	
k. Territorial development and sales quotas	FA: Article 2	Item 12
	ADA: Articles 2, 3, 5 and Exhibit B	
l. Ongoing product/service purchases	FA: Article 9	Item 8
	ADA: Not applicable	
m. Maintenance, appearance, and remodeling requirements	FA: Section 5.4, Article 7	Item 11
	ADA: Not applicable	
n. Insurance	FA: Section 16.1, Exhibit E	Items 6 and 8
	ADA: Not applicable	
o. Advertising	FA: Section 4.3, 4.5, Articles 8 and 11 and Exhibit F	Items 6, 7 and 11
	ADA: Not applicable	
p. Indemnification	FA: Section 13.4.4, 17.2, and 18.3.2	Item 6
	ADA: Sections 8.3(f), 12.1, and 12.2	
q. Owner's participation/management/staffing	FA: Sections Article 6, and Section 7.3	Items 11 and 15
	ADA: Section 11.2	
r. Records/reports	FA: Sections 10.1 and 10.4	Item 6
	ADA: Section 7.1	
s. Inspections/audits	FA: Sections 5.3.4, 10.2 and 10.3	Items 6
	ADA: Section 7.1	
t. Transfer	FA: Article 13	Items 6 and 17
	ADA: Article 8	
u. Renewal	FA: Sections 3.2, 3.3 and 3.4	Item 17
	ADA: Sections 5.2 and 5.3	
v. Post-termination obligations	FA: Articles 12 and 15, Sections 19.4 and 20.2	Item 17
	ADA: Article 9, Sections 12.2 and 12.5	

Obligation	Section in Franchise Agreement (FA) and Area Development Agreement (ADA)	Disclosure Document Item
w. Non-competition covenants	FA: Section 12.1	Item 17
	ADA: Article 9	
x. Dispute resolution	FA: Article 20	Item 17
	ADA: Article 13	

**ITEM 10  
FINANCING**

We do not offer direct or indirect financing. We do not guarantee your note, lease or 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 business:

1. Site Review. If you have not found a location for your Drive Thru when you sign your franchise agreement, you must promptly locate a proposed site which meet our Standards. You will submit in writing certain information regarding the site that we request (a “Site Review Request”). Upon receipt, we will review the information and either accept or reject the proposed site within thirty (30) days after your submission (or fifteen (15) days after you provide any supplemental information we request). You may enter into a lease or purchase agreement only after we accept the site. (Franchise Agreement, § 5.1) You must sign a lease or purchase agreement within one hundred eighty (180) days from the effective date of your franchise agreement. (Franchise Agreement, § 5.2.5) If you and we cannot agree on a site, we may terminate the franchise agreement and you will forfeit the initial franchise fee paid.

2. Site Selection Assistance. You are solely responsible for selecting the site of your Drive Thru, which will be subject to our review and acceptance. We do not locate sites for you and we are not required to visit any proposed site. You may engage a site selection company designated or approved by us to assist you with the site selection process. We also may assist you in locating or evaluating a site upon request. You may not construe any assistance we may provide, or our acceptance of your site as a guarantee or other assurance that the site will be successful. The factors we consider in accepting sites include general location and neighborhood, traffic patterns, parking, size, physical characteristics of existing buildings and lease terms. We do not generally own premises for Drive-Thrus for leasing to franchisees. (Franchise Agreement, § 5.1)

3. Site Design Assistance. We will provide a copy of our Standards for the design and layout of your Drive Thru and required fixtures, equipment, furnishings, décor, trade dress and signs. You are responsible for the costs of preparing architectural, engineering and construction drawings and site plans, which you must submit to us for our review and acceptance before you begin construction of your Drive Thru. We will deliver written notice of our acceptance or rejection of your plans or drawings (including any modifications), within about thirty (30) days after your submission. You are responsible for the costs of construction and remodeling. (Franchise Agreement, § 5.3) We do not provide assistance with conforming your premises to local ordinances or building codes, obtaining any required permits, or constructing, remodeling, or decorating the premises.

4. Training. We will provide the Initial Training Program and on-site opening assistance as described below. (Franchise Agreement, §§ 6.2 and 6.3). We otherwise do not provide any training to your employees. We do not provide assistance to you in hiring your employees.

5. Installation of Information Systems. We will provide the Information Systems installation services that we offer and that you select, as described below and in Item 5. (Franchise Agreement, §§ 4.6.1, 5.3.4)

6. Manual. We will make available to you via electronic access or delivery, or other means, one copy of our confidential Manual, including any updates or other modifications, to use during the term of the franchise agreement. You must return to us any physical copies upon the termination or non-renewal of your franchise). The "Manual" contains our mandatory and recommended standard operational procedures, Standards, policies, rules and regulations. (Franchise Agreement, §§ 7.2.2 and 7.4.1) We may add to, delete from, modify or otherwise change the Manual at any time. The Table of Contents of our current Manual attached as Exhibit I. The total number of pages contained in the Manual is 138.

### Time to Open

We estimate the typical length of time between signing a franchise agreement and opening a Drive Thru is between six (6) and nine (9) months. If there are unforeseen delays, it could take considerably longer for you to open your Drive Thru. Factors that may affect the length of time it takes you to open your Drive Thru include the process of negotiating a lease, construction delays, drafting architectural plans, obtaining permits, weather conditions, shortages, and delayed installation of equipment, fixtures and signs. You must begin operating your Drive Thru within eighteen (18) months of the effective date of your franchise agreement. (Franchise Agreement §5.3.6)

## Obligations After Opening

During the operation of your business:

1. At your reasonable request and subject to our capacity and scheduling requirements, we will conduct such procedures as we determine to approve a Shop as a "Certified Training Store". (License Agreement, § 6.5)
2. We may provide additional or remedial training that you must attend. (Franchise Agreement, § 6.5)
3. At your reasonable request, we may send a representative to your Drive Thru to discuss your operations. (Franchise Agreement, § 6.5.3) You must pay our out-of-pocket expenses and our employees' travel expenses, wages and other expenses.
4. We will review and approve your grand opening marketing program. (Franchise Agreement, § 4.5)
5. We will periodically designate Authorized Gravity Products and Services which you must advertise, sell, and serve. We will provide you with a list of designated suppliers. (Franchise Agreement, §§ 7.6, 7.8 and Article 9)
6. We may, at our option and in the manner we choose, provide support for your required Information Systems, and may charge a fee for doing so. (Franchise Agreement, § 4,6)
7. We may, at our option, establish an intranet through which our franchisees may communicate with each other, and through which we may communicate with you and may disseminate the Manual and other confidential information. We will have sole discretion and control over all aspects of the intranet, including content and functionality. (Franchise Agreement, § 7.14)
8. We will approve or disapprove all advertising materials you propose to use in connection with your Local Advertising Expenditure. (Franchise Agreement, § 8.1)

## Advertising (Franchise Agreement, § 8)

### *Marketing Fund*

You must pay us a periodic Marketing Fee of up to 2% of your gross sales, which we will contribute to our marketing fund (the "Marketing Fund") (see Item 6). As of the issuance date of this disclosure document, the current Marketing Fund fee is 1% of your gross sales. We may start, discontinue, resume or reduce the Marketing Fund and related expenditures during the term of the franchise agreement.

We will administer and direct all marketing and advertising programs and control the creative concepts, materials and media used, media placement and allocation. Media placement may be on an international, national, regional or local basis. We need not make expenditures for you that

are equivalent or proportionate to your contributions. We need not ensure that any particular franchisee benefits directly or proportionately from fund advertising. The Marketing Fund is not a trust and we are not a fiduciary.

We will allocate for each Drive Thru operated by us or any affiliate the amount that would have to be contributed to the Marketing Fund if it were a franchised Drive Thru. Not all franchisees are or shall be obligated to contribute the same percentage of Gross Sales to the Marketing Fund, or at all, and some franchisees may have Marketing Fund obligations that are different from yours. We may permit franchisees to make direct advertising expenditures in place of contributions to the Marketing Fund.

The Marketing Fund may be used to meet all costs of administering, directing, preparing, placing and paying for international, national, regional or local advertising to promote and enhance the image, identity or patronage of Drive Thrus owned by us or our affiliates and by franchisees. We may transfer contributions to the Marketing Fund to a separate entity to whom we will delegate the responsibility of operating and maintaining the Marketing Fund, deposit all Marketing Fees into a separate account, or administratively segregate on our books and records the marketing contributions we receive from franchisees. We are not obligated to maintain fund contributions and income earned by the fund in a separate account. We will not use the Marketing Fund to pay for advertising that principally solicits new franchisees.

We may spend in any fiscal year an amount greater or less than the aggregate contributions to the Marketing Fund in that year and may advance or cause the Marketing Fund to borrow funds to cover deficits or invest surplus funds. If we spend less than the total of all contributions to the Marketing Fund during any fiscal year, we will accumulate those sums for use in later years. If we or an affiliate advance money to the Marketing Fund beyond what we must contribute on account of our or affiliate-owned Drive Thrus, we or it will be entitled to reimbursement. Any interest earned on monies held in the Marketing Fund will be contributed or allocated to the Marketing Fund. Although we intend the Marketing Fund to be perpetual, we can terminate it. We will not terminate the fund until it has spent all money in the fund for advertising and promotional purposes.

Within one hundred twenty (120) days following the ending of each fiscal year, we will prepare an unaudited statement showing contributions to and expenditures of the Marketing Fund. At your request, we will furnish a copy of the statement to you.

We may operate the marketing funds separately, merge the marketing funds and/or operate joint marketing programs.

The Marketing Fund was not operative in the last fiscal year ended on April 30, 2021. In future years we will disclose our use of the Marketing Fund in the prior fiscal year by category and percentage of funds used for each category.

### *Other Advertising Information*

You may develop advertising materials for your own use, at your own cost. You must submit to us all advertising materials not prepared or previously approved by us, for our written approval. If we do not approve your advertising materials in writing within fifteen (15) days, the proposed advertising will be deemed disapproved. (Franchise Agreement § 8.1)

Except as we may direct in writing, you must participate in all advertising, marketing, promotions, research and public relations programs.

In addition to the Marketing Fee, you must spend a minimum amount we specify (up to 2% of your Gross Sales) each month on local advertising and promotion of your Drive Thru ("Local Advertising Expenditure"). At our request, you must submit to us a local advertising plan that details the local advertising you will conduct over a calendar year period. We may reject any part of the plan and you must revise the plan accordingly. You may not use your Local Advertising Expenditure for the cost of advertising your Drive Thru in the white or yellow pages of telephone directories. You may not use your Local Advertising Expenditure for market research, seminars, entertainment, fees paid to consultants not approved by us, incentive programs, press parties or specialty items (unless part of a market-wide program approved by us and the cost is not recovered by the promotion), except with our prior written consent. (Franchise Agreement § 8.2)

Currently, there is no advertising council composed of franchisees that advises us on advertising policies.

### *Advertising Cooperatives*

As of the date of this disclosure document, we have not established any local or regional advertising cooperatives ("Co-op Advertising Region"). If we do so in the future, you must participate in the Co-op Advertising Region for the region in which your Drive Thru is located. We will notify you in writing if you must join a Co-op Advertising Region and the initial amount of the contributions to the Co-op Advertising Region. We determine the area of each Co-op Advertising Region. (Franchise Agreement § 8.4 and Exhibit D)

Each Co-op Advertising Region must adopt written governing documents. A copy of the governing documents (if one has been established) is available upon request. At all meetings of Co-op Advertising Regions, each participating franchisee is entitled to one vote per Drive Thru that franchisee operates in the Co-op Advertising Region and we and our affiliates are entitled to one vote for each company-owned or affiliate-owned Drive Thru in the Co-op Advertising Region, or such other vote as may reasonably be determined by us.

We will determine your minimum contribution to the Co-op Advertising Region. However, each Co-op Advertising Region may increase the contribution by majority vote. We or our affiliate, as applicable, will contribute to the Co-op Advertising Region for each of our company or affiliate-owned Drive Thrus located in the Co-op Advertising Region on the same basis as franchisees.



Each Co-op Advertising Region will decide the use of funds available to it for advertising or marketing, subject to our written approval. Any disputes (other than pricing) arising among or between you, other franchisees, and the Co-op Advertising Region may be resolved by us. Our decisions will be final and binding on all parties. No Co-op Advertising Region may appoint or pay from the funds collected by the Co-op Advertising Region fees or costs of any advertising agency or buying group without prior written consent.

We expect each Co-op Advertising Region to be required to prepare an unaudited statement showing contributions to and expenditures of the Co-op Advertising Region within one hundred twenty (120) days following the end of our fiscal year. At your request, any Co-op Advertising Region of which you are a member will provide a copy of that statement to you.

#### *Promotional Campaigns; Gift Cards and Loyalty Program*

From time to time, we may establish and conduct promotional campaigns on a national or regional basis, which may by way of illustration promote particular products or marketing themes. You must participate in these promotional campaigns upon the terms and conditions that we may establish. Your participation may require you to purchase point-of-sale advertising material, posters, flyers, product displays and other promotional material. We have the right to implement and administer gift card and loyalty programs allowing customers to purchase Gravity Drive Thru electronic gift cards and earn and use loyalty rewards for redemption at any Gravity Drive Thru. You will be required to honor these gift cards and loyalty program rewards if a customer presents one in paying for their order from your Drive Thru. You will not be allowed to issue, redeem or otherwise authorize any other gift or loyalty cards, except those approved of in advance by us, in writing. (Franchise Agreement § 8.6)

#### Information Systems (Franchise Agreement, § 7.4)

You must purchase, use and maintain the Information Systems (including the POS System) specified in the Manual in accordance with our Standards. We require you to obtain and use a minimum of two (2) terminal POS System with computerized cash collection capabilities, two (2) outside order takers, printers, food cost and labor management system, accounting software, personal computer and related software, managed antivirus software, remote control software and system and patch management, and other peripherals. These systems are designed to collect information about your sales and operating costs. You must also purchase audio-visual equipment including camera and security systems, a digital music player, a minimum of three (3) speakers, the required music subscription service, and obtain the required equipment. The approximate initial cost to you for these aspects of the Information Systems is from \$21,975 to \$24,835, some of which must be purchased directly from our approved suppliers, including us. You must connect the Information Systems to one or more high-speed communications media we direct.

You must electronically link the Information Systems to us or our designee and allow us or our designee to access the Information Systems to add, remove, configure and modify the Information Systems, the Manual or other operation information and the files stored or created on the systems

via any means specified, including electronic polling, with or without notice (provided, however, that we will not, and have no right to, do so in any manner that would exercise any employment-related control with respect to your employees). There are no contractual limitations on our right to access the information stored on the Information Systems. You must provide us with all passwords, access keys and other security devices or systems as necessary to permit our independent access to the Information Systems and data stored there. You must ensure that only adequately trained employees use the Information Systems.

There are no contractual limitations on our ability to require you to add or replace components, update, upgrade, or replace the Information Systems. We may require you to update, upgrade or replace all or any parts of the Information Systems, including hardware and software, from time to time upon written notice. We cannot estimate the cost of maintaining, updating or upgrading all of the Information Systems or their components because it will depend on your repair history, local costs of computer maintenance services in your area and technological advances which we cannot predict at this time. Although we cannot estimate the future costs of the required hardware, software, or service or support, and although these costs might not be fully amortizable over the time remaining in the term of your Franchise Agreement, you are required to incur the costs of obtaining the hardware and software comprising the Information Systems (or additions and modifications) and required service or support.

As part of the monthly Information Systems Fee we currently charge and you pay us, we provide certain support services for your Information Systems up to 16 hours per month total. Currently, that support includes basic Microsoft Office and laptop/desktop support (licensing, password resets, add/remove user accounts, email setup, and printer setup) for up to 2 laptops or desktops; general backend support for POS System (adding new establishments, adding new admins); and network support if using our default system (firmware updates, access point tuning). We reserve the right to stop providing some or all of these support services at any time in our discretion in connection with a corresponding reduction in our Information Systems Fee. We are not otherwise required to provide ongoing maintenance, repairs, upgrades or updates to the Information Systems. We may designate certain other proprietary computer software which you must license or sublicense from us or our designee, and we may provide you with support systems relating to the proprietary software for a reasonable fee. You must obtain an annual warranty service plan for the POS System. Presently, the annual cost is approximately \$915 to \$1,515. Presently, the annual cost of other maintenance, updating, upgrading, or support contracts is approximately \$2,400. You may obtain other support and optional maintenance contracts from third parties at additional costs that we cannot estimate. You must maintain your Information Systems and keep them in good repair.

Upon reasonable notice, you must apply for and maintain systems for the use of debit cards, credit cards, loyalty and gift cards and other non-cash payment methods.

Training (Franchise Agreement, Article 6)

*Initial Training Program for Drive-Thru Operations*

Before you open your Drive Thru to the public, we will train up to three (3) persons at our Pacific, Washington training facilities or at some other Drive Thru location that we determine. Your Operating Principal and General Manager (and Director of Operations, if applicable) must attend and complete to our satisfaction our Initial Training Program (the "Initial Training Program") before your Drive Thru opens to the public. The Initial Training Program is approximately ten (10) days total. Training is generally scheduled within thirty (30) days prior to the opening of the Drive Thru, though is always subject to our availability.

The following table describes our Initial Training Program:

**TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The- Job Training</b>	<b>Location</b>
Tour Headquarters and Introduction to Training	2	0	Pacific, WA
Behind the Scenes and Gravity Standards Trainings	3	0	Pacific, WA
Drink Recipe Training and POS	5	0	Pacific, WA
Guest Relations	2	0	Pacific, WA
Quality Service and Cleanliness	3	0	Pacific, WA
Inventory Procedures	3	0	Pacific, WA
Beverage Production and Tasting	4	0	Pacific, WA
Back of House Systems Training	2	0	Pacific, WA
Accounting	2	0	Pacific, WA
Vendors	2	0	Pacific, WA

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The- Job Training</b>	<b>Location</b>
General Store Operations	4	0	Pacific, WA
Equipment	4	0	Pacific, WA
Work in Our Drive Thru	0	32	Pacific, WA
<b>TOTAL</b>	<b>36</b>	<b>32</b>	

We will hold training as frequently as we determine necessary. The training is conducted under the supervision of Kaleia Humphries. Ms. Humphries has been our Director of Training since 2015. She has provided training for GCC since 2015, and has experience in this field since 2015. Specialized teaching materials will be used including the Manual, computer programs, checklists and assessments.

We do not charge for the Initial Training Program for up to three (3) persons, but you must pay the travel and lodging expenses for you and your employees. You must pay our then-current training fees (currently, \$350 per person per day) for each person in excess of three (3) persons.

#### *On-Site Assistance*

We will provide approximately five (5) days of on-site opening assistance to your Operating Principal and other employees. You must reimburse us for our employees' travel expenses for such on-site assistance. We will determine the representative(s) providing the on-site assistance and the length of time period that on-site training is provided.

#### *Additional Training*

We may require your Operating Principal and General Manager (and Director of Operations, if applicable) to attend remedial or additional assistance and training. We may also provide optional additional assistance to you and to your employees. Such additional assistance may be held on an individual Drive Thru basis, or on a national or regional basis at locations that we choose. You must pay our then-current daily training fee and reimburse us for our employees' travel expenses for any required additional or remedial assistance or any optional assistance we provide. The time and place of such training will be at our discretion.

At your reasonable request, we may: (i) have our field representatives visit your Drive Thru to advise, consult with or train you; or (ii) permit you to receive assistance, consultation or additional training at a Drive Thru selected by us. Any additional assistance, consultation or training by us will be at our discretion and subject to our scheduling and capacity requirements. You must pay us for our employees' travel expenses, wages and other expenses.

Attendance and participation in all training and assistance sessions is mandatory.

### *Certified Training Store*

At such time as you and your affiliates own five (5) or more Drive Thrus in a Development Area, you must have a Certified Training Store, which has been approved by us, and authorizes you to conduct certain trainings. You must pay our then-current charge for training and certification of the Certified Training Store, and you must reimburse us for all of our employees' travel expenses incurred in the certification or re-certification process.

## **ITEM 12 TERRITORY**

### License Agreement

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

Your franchise is for the location specified in the franchise agreement. We must accept the site for your Drive Thru before you sign a lease or purchase agreement. Our acceptance of a site is not a guarantee that your Drive Thru will be successful. You may not relocate the Drive Thru without our prior written approval. The factors we consider in deciding whether to approve a proposed relocation are the same factors we review in accepting your initial location such as whether the site is appropriate for the brand and whether the site will be viable for a Gravity Drive Thru. You may apply for the right to open additional Drive Thrus under separate franchise agreements, but we have no obligation to allow you to open additional Drive Thrus. The franchise agreement grants you no options, rights of first refusal or similar rights to acquire additional franchises.

### Area Development Agreement

Under the area development agreement, we grant you the right to develop a specified number of Drive Thrus in a specified Development Area at locations subject to our written acceptance. The Development Area may be one or more cities, counties, or states, or some other defined area. During the term of the area development agreement, we will not operate or grant a license to any other person to operate a Drive Thru (described below) in your Development Area, subject to our Reserved Rights (described below).

If you fail to meet any of your obligations under the area development agreement, including the development obligation, or commit a default of any franchise agreement that you or your affiliate have signed, or a default of any other agreement with us, we may terminate your right to develop Drive Thrus in your Development Area, but the termination of your right to develop your Development Area will not terminate any rights granted under the franchise agreements then in effect between you and us, absent a breach of those franchise agreements. If you fail to complete the Initial Training Program to our satisfaction, we may terminate your area development agreement. Except as provided above, after the expiration or termination of your area

development agreement, we may own, operate, franchise, or license others to operate additional Drive Thrus anywhere, without restriction, including in your Development Area.

### Reserved Rights

We reserve the right to establish standards and approval rights which will control all advertising by you, including where and how you may solicit orders and your channels of distribution, including the internet, telemarketing and direct marketing. We reserve (our "Reserved Rights") the following exclusive, unrestricted right, for ourselves and through our employees, affiliates, representatives, franchisees, assigns, agents and others:

- (a) to own or operate, and to license others to own or operate: (i) Drive Thrus at Non-Traditional Venues (described below) at any location, including within your Development Area (if applicable); (ii) during the term of your area development agreement (if applicable), Drive Thrus at any location outside the Development Area; (iii) after the expiration or termination of your area development agreement (if applicable), Drive Thrus at any location, including inside the former Development Area, regardless of proximity to your Drive Thru(s); and (iv) businesses operating under names other than "Gravity," "GC," or "Stay Grounded" at any location, and of any type and which may sell similar goods and services (although we do not presently have any plans to do so);
- (b) to produce, license, distribute and market "GRAVITY," "GC," or "STAY GROUNDED" brand named products, and products bearing other marks, including food and beverage products, packaged goods, apparel, and retail items, at or through any location or outlet, including grocery stores, supermarkets and convenience stores at any location regardless of proximity to the Drive Thrus, and through any distribution channel, at wholesale or retail, including by means of the internet or internet website, mail order catalogs, direct mail advertising, and other distribution methods;
- (c) to advertise and promote our system through any means, including the internet; and
- (d) to own, develop or become associated with other concepts that may offer similar products and to operate or to license others to operate locations involving such concepts anywhere.

"Non-Traditional Venues" means: (i) a facility located within another primary business or in conjunction with other businesses or at institutional settings; and (ii) airports, hotels, motels, timeshare properties, condo hotel properties, casinos, sports arenas, stadiums, convention centers, hospitals, universities, colleges, schools, museums, theme parks, aquariums, toll roads, freeways and motorway locations, military and other governmental facilities, office or in-plant food service facilities, and similar venues such as any site for which the lessor, owner or operator shall have indicated its intent to prefer or limit the operation of its food service facilities to a master concessionaire or contract food service provider.

We do not pay any compensation for soliciting or accepting orders at any location regardless of proximity to your Drive Thru(s).

## ITEM 13 TRADEMARKS

We license the right for you to operate a retail drive thru under the name "Gravity®" or "GC®," along with "Stay Grounded®," when you sign a franchise agreement. You may also use our other current or future trademarks, service marks, trade names, logotypes or commercial symbols as we designate, to operate your Drive Thru. You may not license or sublicense to others any trademarks, service marks, trade names, logotypes or commercial symbols owned by us or our affiliates. Our affiliate Gravity Brands LLC, a Washington limited liability company ("Gravity Brands") has licensed us to offer and sell franchises, and to sublicense the right to use the principal trademarks for the operation of your Drive Thru. By principal trademarks we mean the primary trademarks, service marks, names, logos, and commercial symbols used to identify your Drive Thru.

The area development agreement (if applicable) does not grant you any license to use in the operation of your business the name "Gravity®," "GC®," or "Stay Grounded®," or any of the other trademarks, service marks, trade names, logotypes or commercial symbols owned by us or our affiliates. All references to the use of trademarks and the like apply only to the rights granted under the franchise agreements and not the area development agreement.

Gravity Brands has registered the following principal and other trademarks on the Principal Register of the U.S. Patent and Trademark Office ("USPTO"):

MARK	REGISTRATION NUMBER	REGISTRATION DATE
<b>Registered Marks</b>		
GC (IC 030)	5266045	August 15, 2017
GC (IC 035)	5266046	August 15, 2017
STAY GROUNDED (IC 035)	5265535	August 15, 2017
ZATO (IC 030)	5266108	August 15, 2017
ZATO (IC 035)	5266109	August 15, 2017
GC COFFEE CO. (IC 035)	5925587	December 3, 2019
GRAVITY ENERGY (IC 032)	5947731	December 31, 2019
GRAVITY (IC 030)	5947629	December 31, 2019
GRAVITY (IC 035)	6053025	May 12, 2020
GRAVITY (IC 032)	6053026	May 12, 2020
FROM OUR COWS TO YOUR CUP (IC 039)	6052961	May 12, 2020
GC (IC 0	6082953	June 23, 2020

<b>MARK</b>	<b>REGISTRATION NUMBER</b>	<b>REGISTRATION DATE</b>
<b>Registered Marks</b>		
GRAVITY COFFEE (IC 030)	6088434	June 30, 2020
STAY GROUNDED (IC 030)	6182462	October 27, 2020
GC ENERGY (IC 030)	6193246	November 10, 2020
GC ENERGY (IC 032)	6193245	November 10, 2020
GC (IC 035)	6189303	November 3, 2020

Gravity Brands has filed all required affidavits for the registered principal trademarks. Gravity Brands currently intends to renew each of these registrations within the times allowed by law.

Gravity Brands has applied for registration of the following trademarks on the Principal Register of the USPTO, and the applications are pending:

<b>MARK</b>	<b>SERIAL NUMBER</b>	<b>FILING DATE</b>
<b>Applications</b>		
BEYOND GRAVITY (IC 032)	88827112	March 9, 2020
GC ENERGY (IC 005)	88763456	January 17, 2020
GRAVISTA (IC 043)	90246847	October 10, 2020
GRAVISTA (IC 035)	90246869	October 10, 2020

We do not have a federal registration for those trademarks listed above for which applications are pending. Therefore, those trademarks do not have many of the legal benefits and rights of a federally registered trademark. If our right to use those trademarks is challenged you may have to change to an alternative trademark, which may increase your expenses.

We also claim common law rights to the trademarks and service marks we license to you.

There are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, any state trademark administrator or court, nor any pending infringement, opposition, or cancellation proceedings with respect to any of our trademarks.

As of the date of this disclosure document, we know of no prior rights or infringing uses that could materially affect your use of the principal trademarks.

We and Gravity Brands are parties to an Intercompany Intellectual Property License Agreement (the "IP License Agreement") under which we have a license to use and sublicense the trademarks commencing August 24, 2020 and terminates when either party provides thirty (30) days' written notice. If the IP License Agreement is terminated, Gravity Brands or another affiliate will



automatically step in and assume our rights and obligations under any franchise agreement entered into by us.

Other than the IP License Agreement, no agreements presently limit our right to use or license the use of these trademarks.

You must use the trade name "Gravity®," "GC®," and "Stay Grounded®" without modification to identify the Drive Thru. You may not use any of our trade names, trademarks, or service marks as part of your corporate name. You must file a fictitious business name statement if required by applicable law. You may not use our trademarks, service marks, trade names, logotypes or commercial symbols in connection with the sale of unauthorized products or services or in a manner not authorized in writing by us.

You must notify us immediately when you learn about any alleged infringement of or challenge to your use of our marks. We will take the action we deem appropriate in our sole discretion and will have the right to control exclusively any litigation or U.S. Patent and Trademark Office proceeding for any infringement, claim or challenge relating to any of our marks. You may not make any demand against any alleged infringer of our marks or prosecute any claim of any kind. You may not settle or compromise any infringement claim by a third party without our prior written consent. We have the sole right to defend, compromise or settle any such claim, at our sole cost and expense, using attorneys of our choosing. You must cooperate fully with us in the defense of any infringement claim. You may participate at your own expense in such defense or settlement, but our decisions with regard to defense or settlement are final.

We are not required to defend you against claims of infringement or unfair competition resulting from your use of our trademarks, unless the claim arises out of your authorized use of any of the principal marks that are registered on the Principal Register of the U.S. Patent and Trademark Office, in which case we will protect and defend you. You must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

We may add to, delete or modify any or all of the principal trademarks and trade dress. You must use, or cease using, the principal trademarks or trade dress at your expense including any modified or additional trade names, trademarks, service marks, logotypes, commercial symbols, and trade dress. You must implement any change within sixty (60) days after notice from us, unless we direct otherwise.

#### **ITEM 14**

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

There are presently no patents or pending patent applications material to the franchise.

Although neither we nor our affiliates have filed an application for a copyright registration for the Manual, we and our affiliates claim common law copyrights in the Manual. We and our affiliates also claim common law copyrights in other materials, such as menus. Federal registration of copyrights is not required to ensure the protection of federal copyright law. The typical duration of a copyright is the life of the author plus seventy (70) years.

The IP License Agreement described in Item 13 includes a license to us to use and sublicense the right to use the above copyrights. You must notify us immediately when you learn about any alleged infringement of or challenge to your use of the copyrights. We will take the action we deem appropriate in our sole discretion and will have the right to control exclusively any litigation. We are not required to defend you against claims of infringement. You must modify or discontinue using the subject matter covered by the copyrights upon demand.

You must operate your business in accordance with our Standards, the Manual, applicable law, and as otherwise communicated to you. You must treat the information contained in the Manual and any other supplemental material supplied by us as confidential. The Manual is our property and you may not copy, disclose or disseminate the contents of the Manual at any time without our prior written consent. We may modify or supplement the Manual. You must keep the Manual current at all times, and you must return the Manual to us upon the termination or non-renewal of your franchise.

You may not copy, divulge or use our trade secrets, which include our confidential information and proprietary information, including our Standards, specifications, policies, procedures, rules, and the contents of our Manual, marketing concepts, and operating methods and techniques (the "Confidential Materials and Practices") during or after the term of your franchise agreement or area development agreement. You may only use the Confidential Material and Practices in connection with the development and operation of your Drive Thru(s). You must follow all reasonable procedures we prescribe to prevent the unauthorized use and disclosure of our Confidential Materials and Practices.

You must obtain agreements from such personnel as we require regarding the trade secret obligations described in Item 14 and the covenants not to compete described in Item 17. We may regulate the forms of agreement you use and may provide that we have the right to enforce these agreements. You must provide us copies of the signed agreements upon our request.

You must promptly disclose to us all ideas, techniques, methods and processes relating to your Drive Thru which you, your owners or employees conceive or develop. We will have the perpetual right to use, and to authorize others to use, such ideas, techniques, methods and processes without payment or compensation to anyone.

There are no infringing uses known to us that could materially affect your use of the copyrights, trade secrets, processes, methods, procedures or other proprietary information described above. There are no agreements currently in effect that limit our rights to use or license the above-mentioned copyrights in any manner.

## **ITEM 15**

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

If you are an entity, you must designate an "Operating Principal" who will be principally responsible for communicating with us about the business, operational and other ongoing matters concerning your Drive Thru. If you are an individual, you must be the Operating Principal. The Operating Principal must have the authority and responsibility for the day-to-day operations

of your Drive Thru. You must also designate a "General Manager" to oversee the operation of the Drive Thru. The General Manager must be acceptable to us as demonstrated by passing the initial training.

The Operating Principal must be adequately trained, and you must have a General Manager and adequate staff of employees who have been fully and adequately trained. The Drive Thru must at all times be under the control of the Operating Principal or General Manager. An Operating Principal must be accepted by us and:

- (a) devote his or her full time and best efforts solely to the operation of the Drive Thru and to no other business activities, and if applicable, all Drive Thrus owned or operated by you or your affiliates developed under the same area development agreement;
- (b) meet our educational, experience, financial and other reasonable criteria for the position as contained in the Manual or otherwise;
- (c) be an owner with 10% or more (direct or indirect) of your equity or voting rights or, with our prior approval in our sole discretion, an executive officer; and
- (d) have successfully completed the Initial Training Program.

Each person or entity who owns a 20% or greater interest in you must sign a guarantee agreement assuming and agreeing to discharge all obligations of you under the franchise agreement. If an individual guarantor is married and lives in a community property state, the guarantor's spouse may be required to sign a consent to guaranty confirming that the community property is liable for all financial obligations under the franchise agreement.

All your owners, officers, directors, managers and the Operating Principal and General Manager(s) (and Director of Operations, if applicable) must agree to comply with our confidentiality and non-competition provisions.

### Area Development

Commencing on the date that you open a third Drive Thru under the area development agreement, you must employ a "Director of Operations." The Director of Operations must be responsible for the day-to-day operations of all Drive Thrus within the Development Area. The Director of Operations must: (i) devote full-time and best efforts exclusively to the operation of all Drive Thrus in the Development Area and to no other business activities; (ii) meet our educational, experience, financial and such other reasonable criteria for such individual; (iii) be an individual acceptable to us; and (iv) have successfully completed the Initial Training Program. The Director of Operations may be an owner and may be the same individual as the Operating Principal with our written consent.

At such time as you and your affiliates own five (5) or more Drive Thrus in a Development Area, you must have a Certified Training Store (see Item 11).

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

You must sell and offer all and only those Authorized Gravity Products and Services that we have approved at or from your Drive Thru (see Item 8). Authorized Gravity Products and Services may differ among our franchisees, and may vary depending on factors such as the operating season and geographic location of your Drive Thru. You must sell additional Authorized Gravity Products and Services according to the instructions and within ten (10) days after receipt of notice from us. You must stop selling any previously approved Authorized Gravity Products and Services within ten (10) days after receipt of notice from us, except in emergency situations. There is no limit on our right to make changes to the Authorized Gravity Products and Services that you must sell. You may also volunteer to sell certain test products or offer certain test services from time to time. You must then provide us with reports and other relevant information we require.

You must also participate in all advertising, marketing, promotions, research and public relations programs instituted by us through the Marketing Fund.

You may not offer, sell or provide any Authorized Gravity Products and Services under any trademark, service mark, logo type or commercial symbol of any other person or entity, without our prior written consent. We may suggest prices for our products, but we do not set minimum or maximum prices for any products, goods, or services.

You may not use alternative distribution channels to sell or provide Authorized Gravity Products and Services. You must obtain our prior written consent before you provide delivery services, catering services or operate a mobile unit.

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

**THE FRANCHISE RELATIONSHIP**

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

Provision	Section in Franchise Agreement	Summary
a. Length of the franchise term	Sections 1.1 and 3.1	10 years.
b. Renewal or extension of the term	Section 3.2	Although this table uses the term "renewal," it refers to extending our relationship at the end of your initial term and you must, at our option, sign a new franchise agreement that may have

Provision	Section in Franchise Agreement	Summary
		<p>materially different terms and conditions than your original contract.</p> <p>If you are in good standing and subject to certain other requirements, you may enter into one successor franchise agreement with a 10-year term. You have no further right to enter into additional successor franchise agreements but may apply for the right to operate a Drive Thru under a new franchise agreement.</p>
c. Requirements for franchisee to renew or extend	Sections 3.2 – 3.4	<p>You must have complied with your obligations during the term of your franchise agreement, must remodel your Drive Thru to comply with our then-current Standards, must not have committed three (3) or more material defaults of your franchise agreement during any 12-month period, must comply with our then-current training requirements, must sign a general release and successor franchise agreement (that may have materially different terms and conditions from the current form of franchise agreement) and must pay a renewal fee.</p>
d. Termination by franchisee	Section 14.4	<p>You may terminate if we materially default, and if we do not cure the default within sixty (60) days after our receipt of written notice from you detailing the alleged default.</p>
e. Termination by franchisor without cause	Not Applicable	Not Applicable
f. Termination by franchisor with cause	Sections 14.1 – 14.6	<p>We can terminate if you fail to complete satisfactorily the initial training, default under your franchise agreement, any Lease, other agreement(s) with us or our affiliates, or any agreement with any Co-Op Advertising Region.</p>
g. "Cause" defined – curable defaults	Sections 14.2	<p>You have five (5) days to cure non-payment of fees and thirty (30) days to cure defaults not listed in Section 14.3 of your franchise agreement.</p>

Provision	Section in Franchise Agreement	Summary
h. "Cause" defined – non-curable defaults	Sections 14.3	Non-curable defaults: (i) misrepresentations in connection with the acquisition of the Agreement; (ii) failure to complete the Initial Training Program or Additional Training to our satisfaction; (iii) bankruptcy or insolvency; (iv) assignment for the benefit of creditors, receiver appointed, or disposing of your assets or business; (v) seizure, take-over or foreclosure of your assets or business; (vi) abandonment or ceasing communication with us; (vii) conviction, guilty or nolo contendere plea to a felony or any other crime, fraud or offense of moral turpitude; (viii) repeated defaults, even if cured; (ix) significant unsatisfied judgment; (ix) failure to comply with the confidentiality or non-competition provisions of the Agreement; (x) assignment without our consent; (xi) imminent danger to the public health/health and safety violations; (xii) failure to maintain good credit rating; and (xiii) any other basis under applicable law.
i. Franchisee's obligations on termination/non-renewal	Article 15	You must stop using our marks; pay all amounts due; return the Manual, all training and promotional material and all proprietary materials; make cosmetic changes to your Drive Thru so that it no longer resembles our proprietary design; at our election, sell such equipment and furnishings that we designate to us; assign to us or, at our election, terminate all voice and data telephone numbers used in your Drive Thru; authorize and instruct the telephone company and all listing agencies to transfer and assign the telephone numbers and directory listing used for your Drive Thru to us; sign and deliver to us all documents that must be filed with any governmental agency indicating that you are no longer licensed to use our marks. (See also "r" below.)

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
j. Assignment of contract by Franchisor	Sections 13.1	No restriction on our right to assign.
k. "Transfer" by franchisee – defined	Exhibit A	Includes transfer of the franchise agreement or change in ownership of a franchisee which is an entity.
l. Franchisor approval of transfer	Sections 13.2	Transfers require our prior written consent.
m. Conditions for franchisor approval of transfer	Sections 13.2 - 13.5	<p>We may impose any condition, including some or all of the following: The proposed franchisee must qualify, assume the franchise agreement or sign a new franchise agreement, assume the lease or acquire or lease the Premises (if owned by you), complete training, agree not to compete, and refurbish the Drive Thru. You must provide us with an estoppel agreement and a list of all persons having an interest in the franchise agreement or in you, pay all amounts then due, sign a general release, provide us with all documents relating to the transfer, disclose to us all material information that we request regarding the transferee, the purchase price, and the terms of the transfer, and agree to subordinate amounts the transferee owes to you to amounts owed to us. You must not be in default of the franchise agreement and all agreements with us or our affiliates, and you must pay a transfer fee, training fees and reimburse us for expense incurred in connection with that training. (See also "r" below). All obligations to third parties in connection with your Drive Thru must be satisfied or assumed by the new franchisee. There must not be any suit or proceeding pending or threatened regarding your Drive Thru. We may, in our sole discretion, consider whether the price and terms are so burdensome as to adversely affect the Drive Thru.</p> <p>If you are an individual and if you are not in default under the franchise agreement or any</p>

Provision	Section in Franchise Agreement	Summary
		<p>other agreement with us or our affiliates, with our written acknowledgment you may transfer a franchise agreement to an entity in which you directly own a 100% interest. All obligations to third parties in connection with your Drive Thru must be satisfied or assumed by the new entity. All holders of a 10% or greater interest in the new entity must sign a guaranty. You must reimburse us for all costs and expenses that we incur in connection with such a transfer, including attorneys' fees.</p> <p>Before equity of an entity may be offered by private offering, you must provide us with copies of all offering materials; indemnify us, in connection with the offering; and pay us any transfer fee due and pay the greater of a non-refundable fee of \$5,000 or the amount necessary to reimburse us for our costs and expenses associated with reviewing the proposed offering.</p>
n. Franchisor's right of first refusal to acquire franchisee's business	Section 13.3	<p>We can match any offer for your business.</p> <p>You must make customary representations and warranties to us.</p>
o. Franchisor's option to purchase franchisee's business	Section 15.2; Exhibit F	<p>Upon termination or expiration of your franchise agreement we may purchase equipment and furnishings we designate at net book value, using a 5-year straight line amortization period.</p> <p>We also have a conditional option to acquire your assets at any time for payment of a purchase price as determined under the Purchase Option Agreement attached to the Franchise Agreement as <u>Exhibit F</u>; you may defer our exercised option if you make upgrades to your location according to our then-current specifications.</p> <p>In either case, you must make customary representations and warranties to us.</p>
p. Death or disability of franchisee	Section 14.3(x)	<p>Your heirs have six (6) months after your death or legal incapacity to enter into a new franchise</p>



Provision	Section in Franchise Agreement	Summary
		agreement if the heirs meet our Standards and qualifications or assign the franchise agreement to a person acceptable to us. See "m" above.
q. Non-competition covenants during the term of the franchise	Section 12.1.1	<p>Restricted Persons (see below) cannot engage in "Competitive Activities," which is defined as: owning, operating, lending to, advising, being employed by, or having a financial interest in, or selling any assets of the Drive Thru to any retail store or business that predominantly prepares, produces or sells, at retail or wholesale, any type of coffee or energy beverage, tea, smoothies, or any other food product or featured menu item which is now or in the future an Authorized Gravity Product or Service, other than a Drive Thru operated under a license or franchise agreement with us. "Competitive Activities" do not include the direct or indirect ownership solely as an investment, of securities of any Entity which are traded on any national securities exchange if the owner: (i) is not a controlling person of, or a member of a group which controls, such Entity; and (ii) does not, directly or indirectly, own 5% or more of any class of securities of such Entity.</p> <p>"Restricted Persons" are you, and each of your owners and affiliates, and their respective officers, directors, managers, and affiliates; the Operating Principal, your General Manager, Director of Operations (if applicable), and the spouse and family members who live in the same household of each of the foregoing.</p>
r. Non-competition covenants after the franchise is terminated or expires	Section 12.1.2	Restricted Persons cannot engage in any Competitive Activities, for eighteen (18) months within a ten (10) mile straight-line radius of: (i) the location of your Drive Thru; or (ii) any Drive Thru then-existing or in development.
s. Modification of the agreement	Section 18.9	The franchise agreement may be modified only by written instrument between the parties.

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
t. Integration/Merger clause	Section 18.8	Only the terms of the franchise agreement and other related written agreements are binding, subject to applicable state law. Any representations or promises outside of the disclosure document and the franchise agreement may not be enforceable. Nothing in the franchise agreement or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.
u. Dispute resolution by arbitration or mediation	Article 19	You agree to attempt to resolve any dispute in a non-binding mediation held in Seattle, Washington prior to commencing any proceeding. All disputes must be resolved by binding arbitration in Seattle, Washington, except for certain matters which may be brought in court.
v. Choice of forum	Sections 12.2.2, 19.2 and 19.3	Subject to state law, Seattle, Washington is the venue for mediation, arbitration and litigation, and both of us waive the right to a trial by jury.
w. Choice of law	Section 18.7	Subject to state law, Washington law applies.

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

<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary</b>
a. Length of the term	Section 5.1	Typically, five (5) years or until you sign a franchise agreement for your last Drive Thru necessary to satisfy your Development Obligation, whichever is earlier.
b. Renewal or extension of the term	Sections 5.2 through 5.4	Although this table uses the term "renewal," it refers to extending the area development

Provision	Section in Area Development Agreement	Summary
		<p>agreement at the end of your initial term and you must, sign a new area development agreement that may have materially different terms and conditions than your original contract.</p> <p>If you are in good standing and not in default under your area development agreement and all other agreements between us, you must notify us of your interest, if any, to develop additional Drive Thrus in your Development Area at the earlier of (a) one hundred eighty (180) days before the end of the term; or (b) the date on which we issue our acceptance of the site for the last Drive Thru you are required to develop.</p> <p>Unless we consent, you may not open more than the total number of Drive Thrus comprising your Development Obligation.</p>
c. Requirements for franchisee to renew or extend	Sections 5.3 through 5.4	<p>You and we must agree upon the number of Drive Thrus you will be required to develop, and you must show that you have the financial ability to satisfy the new area development agreement. You must sign a new area development agreement (which may differ materially from the current form of area development agreement) on our then current form, which will contain your additional development obligation. You and your affiliates who have a currently existing license or franchise agreement or area development agreement with us must sign a general release.</p>
d. Termination by franchisee	Not Applicable	<p>You may terminate if we materially default, and if we do not cure the default within sixty (60) days after our receipt of written notice from you detailing the alleged default.</p>
e. Termination by franchisor without cause	Not Applicable	Not Applicable

Provision	Section in Area Development Agreement	Summary
f. Termination by franchisor with cause	Section 10.1	We can terminate if you or any of your affiliates default under the area development agreement, an individual franchise agreement, or any other agreement with us or any of our affiliates.
g. "Cause" defined – curable defaults	Section 10.1	You have five (5) days to cure non-payment of fees and thirty (30) days to cure any other default, provided that in the case of a breach or default in the performance of your obligations under any franchise agreement or other agreement, the notice and cure provisions of such agreement will control.
h. "Cause" defined – non-curable defaults	Section 10.1	Non-curable defaults include: failure to complete the Initial Training Program to our satisfaction; unapproved transfers; failure to meet development obligations; and any breach of unfair competition provisions.
i. Franchisee's obligations on termination/non-renewal	Sections 4.1 and 5.5	You will have no further right to develop or operate additional Drive Thrus which are not, at the time of termination, the subject of a then existing franchise agreement. You may continue to own and operate all Drive Thrus under then existing franchise agreements.
j. Assignment of contract by franchisor	Section 8.1	No restriction on our right to assign.
k. "Transfer" by franchisee – defined	Exhibit A	Includes transfer or assignment of the agreement or change in ownership of a developer which is an entity.
l. Franchisor approval of transfer	Section 8.3	Transfers require our prior written consent.
m. Conditions for franchisor approval of transfer	Sections 8.2 and 8.3	You may not transfer your area development agreement or any franchise agreement signed under the area development agreement without our prior written consent and simultaneous assignment of the area development agreement

Provision	Section in Area Development Agreement	Summary
		<p>and all franchise agreements signed under the area development agreement to the same assignee. With our prior written acknowledgment and subject to certain conditions, you may transfer a franchise agreement to an entity you wholly own.</p> <p>Before equity of an entity may be offered by private offering, you must provide us with copies of all offering materials; indemnify us in connection with the offering; and pay us the greater of a non-refundable \$5,000 fee or the amount of our costs and expenses associated with reviewing the proposed offering.</p>
n. Franchisor's right of first refusal to acquire franchisee's business	Section 8.3	<p>We can match any offer for your business.</p> <p>You must make customary representations and warranties to us.</p>
o. Franchisor's option to purchase franchisee's business	Not Applicable	Not Applicable
p. Death or disability of franchisee	Section 10.1	Your heirs have six (6) months after your death or legal incapacity to enter into a new area development agreement if the heirs meet our Standards and qualifications or assign the area development agreement to a person acceptable to us. See "m" above.
q. Non-competition covenants during the term of the franchise	Section 9.1	Restricted Persons cannot engage in Competitive Activities.
r. Non-competition covenants after the franchise is terminated or expires	Section 9.2	Restricted Persons cannot engage in any Competitive Activities for twelve (12) months within the Development Area.

<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary</b>
s. Modification of the agreement	Section 12.9	The area development agreement may be modified only by written instrument between the parties.
t. Integration/Merger clause	Section 12.9	Only the terms of area development agreement are binding, subject to state law. Any representations or promises outside of the disclosure document and the area development agreement and its exhibits may not be enforceable. Nothing in the area development agreement or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.
u. Dispute resolution by arbitration or mediation	Article 13	Both of us agree to attempt to resolve any dispute in a non-binding mediation held in Seattle, Washington prior to commencing any proceeding. All disputes must be resolved by binding arbitration in Seattle, Washington, except for certain matters which may be brought in court.
v. Choice of forum	Sections 13.1 - 13.3	Subject to state law, Seattle, Washington is the venue for mediation, arbitration and litigation, and both of us waive the right to a trial by jury.
w. Choice of law	Section 12.8	Subject to state law, Washington law applies.

**ITEM 18  
PUBLIC FIGURES**

We do not presently use any public figure to promote our franchise.

**ITEM 19  
FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the Disclosure Document. Financial performance information that differs from that included in Item 19 may be given only if: (a) a

franchisor provides the actual records of an existing outlet you are considering buying; or (b) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

In this Item 19, we provide information regarding the average, median, highest, and lowest Gross Sales results for all Gravity Drive Thrus that were open and operating through at least the 12 months ending June 30, 2021 (“2020/2021 Reporting Period”). We refer to these Gravity Drive Thrus collectively as the “Reporting Group.” The Reporting Group is composed only of Drive Thrus operated by us or our affiliates.

<b>COMPANY DRIVE THRUS – 12 MONTHS ENDING JUNE 30, 2021</b>					
Number of Locations	Average Gross Sales	Median Gross Sales	Highest Gross Sales	Lowest Gross Sales	Number of Locations Exceeding Average
14	\$979,932	\$922,283	\$1,338,664	\$720,760	5 (36%)

#### **NOTES**

1. The Reporting Group Drive Thrus were all fully operational before the start of the 2020/2021 Reporting Period. One (1) Drive Thru was excluded from the Reporting Group because it opened during the 2020/2021 Reporting Period and was therefore not in operation for the entire 12-month period.
2. “Gross Sales” is defined in the franchise agreement as: “the total of all sales made and revenue and income derived by Franchisee, whether in cash or for credit or barter, or other means of exchange (and, if for credit or barter, whether or not payment is received therefor), on account of any and all goods, merchandise, services or products sold in or from the Drive Thru, or which are promoted or sold under any of the Marks, whether or not Company offers such services or products in its other locations, including: (a) revenues from sales of any nature or kind whatsoever, derived by Franchisee or by any other person or Entity (including Franchisee’s Affiliate(s)) from the Drive Thru; (b) sales of Authorized Gravity Coffee Products and Services at any location, whether in compliance or in contravention of this Agreement; (c) the full sale price to the consumer for items sold through third-party delivery services, with no discount for the delivery service’s fee or commission; and (d) the proceeds of any business interruption insurance, after the satisfaction of any applicable deductible. Notwithstanding the foregoing, ‘Gross Sales’ shall exclude the following: (i) sums representing sales taxes collected directly from customers by Franchisee in the operation of the Drive Thru, and any sales, value added or other tax, excise or duty charged to customers which is levied or assessed against Franchisee by any federal, state, municipal or local authority, based on sales of specific goods, products, merchandise or services sold or provided at or from the Drive Thru, provided that such taxes are actually transmitted to the appropriate Governmental Authority; (ii) sums representing tips, gratuities or service charges paid directly by customers to employees of Franchisee or paid to Franchisee and promptly, and to the

extent, remitted to such employees by Franchisee in lieu of direct tips or gratuities; and (iii) proceeds from isolated sales of equipment and trade fixtures not constituting any part of Franchisee's products and services offered for resale at the Drive Thru nor having any material effect upon the ongoing operation of the Drive Thru required under this Agreement."

3. The financial results for our company Drive Thrus were prepared in accordance with tax basis of accounting. The results have not been independently audited.

### **COMMENTS AND ASSUMPTIONS**

A. Operationally, all of the Reporting Group Drive Thrus are comparable to the Gravity Drive Thru described in this disclosure document.

B. All Reporting Group Drive Thrus offered similar menu items during the Reporting Period.

C. The financial results for the 2020/2021 Reporting Period do not reflect any material seasonal fluctuations.

D. The figures reported above are historical results and not a projection of the financial results that you may achieve. You should consult with your financial, tax and legal advisors about the information presented here.

**The Reporting Group Drive Thrus have earned this amount. Your individual results may differ. There is no assurance that you will earn as much.**

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

Other than the preceding financial performance representation, Gravity Franchising LLC does not make any financial performance representations. 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 from us, 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 Erika Christiansen, President of Operations, PO Box 7557, Bonney Lake, WA 98391, (253) 447-8740, the Federal Trade Commission, and the appropriate state regulatory agencies.



**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

Table No. 1

**System-wide Outlet Summary  
For Years 2019 to 2021<sup>(1)</sup>**

<b>Column 1 Outlet Type</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at the Start of the Year</b>	<b>Column 4 Outlets at the End of the Year</b>	<b>Column 5 Net Change</b>
<b>Franchised Outlets</b>	2019	0	0	+0
	2020	0	0	+0
	2021	0	0	+0
<b>Company- and Affiliate-Owned Outlets<sup>(2)</sup></b>	2019	8	13	+5
	2020	13	15	+2
	2021	15	16	+1
<b>Total Outlets</b>	2019	8	13	+5
	2020	13	15	+2
	2021	15	16	+1

(1) As of April 30 of each year.

(2) These outlets are operated by our affiliates GCC, GC Ventures LLC, and Gravity Group LLC.

Table No. 2

**Transfers of Outlets from Franchisee to New Owners (other than to the Franchisor)  
For Years 2019 to 2021<sup>(1)</sup>**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Number of Transfers</b>
<b>All States</b>	2019	0
	2020	0
	2021	0
<b>Total</b>	2019	0
	2020	0
	2021	0

(1) As of April 30 of each year. States not listed had no activity to report.

Table No. 3<sup>(1)</sup>

**Status of Franchised Outlets  
For Years 2019 to 2021<sup>(2)</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 Termi- nations</b>	<b>Col. 6 Non- Renewals</b>	<b>Col. 7 Reacquired by Franchisor</b>	<b>Col. 8 Ceased Operations – Other Reasons</b>	<b>Col. 9 Outlets at End of the Year</b>
<b>All States</b>	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
<b>Totals</b>	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0

(1) If multiple events occurred affecting an outlet, this table shows the event that occurred last in time.

(2) As of April 30 of each year. States not listed had no activity to report.

Table No. 4

**Status of Company- and Affiliate-Owned Outlets  
For Years 2019 to 2021<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 Outlets Reacquired from Franchisee</b>	<b>Col. 6 Outlets Closed</b>	<b>Col. 7 Outlets Sold to Franchisee</b>	<b>Col. 8 Outlets at End of the Year</b>
<b>Washington</b>	2019	8	5	0	0	0	13
	2020	13	2	0	0	0	15
	2021	15	1	0	0	0	16
<b>Totals</b>	2019	8	5	0	0	0	13
	2020	13	2	0	0	0	15
	2021	15	1	0	0	0	16

(1) As of April 30 of each year. States not listed had no activity to report. Some or all outlets operated by our affiliates GCC, GC Ventures LLC, and Gravity Group LLC.

Table No. 5

**Projected Openings as of April 30, 2021**

<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 Franchise Outlets in the Next Fiscal Year*</b>	<b>Projected New Company or Affiliate-Owned Outlets in the Next Fiscal Year</b>
<b>Arizona</b>	0	0	10 to 15
<b>California</b>	0	0 to 1	0
<b>Hawaii</b>	0	0 to 1	0
<b>Idaho</b>	0	0	0 to 10
<b>Illinois</b>	0	0 to 1	0
<b>Maryland</b>	0	0 to 1	0
<b>Minnesota</b>	0	0 to 1	0
<b>New York</b>	0	0 to 1	0
<b>Nevada</b>	0	0	10 to 15
<b>Oregon</b>	0	0	0 to 2
<b>South Dakota</b>	0	0 to 1	0
<b>Virginia</b>	0	0 to 1	0
<b>Washington</b>	0	0	15 to 20
<b>Wisconsin</b>	0	0 to 1	0
<b>All other states</b>	0	0 to 11	0 to 2
<b>Total</b>	0	0 to 20*	35 to 64

\*The projected openings estimate includes Drive Thrus opened by both developers and single unit franchisees.

The name of each of our franchisees, including those who have signed franchise agreements but are not yet open, and the address and telephone number of each of their outlets as of the end of our last fiscal year (unless a more current date is stated on the list) is in [Exhibit I](#).

[Exhibit I](#) also contains a list with the name and last known city, state and telephone number or email address of every franchisee who had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the twelve (12) months ending April 30, 2021 (and through a more current date if stated on the list) and who has not communicated with us within ten (10) weeks of the date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During our last three (3) fiscal years, we have not entered into any confidentiality clauses with a franchisee that would restrict their ability to discuss his or her personal experience as a franchisee.

No trademark specific franchisee association has asked to be included in this disclosure document.

## **ITEM 21 FINANCIAL STATEMENTS**

Exhibit J contains (1) our audited financial statements for the year ended April 30, 2021; and (2) our audited interim financial statements for the period ended August 31, 2021. Since we have not been in operation for three (3) years, we do not have three (3) years of audited financial statement to include in this disclosure document. Our fiscal year ends on April 30 of each year.

## **ITEM 22 CONTRACTS**

The current forms of the following agreements and other required exhibits are attached to this disclosure document in the pages immediately following:

- Exhibit A      Franchise Agreement
- Exhibit B      Area Development Agreement
- Exhibit C      Franchise Continuing Guaranty
- Exhibit D      Area Development Continuing Guaranty
- Exhibit E      Form of Non-Disclosure and Non-Competition Agreement
- Exhibit F      Franchise Application and Confidentiality Agreement
- Exhibit G      Franchisee Closing Questionnaire
- Exhibit H      Sample General Release
- Exhibit M      State Specific Addenda to this disclosure document, Franchise Agreement, and Area Development Agreement

You must complete and sign our Franchise Application and Confidentiality Agreement (Exhibit F) to qualify you as a candidate and before we will disclose any confidential information to you about our franchise system.

You must complete and sign our Franchisee Closing Questionnaire form (Exhibit G) before signing your franchise agreement or area development agreement.

Our current sample form of Non-Disclosure and Non-Competition Agreement to be signed by you and your personnel is attached to this disclosure document as Exhibit E. It is your responsibility to have this form reviewed and approved (or modified subject to our approval) by an attorney licensed in your jurisdiction.

**ITEM 23  
RECEIPTS**

You will find copies of a detachable receipt in Exhibit O at the very end of this disclosure document.

**EXHIBIT A**

**Franchise Agreement**

**GRAVITY<sup>®</sup>**

**FRANCHISE AGREEMENT**

**By and Between**

**GRAVITY FRANCHISING LLC**

**and**

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## FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this "**Agreement**") is entered into by and between Gravity Franchising LLC, a Washington limited liability company ("**Company**"), and the person(s) or entity identified on Schedule 1 to this Agreement ("**Franchisee**") as of the Effective Date (as defined in Exhibit A and as indicated on the signature page of this Agreement).

### RECITALS

A. Company grants franchises to operate an independent business that provides coffee, energy drinks, other beverages, and certain food items and merchandise through the operation of a retail "Gravity®," "Gravity® Coffee Co." or "GC®" drive thru.

B. Company has been granted a license by Gravity Coffee Company LLC (the "**Licensor**") to award Gravity Drive Thru franchises using the Marks. Licensor is not a party to this Agreement or responsible for Franchisee's or Company's performance under this Agreement or otherwise, but is an intended beneficiary of its terms, conditions and covenants.

C. Franchisee applied for a franchise to establish, own and operate a Gravity Drive Thru and to obtain the advantages associated with the System and Company's support services. Company is willing to contract only with franchisees who are willing and able to operate a Gravity Drive Thru in complete compliance with Company's core values of uncompromising product quality, an inspiring, compelling customer environment, and a superior customer experience. Franchisee understands these core values, and is willing and able to commit to delivering them in the operation of a Gravity Drive Thru.

D. Franchisee's application has been approved by Company in reliance upon the information Franchisee has provided.

E. Capitalized terms not defined in these recitals have the meanings set forth in the attached Exhibit A.

### ACKNOWLEDGMENTS

Franchisee acknowledges that:

- (1) Company will require Franchisee to operate the Drive Thru in strict compliance with the Standards and the Manual in all aspects of the Drive Thru's operation, and that Franchisee will be required in all dealings with its customers, to adhere to high standards of honesty, customer service, and cleanliness.
- (2) It has independently investigated the business opportunity set out in this Agreement and recognizes that, like any other business, the nature of a Gravity Drive Thru will evolve and change over time, and further recognizes that an

investment in a Gravity Drive Thru involves business risks that could result in the loss of a significant portion or all of Franchisee's investment.

- (3) If Franchisee is an entity, all its Owners are accurately listed on Schedule 1. Franchisee understands that some or all of its shareholders, if a corporation; members, if a limited liability company; or limited partners, if a limited partnership, must agree to personally guarantee all Franchisee's obligations to Company in accordance with Section 13.4.3.
- (4) Company and Franchisee will first attempt to resolve disputes through mediation and if not resolved, certain disputes will be resolved by arbitration in Seattle, Washington in accordance with Section 19.2.
- (5) Franchisee has not received from Company, and is not relying upon, any representations or guarantees, express or implied, as to the potential volume, sales, income, or profits of a Gravity Drive Thru. Franchisee acknowledges that it is impossible to predict with any degree of accuracy what level of revenues, sales, income, profits, or cash flows Franchisee may achieve, and Company, therefore, refuses to provide any such estimate because any estimate it may offer is inherently unreliable and something upon which no franchisee can reasonably rely.
- (6) In all of Company's dealings with Franchisee, Company's officers, directors, employees, and agents act only in a representative capacity, and not in an individual capacity, and business dealings between Franchisee and them are deemed to be only between Franchisee and Company.
- (7) Franchisee has represented to Company that all statements Franchisee has made and all information it has given Company is accurate and complete and Franchisee has made no misrepresentations or material omissions to Company to obtain this Agreement.
- (8) Franchisee has been afforded an opportunity, and has been encouraged by Company, to have this Agreement and all other agreements and materials it has been given or made available to it by Company, reviewed by an attorney and has either done so or chosen not to do so.

## **AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

### **ARTICLE 1 DEFINITIONS**

In this Agreement, capitalized terms not otherwise defined herein shall have the meanings set forth in Exhibit A.

## **ARTICLE 2 GRANT**

2.1 Grant. Company hereby awards Franchisee, and Franchisee hereby accepts, upon the terms and subject to the provisions of this Agreement, the right, license and obligation during the Term to use and display the Marks, and to use the System, to operate one Drive Thru at, and only at, the Location. Franchisee shall not, without the prior written consent of the Company which consent shall be given at the sole discretion of the Company, sell services or products at facilities outside the Drive Thru (e.g., schools, company offices, public parks) using the Marks and the System.

2.2 Sublicensing. Franchisee shall not sublicense, sublease, subcontract or enter any management agreement providing for the right of any person or entity that is not the Franchisee to operate the Drive Thru or to use the System.

2.3 Territorial Rights. Franchisee is not granted any type of protected trade area or exclusive territory. Company expressly reserves the following rights, which it may exercise at any time through its employees, representatives, Affiliates, franchisees, assigns, agents and others:

(a) to own or operate, and to license others to own or operate Gravity Drive Thrus at any location and to own or operate and to license others (which may include its Affiliates) to own, operate, and provide any kinds of products or services using the Marks and System, regardless of proximity to the Drive Thru;

(b) to produce, license, distribute and market "GC," "GRAVITY," "STAY GROUNDED," and any other brand-named products, and products bearing other Marks, including food and beverage products, books, apparel, videos, web streaming or subscription services, and digital media at or through any location or outlet, including online sales through Licensor or Company, or any other retail outlet (including grocery stores, supermarkets and convenience stores), regardless of proximity to the Drive Thru, and through any distribution channel, at wholesale or retail, including by means of the Internet or Internet website, mail order catalogs, direct mail advertising, and other distribution methods;

(c) to advertise and promote the System through any means, including the Internet; and

(d) to own, develop or become associated with other concepts that may offer similar products or services similar to Authorized Gravity Coffee Products and Services and to operate or to license others to operate locations involving such concepts anywhere.

2.4 Purchase Option Agreement. To further induce Company to enter into this Agreement with Franchisee, Franchisee and Franchisee's Owners must sign and deliver to Company the Purchase Option Agreement in the form attached hereto as Exhibit F ("**Purchase Option Agreement**"). Under the Purchase Option Agreement, Company has the right to require

Franchisee to transfer Franchisee's assets to Company in exchange for payment of the purchase price determined under the formula specified in the Purchase Option Agreement.

### **ARTICLE 3**

#### **TERM AND RIGHT TO ENTER INTO SUCCESSOR FRANCHISE AGREEMENT**

3.1 Initial Term. The term of this Agreement ("**Term**") shall commence on the Effective Date and shall expire on the ten-year anniversary of the Effective Date, unless sooner terminated or extended under this Agreement.

3.2 Right to Enter into Successor Franchise Agreement.

3.2.1 Provided that Company is then operating and engaged in franchising, Franchisee shall have the right at the expiration of the Term (the "**Successor Agreement Right**") to enter into a new franchise or license agreement in the form then generally being offered to prospective franchisees of the System (the "**Successor Franchise Agreement**") for a 10-year period (the "**Successor Term**"). Franchisee acknowledges that the terms of the Successor Franchise Agreement may not contain the same terms for fees, royalties and other commercial terms, but will otherwise be substantially similar to new franchise or license agreements granted at the time.

3.2.2 The term of the Successor Franchise Agreement shall commence upon the date of expiration of the Term; provided, however, that notwithstanding the terms of Company's then-current form of franchise or license agreement:

(a) The Successor Franchise Agreement shall provide that Franchisee pay a renewal fee of \$5,000; and

(b) The Successor Franchise Agreement may, at the Company's sole option, provide that no further rights shall be granted to renew or enter into a successor franchise or license agreement.

3.3 Form and Manner of Exercising Successor Agreement Right. The Successor Agreement Right shall be exercised only in the following manner:

3.3.1 Between nine (9) months and twelve (12) months before the expiration of the Term, Franchisee shall notify Company in writing ("**Notice of Election**") that it intends to exercise its Successor Agreement Right. No sooner than immediately after the expiration of any waiting period(s) required by Applicable Law, and no more than thirty (30) days after Franchisee receives Company's franchise disclosure document (if applicable), Franchisee shall execute the copies of the Successor Franchise Agreement and return them to Company.

3.3.2 If Franchisee exercises its Successor Agreement Right in accordance with Section 3.3.1 and satisfies all of the conditions contained in Section 3.4, Company shall execute the Successor Franchise Agreements and deliver one fully executed copy to Franchisee.

3.3.3 If Franchisee fails timely to perform any of the acts, or timely to deliver any of the notices required pursuant to the provisions of Sections 3.3 or 3.4, such failure shall be deemed an election by Franchisee not to exercise its Successor Agreement Right.

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

3.4.1 At all times until the commencement of the Successor Term, Franchisee has fully performed, in all material respects, all of its obligations under this Agreement, the Manual and all other agreements then in effect between Franchisee and Company, and all agreements between Franchisee and Suppliers and other third parties.

3.4.2 At Company's request, Franchisee, prior to the date of commencement of the Successor Term, has undertaken and completed at its expense, remodeling, renovation, modernization, or refurbishing of the Premises and the Drive Thru, which may include installation of new or replacement equipment, to comply with Company's then-current Standards for new Gravity Drive Thrus.

3.4.3 Without limiting the generality of Section 3.4.1, Franchisee shall not have committed three (3) or more material defaults of this Agreement during any 12-month period at any time during the last three (3) years of the Term for which Company shall have delivered notices of default, whether or not such defaults were cured.

3.4.4 Franchisee shall ensure that all Drive Thru employees have completed Company's then-current qualification, training and certification requirements at Franchisee's expense.

3.4.5 At Company's sole discretion, Franchisee and its Owners may be subject to a criminal background check and credit check at Franchisee's expense. Franchisee and its Owners must successfully pass the criminal background check and credit check, which will be determined at the sole discretion of Company.

3.4.6 Concurrently with the execution of the Successor Franchise Agreement, Franchisee and each of its Affiliates, shall, execute and deliver to Company a general release on a form prescribed by Company that discharges Company (and its Owners, officers, directors, agents, and employees) of any known and unknown claims. The release will cover, among other matters, future consequences of acts, omissions, events and circumstances predating the date of the release, but will not release, in advance, future acts, omissions or events which have not occurred at the time the release is executed.

3.5 Notice Required by Law. If Applicable Law requires that Company give notice to Franchisee prior to the expiration of the Term, this Agreement shall remain in effect on a week to week basis until Company has given the required notice. If Company is unable for any reason to enter into a Successor Franchise Agreement with Franchisee at the time Franchisee delivers its



Notice of Election, Company may, in its discretion, (i) offer to renew this Agreement on the same terms for a Successor Term in accordance with Section 3.2, or (ii) offer to extend the Term on a week-to-week basis following the date it expires for as long as it deems necessary or appropriate so that it may lawfully offer its then-current form of franchise or license agreement.

## **ARTICLE 4 PAYMENTS**

4.1 Initial Fee. In consideration of the grant of the franchise, an initial fee of \$54,900 is due upon the execution of this Agreement; however, if this Agreement relates to Franchisee's or its Affiliate's second or subsequent Gravity Drive Thru franchise, (i) the initial fee is \$45,000 for the second franchise; and (ii) \$30,000 for the third or subsequent franchise. If Franchisee receives existing customers or assets from Company or its Affiliate, Franchisee may pay additional amounts for goodwill or assets under a separate purchase agreement. This initial fee is fully earned upon payment and is non-refundable, in whole or in part, under any circumstances.

4.2 Continuing Royalty. Franchisee shall pay to Company, a periodic continuing royalty (the "**Continuing Royalty**") equal to seven percent (7%) of Franchisee's Gross Sales during the preceding period. As of the Effective Date the reporting and payment period is weekly, but Company may alter the reporting and payment period frequency upon thirty (30) days' notice to Franchisee.

4.3 Marketing Fee. Franchisee shall pay to Company a periodic marketing fee of up to 2% of Franchisee's Gross Sales during the preceding period ("**Marketing Fee**"), at the same time and in the same manner as the Continuing Royalty fee. Any Gravity Drive Thrus operated by Company or its Affiliates shall contribute the Marketing Fee to the marketing fund to be administered in the manner provided in Section 8.3 (the "**Marketing Fund**"). As of the Effective Date, the current Marketing Fee is 1% of Franchisee's Gross Sales. Company may start, discontinue, resume or reduce the Marketing Fund and related expenditures at any time during the Term.

4.4 Timing of Payment. No later than Monday of each week during the Term, Franchisee shall calculate and remit to Company the Continuing Royalty, and Marketing Fee for the preceding calendar week. Company may alter the reporting and payment period frequency upon thirty (30) days' notice to Franchisee

4.5 Grand Opening Promotion; Initial Launch. In addition to the advertising and promotion required by Article 8, Franchisee shall implement a grand opening marketing plan, spending not less than \$5,000. This marketing program will utilize marketing and public relations programs and media and advertising materials approved in writing by Company and will be conducted under Company's Standards and with plans prepared by Franchisee and approved in writing by Company at least ninety (90) days prior to the opening date of the Drive Thru. In addition to the \$5,000 minimum, Company may require that the grand opening include a free drink promotion of one (1) size per person for up to three (3) days, for which Franchisee must absorb the costs of goods.

#### 4.6 Other Fees.

4.6.1 Franchisee must pay Company or its Affiliate a one-time fee for assistance with the installation of certain Information Systems. Company offers various service options, as described in the Manual and Company's Franchise Disclosure Document, that Franchisee must select from, and which currently incur fees that range from \$4,999 to \$20,000.

4.6.2 Franchisee must pay Company or its Affiliate a periodic Information Systems fee, as determined and revised by Company from time to time, for the periodic access to, and maintenance and support of its proprietary or specified Information Systems ("**Information Systems Fee**"). As of the Effective Date, the Information Systems Fee is \$739 per month, payable as provided for in the Manual.

4.6.3 Franchisee must pay Company or its Affiliate a reasonable fee, currently \$4 to \$10 per month, for each email account that Franchisee maintains that uses one or more of our domains.

4.6.4 If Franchisee asks and Company agrees to remotely assist Franchisee with the setup of Franchisee's computer in accordance with Company's Information Systems standards, Company may charge Franchisee a reasonable fee for doing so, currently \$250.

4.6.5 If Franchisee asks Company to assist Franchisee in finding and implementing a security alarm system, Company may charge Franchisee \$250 for doing so.

4.6.6 If Company implements a new point-of-sale and cash collection system "**POS System**," and Franchisee fails to timely convert to the new POS System requiring Company to maintain aspects of the prior POS System, Company may charge Franchisee a reasonable fee, currently \$795 per year plus a \$25 per month per terminal of the prior POS System. The failure to timely convert to the new POS System is a breach of this Agreement and the payment and acceptance of this fee shall not affect Franchisee's obligation to convert to the new POS System, or limit Company's remedies with respect to such breach.

4.6.7 Franchisee must pay Company or its Affiliates any other fees stated elsewhere in this Agreement.

4.7 Mandatory Meetings. Franchisee must attend all mandatory meetings, webinars and telephone conference calls designated by Company, including any franchisee annual conference, and Franchisee must attend only through its representatives approved by Company. Franchisee will bear all Travel Expenses and other costs of attendance.

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

4.8.1 All fees or charges Franchisee is obligated to pay to Company under this Agreement shall be paid in such manner as Company may specify in the Manual, including all modifications made, from time to time. Franchisee must sign and deliver to Company such documents as Company requests irrevocably authorizing Company to withdraw all amounts due

to Company from Franchisee's bank account, or directly from any payment card processor, by electronic funds transfer or such other automatic payment mechanism which Company may designate ("**EFT**"). Promptly upon Company's request, Franchisee shall execute and deliver to Company such pre-authorized check forms and other instruments or drafts required by Company's bank to enable Company to draw all sums payable under the terms of this Agreement. Company's current form of EFT authorization is attached as Exhibit B. Franchisee shall also maintain a single bank account for such payments and shall maintain the minimum balance in such account as Company may reasonably specify in the Manual. Franchisee shall not alter or close such account except with Company's prior written approval. Immediately upon changing such designated bank account (after Company's prior written approval), Franchisee shall execute and deliver Company's then-current form of EFT authorization for the new designated bank account. If Franchisee fails to provide an updated EFT authorization within five (5) days of Company's approval, Franchisee shall pay to Franchisor a late fee of \$100.

4.8.2 If Franchisee is delinquent more than three (3) times in any continuous twelve (12) month period during the Term in the payment of any sums due to Company, or fails to report its sales on a timely basis, Company may require Franchisee to implement a system prescribed by Company that permits Company to unilaterally estimate and draw down the amounts owed by Franchisee, which system may include EFT systems, automatic debits, use of Franchisee pre-authorized checks, other instruments or authority or any other arrangement Company may prescribe, including requiring payment upon or in advance of delivery of goods and services. Company may base its estimates of Marketing Fees, Continuing Royalties, and similar payments, on Franchisee's historically reported Gross Sales. Franchisee shall promptly implement such system in strict accordance with Company's instructions.

4.8.3 If Franchisee fails to timely pay any amounts due to Company, Company may suspend its performance until paid.

#### 4.9 Other Payments.

4.9.1 Franchisee shall pay to Company and its designees, as applicable, promptly when due:

(a) all amounts advanced by Company or which Company has paid, or which Company has become obligated to pay on behalf of Franchisee for any reason whatsoever;

(b) all Taxes, which may be imposed upon Franchisee, but required to be collected or paid by Company (i) on account of Franchisee's Gross Sales, or (ii) on account of fees collected by Company from Franchisee (but excluding Company's ordinary income taxes); and

(c) all amounts due for any reason, including for the purchase of goods, supplies or services relating to the Drive Thru, if any.

4.9.2 Franchisee shall remain current and fully comply and perform each of its obligations to its landlord, vendors, Suppliers and Governmental Authorities.

4.10 Application of Funds. If Franchisee becomes delinquent in the payment of any obligation to Company under this Agreement or any other agreement, Company is entitled to apply any payments received from Franchisee to any obligation owed Company, notwithstanding any contrary designation by Franchisee.

4.11 Interest and Charges for Late Payments. If Franchisee fails to pay to Company all sums owed to Company promptly when due, Franchisee shall pay to Company (a) a late payment charge of \$250 or the maximum late charge allowed by Applicable Law, whichever is less, and (b) interest on the unpaid amounts, at the lower of 18% per annum, or the highest rate allowable under Applicable Law. If any check, draft or electronic transfer is unpaid because of insufficient funds or otherwise, then Franchisee shall pay Company's expenses arising from such non-payment, including bank fees in the amount of up to \$50.00.

4.12 Inflation Adjustments. No more frequently than annually, Company may adjust the dollar amounts set forth in this Agreement (but not the Continuing Royalty, Marketing Fee, or other amounts defined as a percentage) in proportion to the change in the Consumer Price Index, U.S. Average, all items, as compared to the most recent year in which an adjustment was made.

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

### 5.1 Location.

5.1.1 Franchisee acknowledges that it is responsible for finding the Location for the Drive Thru it develops pursuant to this Agreement. If the Location has not been identified when this Agreement has been entered into, and unless otherwise approved by Company, the Location must be secured within the Site Selection Area. Franchisee obtains no territorial rights or exclusivity in the Site Selection Area. Franchisee may engage a site selection company designated or approved by Company to assist Franchisee with the site selection process.

5.1.2 Franchisee shall submit such demographic and other information regarding the proposed site(s) and neighboring areas as Company shall require ("**Site Review Request**"). Company may seek such additional information as it deems necessary, and Franchisee shall respond promptly to each request. If Company is asked by Franchisee to conduct any site visits prior to approving a proposed site, then Franchisee shall reimburse Company for its Travel Expenses. Company may accept or reject a proposed site in its sole discretion. If Company accepts a proposed site it shall notify Franchisee in writing, the site shall be deemed the "Location," and the parties shall execute an addendum to Schedule 1 filling in the Location address. Company will respond to the Site Review Request within thirty (30) days of receipt of Franchisee's Site Review Request, or within about fifteen (15) days after receipt of additional requested information, whichever is later, but in no event shall any proposed site be deemed accepted, except as stated in writing by Company. Franchisee shall not construe any assistance Company may provide, or Company's acceptance of Franchisee's site as an express or implied representation, or a guarantee or other assurance that the site will be successful. Franchisee shall not enter into a Lease or

purchase agreement for the Location until Company has accepted the proposed site, including the Lease and site design, in writing.

5.1.3 Franchisee may not relocate the Drive Thru without Company's prior written consent. If Company consents to relocation, Franchisee shall de-identify the former location in the manner described in Section 15.1.1 and shall reimburse and indemnify Company from any losses, costs and expenses, arising out of Franchisee's failure to do so.

5.1.4 Company's assistance, if any, and its acceptance of a location is solely an indication that the Location meets Company's minimum Standards and such acceptance shall not be construed as an express or implied representation or warranty that the Location will be profitable or successful.

## 5.2 Lease or Purchase of Location.

5.2.1 Promptly following Company's acceptance of the Location, Franchisee shall proceed to negotiate a Lease or purchase agreement for the site. Franchisee shall submit a copy of the proposed Lease or purchase agreement to Company at least fifteen (15) days prior to execution. If the Location is leased or subleased, (i) the Lease shall name Franchisee as the sole lessee and it may not be assigned or sublet without Company's prior written consent; (ii) Company shall have the right to review and accept or reject the Lease; (iii) Franchisee shall not create any obligations on behalf of Company, or grant to lessor any rights against Company, nor agree to any other term, condition, or covenant which is inconsistent with any provision of this Agreement; (iv) the Lease shall be for a term (including options) that is not less than the Term (and the Successor Term); (v) the Lease shall not contain a non-competition covenant which purports to restrict Company, or any franchisee of Company, from operating a Gravity Drive Thru or any other retail establishment; and (vi) a fully executed copy of the Lease shall be delivered to Company promptly following its execution. The Lease shall include the addendum attached as Exhibit C, unless such terms are otherwise incorporated into the Lease to Company's satisfaction.

5.2.2 Franchisee hereby authorizes Company and lessor to communicate with one another for any purpose.

5.2.3 If the Location is being purchased by Franchisee, the purchase and sale contract shall be subject to Company's review and acceptance. A true and correct copy of the proposed contract shall be delivered to Company at least fifteen (15) days prior to execution, and a true and correct copy of the executed contract shall be furnished to Company within fifteen (15) days after execution.

5.2.4 Company's review and acceptance of the Location, the Lease or purchase agreement is solely for Company's benefit and is solely an indication that the Lease or purchase agreement meets Company's minimum Standards and such review and acceptance shall not be construed as any express or implied representation or warranty that the Lease or purchase agreement complies with Applicable Law, represents a transaction that is fair or in Franchisee's best interest, that the terms are favorable to Franchisee, or that the location will be successful.

5.2.5 Franchisee must purchase or lease a Location for the Drive Thru within one hundred eighty (180) days from the Effective Date.

### 5.3 Construction.

5.3.1 Before the renovation or construction of the Drive Thru, Company shall provide Franchisee with copies of Company's Standards for the design and layout of the Drive Thru and required fixtures, equipment, furnishings, decor, trade dress and signs. Franchisee shall, at its sole cost and expense, promptly and diligently cause the Premises and Drive Thru to be designed, constructed, equipped and improved in accordance with the Standards.

5.3.2 Unless Franchisee is qualified, in Company's sole discretion, to manage the project, Franchisee shall engage a project management service designated or approved in writing by Company to manage the construction and build out of the Drive Thru. Franchisee shall employ licensed and bonded architects, engineers and general contractors recommended or approved by Company to prepare architectural, engineering and construction drawings and site plans, and to obtain required Permits. If Franchisee desires to use an architect, engineer or general contractor other than one previously approved by Company, or if an approved architect, engineer and/or general contractor is not available, Franchisee shall obtain Company's written acceptance of a qualified, licensed and bonded professional before commencement of construction. Franchisee shall provide all information reasonably requested by Company regarding Franchisee's proposed professional(s), and Company will deliver written notice of its acceptance or rejection of the professional(s) within about thirty (30) days. All drawings and plans shall be submitted to Company for its prior review and acceptance before Franchisee's commencement of construction. Company will deliver written notice of its acceptance or rejection of such plans or drawings within about thirty (30) days.

5.3.3 Franchisee's Operating Principal and general contractor must attend a site development meeting with Company's construction and development team at Company's headquarters prior to commencing construction. Such meeting will be scheduled at a mutually acceptable date and time, and will be approximately one-half a day in duration. Franchisee shall bear all Travel Expenses to attend. Company may waive this requirement if Franchisee has previously opened a Gravity Drive Thru, or if Franchisee's proposed general contractor previously attended a site development meeting with Company's construction and development team.

5.3.4 You must use Company or its Affiliate for remote or on-site assistance with the installation of certain Information Systems. Company offers various service options, as described in the Manual and Company's Franchise Disclosure Document, that Franchisee must select from. Franchisee must reimburse Company and its Affiliates for their employees' Travel Expenses related to such assistance to the extent it requires assistance on-site at the Premises.

5.3.5 Company has the right to perform inspections of the Drive Thru and Premises or request pictures or video during and after construction to confirm that the Drive Thru is being built and equipped under the Standards and the plans or drawings accepted by Company. Franchisee may not open the Drive Thru for business until Franchisee has received written

authorization to open from Company, which authorization may be conditioned on the completion of a punch list and subject to Company's satisfactory inspection of the Drive Thru.

5.3.6 Franchisee may request additional information regarding the design and construction of the Drive Thru, which, if in the possession of Company, shall be provided at no expense to Franchisee. Upon reasonable request, Company shall provide additional site visits, design work and equipment purchasing services to Franchisee at Franchisee's cost.

5.3.7 Subject only to Force Majeure, Franchisee shall complete construction or renovation of the Premises and the Drive Thru, obtain all required Permits and Company's written authorization to open, and commence operation of the Drive Thru as soon as possible, but in any event, within eighteen (18) months after the Effective Date. The time period for the commencement of operation of the Drive Thru is of the essence of this Agreement. Failure to open the Drive Thru within this timeframe may result in termination of this Agreement and forfeiture of the initial fee.

5.3.8 Company's acceptance of Franchisee's plans and drawings for the Location, Company's guidance with the development of the Location, and Company's authorization to open the Drive Thru are to confirm that Franchisee complies with the Standards, and shall not be construed as an express or implied representation or warranty that the build out of the Premises complies with Applicable Law or that the construction is sound or free from defects. Company will have no liability for the Location selection, construction, or the means and methods used, and it shall be Franchisee's responsibility to ascertain and comply with Applicable Law, including all local building codes, zoning and land use requirements, and the Americans with Disabilities Act.

#### 5.4 Maintaining and Remodeling of Drive Thru.

5.4.1 Franchisee shall maintain the condition and appearance of the Drive Thru in a "like new" condition and operation consistent with the image of a Gravity Drive Thru as attractive, clean, safe, and efficiently operated, offering premium beverage and food products, courteous service, and pleasant ambiance; any equipment or fixtures that for any reason become unsafe or create an unreasonable risk of injury to any customer must be replaced immediately. If in Company's reasonable judgment, the state of repair, appearance, cleanliness or functionality of Franchisee's Premises, Drive Thru, or its fixtures, equipment, furnishings, signs fail to meet the Standards, Company shall provide written notice to Franchisee and Franchisee shall promptly correct such deficiencies within the time period(s) reasonably prescribed by Company.

5.4.2 In addition to Franchisee's obligations under Section 5.4.1, not more frequently than once every five (5) years during the Term, and as a condition to Franchisee's exercising its Successor Agreement Right, Company may require Franchisee, at Franchisee's sole cost and expense, to refurbish, remodel and improve the Drive Thru to conform to the then-current Standards set forth in the Manual or otherwise. Such remodeling may include replacement or modification of furnishings, fixtures and equipment. Upon notice, Franchisee shall complete any such remodeling as expeditiously as possible, but in any event within ninety (90) days (and no later than the commencement of the Successor Term), unless Company agrees to a longer period

of time. Company shall not be liable to Franchisee on account of any lost income, profits, opportunities, or otherwise as a result of being required to undergo the remodeling.

5.4.3 If the Drive Thru is damaged or destroyed by fire or other casualty, Franchisee shall commence repairs or reconstruction as soon as practicable, and thereafter diligently pursue such repairs or reconstruction to completion; any such repair and reconstruction shall be completed as soon as reasonably practicable, but in any event, within six (6) months following the event causing the damage or destruction. Company may require that Franchisee repair or reconstruct the Premises and Drive Thru in conformance with the Standards for new Gravity Drive Thrus.

5.5 Force Majeure. If Franchisee claims an event of Force Majeure, Franchisee shall provide written notice to Company within five (5) days of the occurrence of the event. The notice must (i) state that Franchisee believes that an event of Force Majeure has occurred, (ii) describe the circumstances of the event with particularity, and (iii) describe how the Force Majeure has impacted Franchisee's performance under this Agreement. Franchisee must also provide all other information as may be requested by Company, periodic updates on Franchisee's progress, and diligence in responding to the Force Majeure. Thereafter, Franchisee must notify Company promptly upon cessation of the Force Majeure.

## **ARTICLE 6 TRAINING**

6.1 Training. Franchisee acknowledges that completion of all training provided by Company to Franchisee and its employees and the uncompromising execution of the Company's Systems and Standards in the operation of the Drive Thru are essential elements of the consideration provided to Company in exchange for the rights granted to Franchisee under this Agreement.

### 6.2 Initial Training.

6.2.1 The Operating Principal and General Manager (and Director of Operations or such other multi-unit operators responsible for the operation of the Drive Thru, if applicable) shall successfully complete, to Company's satisfaction, an initial training program in Company's Systems, Standards and methods of operation ("**Initial Training Program**") before opening the Drive Thru. Company may modify the content, length and manner of conducting the Initial Training Program in its discretion from time to time. Company shall provide at no additional cost the Initial Training Program to up to three (3) persons selected by Franchisee who shall include the Operating Principal and Franchisee's General Manager (and Director of Operations, if applicable) unless the Operating Principal (and Director of Operations, if applicable) has already successfully completed the Initial Training Program pursuant to an Area Development Agreement. If Company allows more than three (3) of Franchisee's personnel to attend the initial training, Franchisee shall pay Company's then-current per day training fees for each additional trainee. Franchisee may not open the Drive Thru until such training has been completed to Company's satisfaction. Training will be conducted at Company's facilities or at other location(s) specified by



Company. The Initial Training Program shall be approximately ten (10) days total. Franchisee shall bear all Travel Expenses, Wages and other expenses incurred by Franchisee and/or its employees in connection with training, including for trainee's services at a Company or another franchisee's Drive Thru.

6.2.2 Franchisee acknowledges that because of Company's superior skill and knowledge of the training and skill required to manage a Gravity Drive Thru, the Company's judgment as to whether a person has satisfactorily completed the Initial Training Program shall prevail.

### 6.3 On-Site Opening Assistance.

6.3.1 Company will provide approximately five (5) days of on-site opening assistance, which includes assistance during and for pre-opening, the grand opening, drive thru-readiness, shift lead and training certification ("**On-Site Assistance**") to the Operating Principal and Franchisee's other employees. Franchisee must reimburse Company for its employees' Travel Expenses for such On-Site Assistance.

6.3.2 Franchisee must pay Company's then-current per-day assistance fee and Travel Expenses for each day Company's On-Site Assistance personnel are on site but unable to assist because Franchisee is not ready to begin or must otherwise delay the On-Site Training.

6.3.3 Any On-Site Assistance at Franchisee's request will be at Company's discretion and its scheduling and capacity requirements.

6.4 Staff Training. The Operating Principal shall fully and adequately train each of Franchisee's regular employees prior to the first opening of the Drive Thru to the public and at all times thereafter during the Term. Franchisee's General Manager(s) shall have the skill level, training and experience commensurate with the demands of the position, and in keeping with Company's high standards for quality products, courteous service, and cleanliness of operations. At all times during the Term, Franchisee shall employ an adequate staff of employees working at the Drive Thru who shall have been fully and adequately trained, and all such employees shall have completed all training certifications required by Company, any Governmental Authority or Applicable Law.

6.5 Certified Training Store. Company may, at Franchisee's reasonable request and subject to Company's capacity and scheduling requirements, conduct such procedures as Company determines necessary to approve a Drive Thru as a "**Certified Training Store**", in which Franchisee will be authorized to conduct certain trainings. Company reserves the right to decertify and recertify Certified Training Stores. In addition to paying Company's then-current charge for training and certification of the Certified Training Store, Franchisee shall reimburse Company for all of its employees' Travel Expenses incurred in the certification or re-certification process. If Franchisee and its Affiliates own five (5) or more Drive Thrus, Franchisee must operate a Certified Training Store.

6.6 Additional Training and Other Assistance.

6.6.1 Company may require participation in regularly scheduled telephone training calls and may require the Operating Principal and the General Manager (and Director of Operations, if applicable) to attend one or more additional or supplemental training courses or programs ("**Additional Training**"). Additional Training may be held on an individual Drive Thru basis, or on a national or regional basis at locations selected by Company and may include new procedures or programs which Company deems to be of importance to the operation of the Drive Thru. Company may also make optional training programs available to the Operating Principal and Franchisee's General Manager(s) and Assistant General Manager(s) (and Director of Operations, if applicable). Franchisee shall pay Company's then-current per day training fees for Additional Training or optional training and will reimburse Company for its employees' Travel Expenses.

6.6.2 Franchisee acknowledges that training is a critical component of its ability to execute the Gravity Coffee core values, and failure to participate in Additional Training shall constitute a material breach of this Agreement.

6.6.3 At Franchisee's reasonable request, Company may cause its field representatives to visit the Drive Thru to advise, consult with or train Franchisee in connection with its performance and operation of the Drive Thru and Franchisee's compliance with the Standards.

6.7 Training Cancellation Fee. If Franchisee or any of its employees cancel or reschedule participation in any scheduled training course or program, Franchisee must reimburse Company for all of its employees' Travel Expenses, Wages and other expenses incurred as a result of such cancellation or rescheduling.

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

7.1 Business Conduct.

7.1.1 Franchisee shall operate the Drive Thru as a clean, orderly, lawful and respectable place of business and in strict compliance with the Standards, the Manual and Applicable Law offering all Authorized Gravity Coffee Products and Services for sale to all Drive Thru customers. The Franchisee shall operate the Drive Thru in a manner so as to receive the highest possible ratings from all applicable health and safety regulatory entities. The Franchisee shall immediately notify the Company if the Drive Thru ever receives a rating from any such entity that is lower than the highest possible rating, or receives notice of a major violation requiring immediate closure, regardless of the grade received.

7.1.2 It shall be Franchisee's responsibility to ascertain all provisions of Applicable Law relating to the construction and operation of the Drive Thru, and to fully comply

with all such provisions. Franchisee, as such, must obtain and maintain all licenses and permits required by Applicable Law, pay all taxes and comply with all Applicable Law,

7.1.3 In order to protect the Company's brand and reputation, Franchisee and its Owners shall not commit any criminal felonies and shall maintain a good credit rating during the Term and Successor Term. At any time, and at Company's sole discretion and Franchisee's expense, Company may conduct a criminal background check and credit check on Franchisee and its Owners. If required by Applicable Law, Franchisee and its Owners agree to sign a consent to a background and credit check in a form prescribed by Company. If Franchisee or its Owners are found to have committed a criminal felony or failed to maintain a good credit rating, Company may terminate this Agreement.

7.1.4 Franchisee shall in all dealings with its customers, suppliers, and public officials adhere to high standards of honesty, integrity, fair dealing and ethical conduct. Franchisee shall refrain from engaging in any action (or failing to take any action), which causes or could cause damage, harm or injury to the Marks, the System and/or Company's brand or reputation.

7.2 Manual. Franchisee shall participate in the System and operate the Drive Thru in strict compliance with the Standards and those provisions of the Manual designated as mandatory by Company. The provisions of the Manual designated as mandatory are an integral part of this Agreement and Franchisee is required to fully comply with any provision of the Manual designated as mandatory, as the Manual may be amended from time-to-time. Franchisee's failure to comply with any mandatory provisions of the Manual shall be regarded as a breach of this Agreement. The Manual may also contain certain guidelines, suggestions, or recommendations that are not mandatory. Franchisee is free to disregard any such provisions, and must disregard them if they conflict with Applicable Law.

7.2.1 Company has the right to add to, delete from, modify, or otherwise change the System and the Manual at any time, including without limitation, by adding new or enhanced products or services, new operational requirements, and new techniques and methods of operation, but no such modifications shall vary or alter any of the commercial terms of this Agreement. Modifications in the Manual designated as mandatory shall become effective upon delivery of written or electronic notice to Franchisee. Electronic notice may be given through email, postings to the Intranet, or other electronic means. Franchisee agrees that Company reserves the right and privilege, in its discretion, to vary the Manual and Standards for any franchisee based on the peculiarities of any condition or factors that Company considers important to that franchisee's successful operation. Such variance may not apply to Franchisee or any other franchisee.

7.2.2 Upon the execution of this Agreement, Company shall lend, make available, or provide access to Franchisee one copy of the Manual. The Manual is copyright-protected and remains Company's exclusive property. The Manual is a highly confidential document which contains certain Trade Secrets of Company. Franchisee shall not make, or cause or allow to be made, any copies, reproductions or excerpts of all or any portion of the Manual without Company's prior written consent. Franchisee must immediately notify Company if all or any

portion of the Manual loaned to Franchisee is stolen, lost, destroyed, or electronic security measures are violated or breached.

### 7.3 Operating Principal and Management Employees.

7.3.1 The Operating Principal shall be responsible for communicating and coordinating with Company regarding business, operational and other ongoing matters concerning this Agreement and the Drive Thru. Franchisee represents and warrants that the Operating Principal shall have the full authority to act on behalf of Franchisee in regard to performing, administering or amending this Agreement. The Operating Principal shall be vested with the authority and responsibility for the day-to-day operations of the Drive Thru and shall be responsible for ensuring that the Drive Thru is operated in compliance with this Agreement and the Standards. If Franchisee is an entity, at least ten (10) days prior to employing the Operating Principal, Franchisee will provide in writing all information reasonably requested about the proposed Operating Principal by Company. The Operating Principal shall: (a) devote full time and best efforts solely to operating the Drive Thru (and all Gravity Drive Thrus owned and operated by Franchisee and its Affiliates developed under the same Area Development Agreement) and to no other business activities; (b) meet Company's educational, experience, financial and other reasonable criteria for such position, as established by Company; (c) be an Owner with 10% or more (directly or indirectly), in the aggregate, of the Equity or voting rights in Franchisee or, with Company's prior written approval in its sole discretion, an executive officer of Franchisee; and (d) have successfully completed the Initial Training Program. If during the Term the Operating Principal is no longer able to serve, or no longer meets the qualifications as described in this Section, Franchisee shall promptly notify Company and not later than thirty (30) days after the prior Operating Principal ceases to serve or qualify: (x) designate a replacement Operating Principal who meets the Standards and has been accepted by Company, (y) provide Company with such information about the new Operating Principal as Company may reasonably request, and (z) cause the replacement Operating Principal to satisfactorily complete the Initial Training Program at Franchisee's cost.

7.3.2 Franchisee shall ensure that the operation of the Drive Thru is at all times under the control of the Operating Principal, General Manager, or Assistant General Manager (or Director of Operations, if applicable). At all times that the Drive Thru is open and at all times that pre-opening or post-closing activities are being undertaken at the Drive Thru, the Drive Thru shall be managed by a person that has successfully completed training as may be specified by Company and any training required by Applicable Law. Franchisee shall supervise, direct and be responsible for in all respects, the activities and performance of the Operating Principal, General Managers (and Director of Operations, if applicable), and other employees of Franchisee and shall ensure compliance with the Standards.

### 7.4 Information Systems (Including POS System).

7.4.1 Franchisee shall purchase, use and maintain the Information Systems (including the point-of-sale system) specified in the Manual. The Information Systems must at all times be securely connected to one or more high-speed communications media as specified by

Company and be capable of accessing the Internet. Franchisee must electronically link the Information Systems to Company or its designee, which shall allow Company or its designee to access the Information Systems to add, remove, configure and modify the Information Systems, the Manual or other operational information via any means including electronic polling and uploads, with or without notice (provided, however, that Company will not, and has no right to, add, remove, configure or modify any Information Systems in any manner that would exercise any employment-related control with respect to Franchisee's employees). Company may, if Company deems it reasonable to do so, in its discretion, upon thirty (30) days advance written notice require Franchisee, at Franchisee's sole cost and expense, to add to, update, upgrade or replace all or any parts of the Information Systems, including hardware or software. Franchisee agrees to acquire the hardware, software and other components and devices comprising the Information Systems and all support services, service and maintenance agreements and subscriptions prescribed by Company to maintain, protect, and interface with the Information Systems.

7.4.2 Franchisee shall not use or permit the use of the Information Systems in the Drive Thru for any unlawful or non-business related activity, and the Information Systems shall be used strictly in compliance with the Standards. Franchisee shall at all times provide Company with all passwords, access keys and other security devices or systems as necessary to permit Company to access the Information Systems and obtain the data Company is permitted to obtain. Company reserves the right to add, control, modify, govern and block any and all network and Internet traffic, ports, protocols, and destinations.

7.4.3 Franchisee shall, upon Company's request, text or email digital photos and real time video and audio signals of the Location to, and in the form and manner prescribed by, Company.

7.4.4 Within a reasonable time upon Company's request, Franchisee shall apply for and maintain systems for use of debit cards, credit cards, loyalty and gift cards and other non-cash payment methods. Franchisee shall comply with all PCI (Payment Card Industry), CISP (Cardholder Information Security Program) and SDP (Site Data Protection) specifications.

7.4.5 If Company implements a new point-of-sale and cash collection system "**POS System**," and Franchisee fails to timely convert to the new POS System requiring Company to maintain aspects of the prior POS System, Franchisee must pay Company an annual fee of \$795 plus a monthly fee of \$25 per terminal of the POS System.

7.5 Hours. Subject to Applicable Law to the contrary, or operating restrictions at the location of the Drive Thru, Company and Franchisee agree that Drive Thru shall be open and operational a minimum of 7 days per week, 17.5 hours per day, every day of the year (except as otherwise stated in the Manual). Company may require Franchisee to increase the number of operational hours per day based on product offerings.

7.6 Product Lines and Services. Franchisee shall make available for sale all Authorized Gravity Coffee Products and Services as Company directs. Franchisee shall not offer or serve any other products or services without Company's prior written consent. All Authorized Gravity Coffee

Products and Services shall be sold and distributed under the specific name(s) designated by Company and shall be purchased, inventoried, stored, prepared, and served strictly under Company's recipes and the Standards. At all times, Franchisee shall purchase and maintain in inventory such types and quantities of Authorized Gravity Coffee Products and Services (and ingredients for such products) as are needed to meet reasonably anticipated consumer demand. All sales by Franchisee shall be for retail consumption only.

7.7 Furnishings, Fixtures, Equipment, and Other Goods. All tableware, flatware, utensils, cups, lids, glasses, menus, furnishings, equipment, supplies and other like articles used in connection with the Drive Thru shall conform to the Standards, and if and as specified by Company, and shall be purchased by Franchisee from a Supplier as provided in Article 9. No item of merchandise, furnishings, interior and exterior decor items, supplies, fixtures, or equipment shall be used in or upon the Drive Thru, unless expressly approved by Company, in writing.

7.8 Customer Safety. Franchisee shall ensure that all employees and staff complete a background check as specified in the Manual before retained or employed, that Franchisee regularly monitors all fixtures and equipment to ensure safety, and that Franchisee ensures that all staff are appropriately trained and certified to perform their responsibilities. Franchisee shall treat all customers with respect and dignity and shall not discriminate in its treatment based on religion, race, national origin, gender, gender identification, disability, or any other protected class.

7.9 Menus. Authorized Gravity Coffee Products and Services shall be marketed by approved menu formats in the Drive Thru. The approved and authorized menu, menu format(s), and displays may include, in Company's discretion, requirements concerning organization, graphics, product descriptions, and illustrations. In Company's discretion, the menu and menu format(s) may vary depending upon region, market size, drive thru size, and other factors. Company may change the menu and menu format(s) from time to time. Company may also authorize tests for various Gravity Drive Thrus.

7.9.1 Franchisee shall add, delete, or update any Authorized Gravity Coffee Products and Services to its menu or change the format of the menu according to the instructions contained in a notice from Company. Franchisee shall have ten (10) days after receipt of written or electronic notice to fully implement any such change. Franchisee shall not remove any Authorized Gravity Coffee Product or Service from Franchisee's menu without Company's written consent. Franchisee shall cease selling any product within ten (10) days after receipt of notice that the product is no longer approved. Company may instruct Franchisee to remove any item from the menu on an emergency basis and Franchisee must comply with such instruction immediately. Company shall not be liable to Franchisee for any losses sustained by Franchisee in connection with such instruction (or Franchisee's failure to comply with such instruction).

7.9.2 All food and beverage products sold by Franchisee and the ingredients, composition, specifications, and preparation of such food products shall comply with the Standards, Manual, and Applicable Law.

7.9.3 If Company determines in its sole discretion that it may lawfully direct Franchisee to charge certain prices for Authorized Gravity Coffee Products and Services, then Franchisee will charge such prices as established by Company in the Manuals or otherwise in writing. Otherwise, Franchisee will provide information regarding its prices to Company as requested.

7.10 Notification of a Data Breach or Legal Proceedings; Crisis Management Events.

7.10.1 Franchisee shall immediately call or email Company for any of the following: (i) suspected or actual data breach, (ii) notice of any violation, report, fine, test result or the like from a Governmental Authority, or (iii) notice of the commencement of any investigation, action, suit, or other proceeding, or the issuance of any order, writ, injunction, award, or other decree of any court, agency, or other Governmental Authority that pertains to the Drive Thru, the Marks or the System, or that may adversely affect Franchisee's operation of the Drive Thru or ability to meet its obligations. Franchisee shall immediately send a copy of all relevant communications and documents to Company. Franchisee shall handle the matter in accordance with Applicable Law or as directed by a Governmental Authority, but shall immediately correct any deficiency that has created or threatens to create a material health or safety issue.

7.10.2 Upon the occurrence of a Crisis Management Event, Franchisee shall immediately inform Company by telephone and email (or other electronic messaging medium authorized by Company for this purpose). Franchisee shall cooperate fully with Company in Company's response to the Crisis Management Event. Company may require Franchisee to, among other things, temporarily close the Drive Thru to the public. In such event, Company shall not be liable to Franchisee for any losses or costs, including consequential damages or lost profits occasioned by such procedures or closure.

7.11 Signs. Franchisee shall maintain approved signs and/or awnings at, on, or near the front of the Premises, identifying the Location as a Gravity Drive Thru, which shall conform in all respects to the Standards and design plan approved for the Location, subject only to restrictions imposed by Applicable Law. Upon thirty (30) days' notice by Company, Franchisee will complete the alteration of any existing sign(s), at its cost, subject to any required approval of the lessor.

7.12 Uniforms and Employee Appearance. Franchisee shall cause all employees while working in the Drive Thru to: (i) wear uniforms under the Standards, and (ii) present a neat and clean appearance. Company may alter the style or type of uniform from time to time, and Franchisee shall have sixty (60) days from receipt of written notice to implement the uniform change. Franchisee's employees working in the Drive Thru shall be dedicated solely to the Franchisee's Drive Thru and shall not work at any other business that engages in Competitive Activities.

7.13 Vending or Other Machines. Franchisee shall not cause or permit vending, gaming machines, pay telephones, automatic teller machines, Internet kiosks or any other mechanical or electrical device to be installed or maintained at the Location.

7.14 Co-Branding. Franchisee may not engage in any co-branding in or in connection with the Drive Thru except with Company's prior written consent. "Co-branding" includes the operation of an independent business, product line or operating system owned or licensed by an entity other than Company that is featured or incorporated within Franchisee's Premises or is adjacent to Franchisee's Premises and operated in a manner which is likely to cause the public to perceive it to be related to the Drive Thru.

7.15 Intranet.

7.15.1 Company may, at its option, establish and maintain an intranet or extranet (the "**Intranet**") through which franchisees may communicate with each other, and Company may disseminate the Manual, updates and other confidential information. Company shall have discretion and control over all aspects of the Intranet, including its content and functionality. Company will have no obligation to maintain the Intranet, and may discontinue it at any time without liability.

7.15.2 Franchisee may use the Intranet only under the standards of use developed by the Company from time to time. Franchisee acknowledges that, as administrator of the Intranet, Company can technically access and view any communication that any person posts on the Intranet. Franchisee further acknowledges that the Intranet facility and all communications that are posted to it will become Company's property, free of any claims of privacy or privilege that Franchisee or any other person may assert.

7.15.3 Franchisee must pay Company's then-current Intranet service fee, which may be up to \$100 per month, if applicable.

7.16 Internet.

7.16.1 Franchisee shall not develop, create, generate, own, license, lease, participate in, or use in any manner any computer medium or electronic medium (including any Internet web-page, email address, website, domain name, bulletin board, newsgroup or other Internet-related medium or activity) which medium, or any sponsor or promoter of such medium, uses or displays the Marks, or any confusingly similar words, symbols or terms without Company's express prior written consent, and then only in such manner and under the Standards.

7.16.2 Company has established one or more Internet websites. Company shall have discretion over the design, content and functionality of such websites. Company may include one or more interior pages that identify retail Gravity Drive Thrus operated under the Marks, including the Drive Thru, by among other things, geographic region, address, telephone number(s), and service offerings. Such website(s) may also include one or more interior pages dedicated to the sale of franchises or licenses by Company and/or relations with Company's or its Affiliate's investors. Company may require or permit Franchisee periodically to select from Company's designated alternative design elements for an interior page (or portion of page) dedicated to the Drive Thru. Such designated alternative design elements may change from time to time. Company will implement any such designated design elements or changes promptly



subject to Company's business needs and scheduling requirements. Company may modify, disable or terminate such website(s) without Company having any liability to Franchisee.

7.16.3 Franchisee acknowledges and agrees that Company or Licensor is the owner of, and will retain all right, title and interest in and to (i) the domain name "gccoffee.com;" (ii) the URL: "www.gccoffee.com," all existing and future domain names, URLs, future addresses and subaddresses using the Marks in any manner; (iii) all computer programs and computer code used for or on Company's website(s); (iv) all text, images, sounds, files, video, designs, animations, layout, color schemes, trade dress, concepts, methods, techniques, processes and data used in connection with, displayed on, or collected from or through Company's website(s); and (iv) all intellectual property rights in or to any of the foregoing.

## **ARTICLE 8 ADVERTISING AND CO-OPS**

8.1 General Advertising Requirements. Franchisee shall use its best efforts to market and promote the Drive Thru and to maximize its Gross Sales. Franchisee shall use and display all signs and advertising materials required by the Standards, and Franchisee must obtain Company's prior written approval to use and/or display any other advertising materials or the Marks or engage in any public relations or media activities, including any activities on any social media account, or promotions or discounts. The materials shall be deemed disapproved if Company has not approved such materials within fifteen (15) days of submission by Franchisee. Any advertising materials or concepts created by Franchisee and approved by Company are the sole and exclusive property of Company. Company may, in its discretion, require Franchisee to cease using any advertising materials which it has previously approved, and Franchisee shall cease using such materials upon written notice.

8.2 Local Advertising and Promotion. Each month Franchisee shall expend the then-required minimum amount of its Gross Sales (up to 2%) for the preceding month, for local advertising of the Drive Thru ("**Local Advertising Expenditure**"). The current minimum amount shall be established by Company from time to time in the Manual. Franchisee shall deliver evidence of local advertising expenditures in the form and manner prescribed by Company. All contributions to a Co-op Advertising Region and all expenditures for promotional campaigns in accordance with Section 8.6 shall be credited against Franchisee's required Local Advertising Expenditure. Upon the request of Company, Franchisee shall provide an advertising plan which details the local advertising to be conducted during the calendar year. Such plan shall be made available not later than December 15 of the preceding calendar year. Company hereby reserves the right to approve the plan and Franchisee shall revise the plan in response to Company's comments. Franchisee shall not use the Local Advertising Expenditure for white or yellow page advertising or listings, market research, seminars, entertainment, fees paid to consultants not approved, in writing, by Company, incentive programs, press parties, or specialty items (unless part of a marketing program approved, in writing, by Company and the cost is not recovered by promotion), unless Company gives its prior written consent.

### 8.3 Marketing Fund.

8.3.1 Franchisee's Marketing Fee shall be contributed to the Marketing Fund. An amount equal to all Marketing Fund revenues and allocations will be expended for national, regional, or local advertising, public relations or promotional campaigns or programs designed to promote and enhance the image, identity or patronage of franchised and Company-owned Gravity Drive Thrus. These expenditures may include: (a) creative development, production and placement of print advertisements, commercials, musical jingles, decals, radio spots, audio advertising, point of purchase materials, direct mail pieces, outdoor advertising, electronic media advertisements, and other advertising and promotional materials; (b) creative development, preparation, production and placement of video, audio and written materials and electronic and social media; (c) purchasing artwork and other components for advertising; (d) media placement and buying, including all associated expenses and fees; (e) administering regional and multi-regional marketing and advertising programs; (f) market research, marketing studies and customer satisfaction surveys, including the use of secret shoppers; (g) development, production and acquisition of premium items, giveaways, promotions, contests, sweepstakes, public relations events, and charitable or nonprofit events; (h) creative development of signage, posters, and individual décor items including wall graphics; (i) recognition and awards events and programs; (j) system recognition events, including periodic national and regional conventions and meetings; (k) website, extranet and/or Intranet development, implementation and maintenance; (l) development, implementation and maintenance of a website that permits electronic commerce and/or related strategies; (m) retention of advertising and promotional agencies and other outside advisors, including retainers and management fees; (n) public relations and community involvement activities and programs; (o) expenditures for activities conducted for the benefit of co-branding, or other arrangements where Gravity Coffee branded products and services are offered in conjunction with other marks or through alternative channels of distribution; and (p) expenditures with others joint marketing campaigns, jointly developed advertising and other joint programs.

8.3.2 Company shall determine, in its discretion, the cost, media, content, format, style, timing, allocation and all other matters relating to such advertising, public relations and promotional campaigns. Franchisee acknowledges and agrees that the purpose of the Marketing Fund is to maximize general public recognition and patronage of the goods and services offered by Franchisees and to build the value of the Marks for Company and for the system as a whole. Company has no obligation to ensure that Franchisee benefits at all, or on a pro rata basis from the placement or conduct of advertising, marketing, or promotional activities. The Marketing Fund shall, as available, provide to Franchisee marketing, advertising and promotional formats and sample materials at the Marketing Fund's actual cost of producing such items, plus shipping and handling. Any additional advertising shall be at the sole cost and expense of Franchisee.

8.3.3 Without limiting the foregoing, Company may with respect to the Marketing Fund take such actions, pay such fees and expenses (including to itself or its Affiliates), and employ and pay its Affiliates or such individuals and/or consultants as it deems necessary or reasonable in its sole discretion.

8.3.4 Company may (i) transfer the Marketing Fees to a separate Entity to whom Company has assigned or delegated the responsibility to operate and maintain the Marketing Fund, (ii) deposit the Marketing Fees into a separate account maintained by Company, or (iii) administratively segregate on its books and records all Marketing Fees received from Franchisee and all other franchisees of Company. Nothing in this Agreement shall be deemed to create a trust fund, a fiduciary relationship or similar relationship, and Company may commingle Marketing Fees with its general operating funds and expend such sums in the manner provided for in this Agreement. For each Drive Thru that Company or any of its Affiliates operate, Company or such Affiliate will allocate to the Marketing Fund the amount that would be required to be contributed to the Marketing Fund if it were a franchised Drive Thru under Company's then-current form of franchise or license agreement as of the date of the opening of such Drive Thru.

8.3.5 If less than the total of all contributions and allocations to the Marketing Fund are expended during any fiscal year, such excess may be accumulated for use during subsequent years. Company may spend in any fiscal year an amount greater or less than the aggregate contributions to the Marketing Fund in that year and may cause the Marketing Fund to borrow funds to cover deficits or invest surplus funds. If Company (or an Affiliate) advances money to the Marketing Fund, it will be entitled to be reimbursed for such advances. Any interest earned on monies held in the Marketing Fund will be contributed or allocated to the Marketing Fund. Company may suspend or terminate the Marketing Fund; however, prior to termination, all funds must be expended.

8.3.6 The Marketing Fund will be accounted for separately; provided, however, this separate accounting will not limit Company's right to commingle Marketing Fees with general operating funds. The Marketing Fund may be used to pay all administrative and other costs of the Marketing Fund related to its activities and purposes and/or as authorized by the relevant franchise or license agreements. All taxes of any kind incurred in connection with or related to the Marketing Fund, its activities, or contributions will be the sole responsibility of the Marketing Fund. Within one hundred twenty (120) days following each fiscal year, Company will prepare a statement of contributions and expenditures of the Marketing Fund, and upon Franchisee's written request, Company will provide such information to Franchisee.

8.4 Co-op Advertising. Company may, but is not obligated to, establish regions for co-operative advertising ("**Co-op Advertising Regions**"), to coordinate advertising, marketing efforts and programs, and maximize the use of local and regional advertising media. Franchisee's obligations related to Co-op Advertising in the event Company establishes Co-op Advertising Regions is set forth in Exhibit D.

8.5 Telephone Numbers and Directory Advertising. In addition to the Marketing Fees and Franchisee's required expenditures under Sections 8.2 and 8.3, Franchisee shall, at its sole expense, subscribe for and maintain throughout the Term, one or more publicly listed telephone numbers in accordance with the Standards. All advertisements in the yellow pages or other directory listing shall be subject to Company's prior written consent in accordance with Section 8.1.

8.6 Promotional Campaigns; Gift Cards and Loyalty Program. From time to time during the Term, Company shall have the right to establish and conduct promotional campaigns on a national or regional basis, which may by way of illustration promote particular products or marketing themes. Franchisee agrees to participate in such promotional campaigns upon such terms and conditions as Company may establish. Franchisee acknowledges and agrees that such participation may require Franchisee to purchase point-of-sale advertising material, posters, flyers, product displays and other promotional material. The Company shall have the right to implement and administer gift card and loyalty programs allowing customers to purchase Gravity Drive Thru electronic gift cards and earn and use loyalty rewards for redemption at any Gravity Drive Thru. Franchisee must honor such gift cards and loyalty program rewards if a customer presents one in paying for their order from Franchisee's Drive Thru. Franchisee may not issue, redeem or otherwise authorize any other gift or loyalty cards, except those approved of in advance by Company, in writing.

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

9.1 Proprietary Products. Company may require that Franchisee purchase, use, and/or offer at the Drive Thru certain beverages, products, sauces, syrups, food products, other ingredients and raw materials, paper goods, packaging, uniforms, other supplies, equipment, furnishings, fixtures, software, or other goods and services that are grown, produced, manufactured, or created under Company's Trade Secrets (including recipes, Standards, and/or formulas), or which Company designates as "proprietary" ("**Proprietary Products**"). Franchisee shall purchase Proprietary Products only from Company or Company's designees. Company shall not be obligated to reveal Trade Secrets (including recipes, Standards, and/or formulas) of such Proprietary Products to Franchisee, non-designated suppliers, or any other third parties.

9.2 Non-Proprietary Products. Company may designate certain beverages, products, sauces, syrups, food products, other ingredients and raw materials, paper goods, packaging, uniforms, other supplies, equipment, furnishings, fixtures, software, or other goods and services, that Franchisee may or must purchase and use in the Drive Thru's operations and/or offer for sale at the Drive Thru ("**Non-Proprietary Products**"). Franchisee may use, offer or sell only such Non-Proprietary Products that Company has expressly authorized, in writing.

9.2.1 Franchisee may purchase authorized Non-Proprietary Products from: (i) Company; (ii) suppliers designated or approved by Company, in writing; or (iii) suppliers selected by Franchisee and with Company's prior written consent ("**Suppliers**"). Each such Supplier seeking to be approved or designated by Company must agree to comply with Company's requirements, including those relating to insurance, indemnification and non-disclosure, and shall demonstrate to the reasonable satisfaction of Company: (a) its ability to supply a Non-Proprietary Product meeting the Standards, which may include specifications as to brand name, model, contents, manner of preparation, ingredients, quality, and compliance with Applicable Law; (b) its reliability for delivery and the consistent quality of its products or services; and (c) its ability to

meet such other requirements as determined by Company to be in the best interest of the franchise system.

9.2.2 For Suppliers of Non-Proprietary Products selected by Franchisee, Franchisee shall first deliver written notice seeking approval, which: (a) identifies the name and address of the Supplier, (b) contain such information as may be requested by Company or required in the Manual, and (c) identifies the authorized Non-Proprietary Products desired to be purchased through the Supplier. Upon request, Company will furnish to Franchisee the general, but not manufacturing, specifications for such Non-Proprietary Products if specifications are not contained in the Manual. Company may request that the proposed Supplier furnish Company, at no cost to Company, product samples, specifications and such other information as Company may require. Company or its representatives shall also be permitted to inspect the facilities of the proposed Supplier and establish economic terms, delivery, service and other requirements consistent with other distribution relationships for other Gravity Drive Thrus. As a further condition of its approval, Company may require a Supplier to agree in writing: (i) to faithfully comply with Company's specifications for applicable Non-Proprietary Products sold by it, (ii) to sell any Non-Proprietary Product bearing Company's Marks only to franchisees of Company pursuant to a trademark license agreement in a form prescribed by Company, and (iii) to provide to Company duplicate purchase invoices for Company's records and inspection purposes.

9.2.3 Company will use reasonable efforts to notify Franchisee of its decision within sixty (60) days after Company's receipt of Franchisee's request for approval of a Supplier. Should Company not deliver a written approval of the Supplier within such 60-day period, the Supplier shall be deemed disapproved. Company may disapprove a proposed Supplier in its sole discretion, including if in Company's opinion the approval of the proposed Supplier would disrupt or adversely impact Company's international, national or regional distribution arrangements. Company may revoke its approval upon the Supplier's failure to continue to meet any of Company's criteria, or if Company substitutes the Non-Proprietary Product with a Proprietary Product and designates a different Supplier. Franchisee agrees to participate in any regional purchasing program for any of the raw materials used in the preparation of Authorized Gravity Coffee Products and Services or Non-Proprietary Products.

9.2.4 Franchisee or the proposed Supplier shall reimburse Company for all of Company's reasonable costs, including Travel Expenses related to inspecting and auditing the Suppliers' facilities and its goods or services, and all product testing costs paid by Company to third parties.

9.3 Modifications. Company may modify the lists of Proprietary Goods and Non-Proprietary Goods and designated or approved Suppliers at any time through updates to the Manual or updates to postings on the Intranet, in which case Company will allow Franchisee a reasonable amount of time to exhaust current inventories and begin purchasing new Proprietary Goods and Non-Proprietary Goods from an approved or designated Supplier. Company may at any time identify Company or its Affiliate as the exclusive Supplier of any Proprietary Goods and Non-Proprietary Goods.

#### 9.4 Purchases from Company or its Affiliates.

9.4.1 All goods, services, products, and supplies ("**Goods and Services**") purchased from Company shall be purchased under the purchase order format and policies of Company. Purchases shall be on Company's then-current posted price, delivery and other terms and conditions which Company may change on at least fifteen (15) days prior written notice, provided, that prices shall be the same as those charged to similarly situated franchisees (excluding shipping, transportation, warehousing, insurance and related costs and expenses). Franchisee further acknowledges that prices Company charges to Franchisee may include a profit to Company. Company may discontinue the sale of any Goods and Services at any time for any reason. If any goods or products sold by Company are not in sufficient supply to fulfill all orders, Company may allocate the available supply among itself and others, including Franchisee and other franchisees, in any way Company deems appropriate, which may result in Franchisee not receiving any allocation of certain goods or products as a result of a shortage. All product orders by Franchisee shall be subject to acceptance by Company at Company's designated offices, and Company reserves the right to accept or reject, in whole or in part, any order placed by Franchisee. Franchisee shall submit to Company, upon written request, financial statements which contain sufficient information to enable Company to determine the credit limits, if any, to be extended to Franchisee. Company may establish the credit terms, if any, upon which it will accept Franchisee's orders, and may require Franchisee to pay for orders on a cash-in-advance or cash-on-delivery basis.

9.4.2 NEITHER COMPANY NOR ITS AFFILIATES MAKE ANY EXPRESS OR IMPLIED WARRANTIES REGARDING THE GOODS AND SERVICES, AND COMPANY AND ITS AFFILIATES EXCLUDE (AND EXPRESSLY DISCLAIM) ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, except as set forth in a specific written warranty, if any, provided in connection with a particular item or service. No purchase order submitted by Franchisee shall contain any terms except as approved in writing by Company, nor be deemed complete, unless all of the information required by the prescribed purchase order form is provided by Franchisee. No new or additional term or condition contained in any order placed by Franchisee shall be deemed valid, effective or accepted by Company, unless such term or condition is expressly accepted by Company, in writing.

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

9.4.4 Company may collect rebates, allowances and credits in the form of cash or services or otherwise from Suppliers based on purchases or sales by Franchisee, which are the property of Company. Company may contribute cash amounts to the Marketing Fund, or use for any other purpose, notwithstanding any designation by the Supplier or otherwise.

9.4.5 Company may be designated as the sole Supplier of any Goods or Services. On the expiration or termination of this Agreement, or in the event of any default by Franchisee of this Agreement, Company shall not be obliged to fill or ship any orders then pending or, in the case of termination or non-renewal, made any time thereafter by Franchisee.

9.5 Test Marketing. Company may, from time to time, authorize Franchisee to test market products and/or services. Franchisee shall cooperate with Company and comply with Company's Standards and protocols in connection with the conduct of such test marketing.

9.6 Customer Service; Comment Cards. Franchisee must respond promptly to customer inquiries or complaints and resolve all reasonable complaints to the customer's reasonable satisfaction.

9.7 Customer Experience Program. Franchisee must participate at its expense in Company's customer experience program, which provides mystery shopper and customer experience feedback services. Company may charge Franchisee a periodic fee for Franchisee's pro rata share of the costs of such program.

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

10.1 General Reporting. Franchisee shall, in the form and manner specified by Company, submit to Company financial, operational and statistical information as Company may require or request including information to: (i) assist Franchisee in the operation of the Drive Thru under the System; (ii) allow Company to independently monitor Franchisee's Gross Sales, purchases, costs and expenses of inventory through the Information Systems; (iii) enable Company to develop chain-wide statistics which may improve bulk purchasing; (iv) assist Company in the development of new authorized products or the retirement or removal of existing Authorized Gravity Coffee Products and Services; and (v) generally improve chain-wide understanding of the System (collectively, the "**Information**"). Without limiting the generality of the foregoing, Franchisee shall submit the following:

10.1.1 Condensed reports of daily Gross Sales, including at a minimum, total daily sales and transactions, daily sales by day-part, product and product mix, and promotions, if any, to Company on a weekly basis under the Standards.

10.1.2 On or before the 10th day following each calendar month, a Gross Sales report, which shall be certified by an officer of Franchisee to be accurate and complete, reporting all Gross Sales for the preceding calendar month, together with such additional financial information as Company may request.

10.1.3 Upon Company's request, financial statements for the preceding calendar quarter, including a balance sheet and profit and loss statement, prepared in accordance with generally accepted accounting principles, which shall be certified by the Operating Principal to be accurate and complete.

10.1.4 Upon Company's request, an unaudited annual financial statement prepared in accordance with generally accepted accounting principles, which shall be certified by the Operating Principal to be accurate and complete. Franchisee shall submit to Company a copy of the original signed 1120 or 1120S tax form each year or any other forms which take the place of such forms. Upon Company's request, Franchisee shall also provide Company with copies of signed original sales and use tax forms.

10.2 Inspections. Company's representatives shall have the right to enter upon the Premises during business hours, to confer with Franchisee's employees, and inspect all operations to determine whether the business is being conducted under this Agreement, the System and the Standards. If any inspection reveals a deficiency under this Agreement, the Standards, System or the Manual, then Franchisee shall correct or repair such deficiency as Company requires.

10.3 Audits. Franchisee shall prepare, and keep for not less than seven (7) years following the end of each of its fiscal years, or such longer period required under Applicable Law, adequate books and records showing daily receipts, applicable sales tax returns, original serially numbered sales slips and cash register records, and such other sales records as may be reasonably required by Company in a form suitable for an audit of its records by an authorized auditor or agent of Company. Company or its designee(s) may, at any reasonable time during normal working hours, audit Franchisee's books and records. Company may also conduct the audit using electronic means or at a site other than the Location and Franchisee shall provide all information promptly upon demand (but not later than five (5) days following the date of the request). If any audit reveals an under-reporting error, then upon demand Franchisee shall pay the amount determined to be owed, plus interest at 18% percent per annum or the highest compound rate permitted by Applicable Law, whichever is less. In addition, if an audit reveals an under-reporting error of 2% or more for any period of more than one month, the expenses of the audit shall be paid by Franchisee, which shall include Company's Travel Expenses, Wages and reasonable accounting and legal expense.

10.4 Books and Records. Franchisee shall maintain an accounting and record keeping system, under generally accepted accounting principles and sound business practices, and that meets Company's Standards, which shall provide for basic accounting information necessary to prepare financial statements, a general ledger and reports required by this Agreement and the Manual. Franchisee shall maintain accurate, adequate and verifiable books and supporting documentation relating to such accounting information.

## **ARTICLE 11 TRADEMARKS**

11.1 Use of Marks. The Drive Thru shall do business under the name "Gravity®," "Gravity® Coffee Co." or "GC®," along with "Stay Grounded®," as determined by Company. Franchisee shall use and display Company's trade dress, Marks, and such signs, advertising and slogans only as Company may prescribe or approve. Franchisee shall not imprint or authorize any person to imprint any of the Marks on any product without the prior written approval of Company. Franchisee shall not use the Marks in connection with any assignment or offering of securities or



any request for credit without the prior written approval of Company. Franchisee shall identify the Drive Thru as independently owned and operated under a license from Company, in the form and manner specified by Company, including on all invoices, order forms, receipts, checks, business cards, on posted notices at the Location.

11.2 Non-Use of Trade Name. If Franchisee is an Entity, it shall not use the Marks, or Company's trade name, or any words or symbols which are confusingly similar, phonetically or visually, to the Marks, as all or part of Franchisee's name without Company's prior written consent.

11.3 Use of Other Trademarks. Franchisee shall not display the trademark, service mark, trade name, insignia or logotype of any other person or Entity in connection with the operation of the Drive Thru without the express prior written consent of Company, which may be withheld in its discretion.

11.4 Non-ownership of Marks. Franchisee agrees that Company's trade dress and the Marks are the exclusive property of Licensor, which has authorized their use to Company. Franchisee now, and will hereafter, assert no claim to any goodwill, reputation or ownership by virtue of Franchisee's licensed and/or franchised use, or otherwise. All use of the Marks and trade dress by Franchisee inures to the benefit of Company. Franchisee shall not contest or assist anyone in contesting at any time, in any manner, the validity of any Mark or its registration, and shall maintain the integrity of the Marks and prevent their dilution.

11.5 Defense of Marks. If Franchisee receives notice, or is otherwise informed, of any claim, suit or demand against Franchisee of any alleged infringement, unfair competition or similar matter on account of its use of the Marks or trade dress, Franchisee shall promptly notify Company. Company shall take such action as it may deem necessary and appropriate to protect and defend Franchisee against any such claim. Company shall have the sole right to defend, compromise or settle any claim, in its discretion, at Company's sole cost and expense, using attorneys of its own choosing. Franchisee shall cooperate fully with Company in connection with the defense of any claim. Franchisee may participate at its own expense in such defense or settlement, but Company's decisions with regard to the disposition of a claim shall be final.

11.6 Prosecution of Infringers. Franchisee shall promptly notify Company if it receives notice or learns that any unauthorized third party is using Company's trade dress or Marks or something similar. Company shall have absolute discretion to determine how, whether, or in what manner to respond to such third party's infringement.

11.7 Modification of Marks. Company may add to, delete or modify any or all of the Marks and trade dress. Franchisee shall, use, or cease using, the Marks and/or trade dress at its expense including any modified or additional trade names, trademarks, service marks, logotypes, commercial symbols, and trade dress under the Manual and Standards. Except as Company may otherwise direct, Franchisee shall implement any change within sixty (60) days after notice by Company.

## **ARTICLE 12 COVENANTS**

12.1 Non-Competition. Franchisee acknowledges that the System is distinctive and has been developed by Licensor and Company at great effort, time, and expense, and that Franchisee has regular and continuing access to valuable and confidential information, training, and Trade Secrets regarding the System. Franchisee recognizes its obligations to keep confidential such information as set forth in this Agreement. Franchisee therefore agrees as follows:

12.1.1 During the Term, no Restricted Person shall in any capacity, either directly or indirectly, through one or more affiliated Entities engage in any Competitive Activities at any location.

12.1.2 Upon (i) the expiration or termination of this Agreement, (ii) the occurrence of any Assignment, or (iii) the cessation of any Restricted Person's relationship with Franchisee, each person who was a Restricted Person before such event shall not for a period of eighteen (18) months thereafter, either directly or indirectly, own, operate, advise, be employed by, or have any financial interest in any business engaged in Competitive Activities: (a) within a ten (10) mile straight-line radius from the front door of the Drive Thru, or (b) within a ten (10) mile straight-line radius from the front door of any Drive Thru then existing, or in development.

### 12.2 Confidentiality.

12.2.1 Franchisee acknowledges and agree that: (1) Company owns all right, title and interest in and to the System; (2) the System includes Trade Secrets and confidential and proprietary information and know-how that gives Company a competitive advantage; (3) Company has taken all measures appropriate to protect the Trade Secrets and the confidentiality of the proprietary information and know-how of the System; (4) all material or other information now or hereafter provided or disclosed to Franchisee regarding the System is disclosed in confidence; (5) Franchisee will maintain absolute confidentiality of the Trade Secrets and confidential and proprietary System information during and after the Term; (6) Franchisee will make no unauthorized copy of any portion of the Trade Secrets, including the Manual, confidential correspondence, or other confidential communications, whether written or oral; (7) Franchisee has no right to disclose any part of the System to anyone who is not Franchisee's employee; (6) Franchisee will disclose to Franchisee's employees only those parts of the System that an employee needs to know to operate the Drive Thru in compliance with this Agreement and the Manual; (7) Franchisee will have a system in place to ensure that Franchisee's employees keep confidential the Trade Secrets and confidential and proprietary information, and, if requested by Company, Franchisee shall obtain from those of Franchisee's employees designated by Company an executed confidentiality and non-disclosure agreement in a form approved by Company and specifically identifying Company and Licensor as third-party beneficiaries with the independent right to enforce the agreement; (8) by entering into this Agreement, Franchisee does not acquire any ownership interest in the System; and (9) Franchisee's or any Restricted Person's use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an

unfair method of competition, for which Company would be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond.

12.2.2 Franchisee shall not, during the term of this Agreement or at any time thereafter, communicate or disclose any Trade Secrets or confidential or proprietary information or know-how of the System to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to any of the Marks or the System. Any and all information, knowledge, know-how and techniques, including all drawings, materials, equipment, specifications, methods, techniques and other data that Company or its affiliates designate as confidential shall be deemed confidential for purposes of this Agreement.

12.2.3 If Franchisee has any reason to believe that any employee has violated the provisions of the confidentiality and non-competition agreement, Franchisee shall promptly notify Company and shall cooperate with Company to protect Company against infringement or other unlawful use, including, the prosecution of any lawsuits.

12.2.4 In view of the importance of the Marks, the Trade Secrets, and confidential and proprietary information and know-how of the System, and the incalculable and irreparable harm that would result to the parties in the event of a default of the covenants and agreements set forth in this Agreement, the parties agree that each party shall have the right to obtain specific performance, temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction to enforce the covenants and agreements in this Agreement, in addition to any other relief to which such party may be entitled at law or in equity. Each party submits to the exclusive jurisdiction of the courts of the State of Washington and the U.S. federal courts sitting in Seattle, Washington for these purposes. The parties agree that venue for those proceeding shall be the state and federal courts located in Seattle, Washington. Franchisee agrees that Company may have temporary or preliminary injunctive relief without bond, but upon due notice, and Franchisee's sole remedy in the event of the entry of such injunctive relief will be the dissolution of the injunctive relief, if warranted, upon hearing duly had.

12.2.5 Franchisee must promptly disclose to Company, all ideas, techniques, methods and processes relating to the Drive Thru that Franchisee (or the Restricted Persons or Franchisee's employees) conceives or develops. Any products, marketing materials, photographs, copyright-protected material, ideas, techniques, methods and processes relating to the Drive Thru that may be invented, developed, or formulated by Franchisee, or its agents, will become the exclusive property of Company, which shall have the perpetual right to use, and to authorize others to use, such ideas, techniques, methods and processes. Upon Company's request, Franchisee shall fully cooperate with Company to assign any such ideas, techniques, methods and processes to Company. Under no circumstance will Company be required to pay anyone under this Section 12.2.3.

12.2.6 Franchisee shall obtain covenants similar to those in Sections 12.1 and 12.2 from Restricted Persons and such other personnel as Company may specify. Company must approve the form of agreements Franchisee uses and may require that Company be an express third-party beneficiary with the right to enforce such agreements. It is Franchisee's responsibility

to have any form of reviewed and approved (or modified subject to Company's approval) by an attorney licensed in Franchisee's jurisdiction. Promptly upon Company's request, Franchisee shall deliver executed copies of such agreements to Company.

12.3 Confidentiality and Press Releases. Unless required by Applicable Law, no public communication, press release or announcement regarding this Agreement, the transactions contemplated hereby or the operation of the Drive Thru or any Crisis Management Event shall be made by Franchisee without the prior written approval of Company.

12.4 Effect of Applicable Law. In the event any portion of the covenants in this Article violates laws affecting Franchisee, or is held invalid or unenforceable in a final judgment to which Company and Franchisee are parties, then the maximum legally allowable restriction permitted by law shall control and bind Franchisee. Company may at any time unilaterally reduce the scope of any part of the above covenants, and Franchisee shall comply with any such reduced covenant upon receipt of written notice.

12.5 Business Practices. Franchisee represents, warrants and covenants to Company that as of the Effective Date, Franchisee and each of its Owners (if Franchisee is an Entity) are and shall remain in full compliance with all Applicable Laws.

### **ARTICLE 13 NATURE OF INTEREST; ASSIGNMENT**

13.1 Assignment by Company. Company may at any time assign, transfer, or delegate any or all of its rights and obligations under this Agreement without the consent of Franchisee. Company shall be permitted to perform such actions without liability or obligation to Franchisee who expressly and specifically waives any claims, demands or damages arising from or related to any or all of the above or similar actions. Company shall have no liability for the performance of any obligations contained in this Agreement after the effective date of a transfer or assignment.

#### 13.2 Assignment by Franchisee.

13.2.1 This Agreement has been entered into by Company in reliance upon and in consideration of the singular individual or collective character, reputation, skill, business ability, and financial capacity of Franchisee (and its Owners if Franchisee is an entity) who will actively and substantially participate in the development, ownership, and operation of the Drive Thru. Accordingly, except as otherwise may be permitted by this Agreement, neither Franchisee nor any Owner shall cause or permit any Assignment without Company's prior written consent, which will not be unreasonably withheld. Company's conditions before granting its consent will include:

(a) that Franchisee provide a detailed description of the price and all material terms and conditions of the proposed Assignment and the identity of the proposed assignee and such other information as Company may reasonably request;

(b) that, in the event the Location is leased by Franchisee, Franchisee's rights and obligations under such lease shall have been assigned to, and assumed by, the transferee, and that the consent to such transfer has been obtained from the lessor, and all pertinent documentation been delivered to Company. In the event the Location is owned by Franchisee, that Franchisee has transferred fee simple interest in the Premises to the transferee, or alternatively, has entered into a lease which shall permit the transferee to perform its obligations under this Agreement, which lease shall be subject to Company's review and approval;

(c) that Franchisee's right to receive payments in connection with the Assignment shall be subordinated to Company's rights to receive any outstanding monetary obligations or other outstanding obligations due from Franchisee or transferee under any agreement with Company, whether arising before or after the Assignment;

(d) that Franchisee shall have complied with Section 13.3 and Company shall not have exercised the ROFR;

(e) that Franchisee shall not be in material default under the terms of this Agreement (or any other related agreement), all agreements with Company's Affiliates, the Manual or any other obligations owed Company;

(f) that all obligations to third parties in connection with the Drive Thru shall have been satisfied or assumed by the transferee;

(g) that Franchisee, and its Owners, if Franchisee is an Entity, shall execute a general release, in a form prescribed by Company, of any and all known and unknown claims against Company and its Affiliates and their Owners, officers, directors, agents, and employees;

(h) that the transferee shall have demonstrated to Company's reasonable satisfaction that it meets all of Company's then-current Standards for new Drive Thru operators or for holders of an interest in a franchise or license, including financial requirements (which include providing financial statements of all nominal and beneficial owners of the proposed transferee), possession of good moral character and reputation, satisfactory credit ratings, acceptable business qualifications, the ability to obtain or acquire the license(s) and permit(s) necessary for the operation of the Drive Thru, and the ability to fully comply with the terms of this Agreement;

(i) that the transferee shall have agreed, under a written assumption agreement that at closing, the transferee shall, at Company's option, either (a) assume this Agreement; provided, however, that such assumption shall not relieve Franchisee (as transferor) of any continuing obligations; or (b) execute a replacement franchise or license agreement on the then-current standard form of franchise or license agreement used by Company in the state in which the Drive Thru is being operated, provided, however, that the term of the replacement franchise or license agreement shall be, at Company's option, the remaining term of this Agreement, unless Company otherwise agrees; and that the Owners of transferee personally

guarantee the performance of all of the transferee's obligations under this Agreement or replacement franchise agreement in writing in a form satisfactory to Company;

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

(k) that if this Agreement was executed pursuant to an Area Development Agreement with Company (whether or not such agreement remains in effect), that this Agreement and all other franchise or license agreements executed pursuant to such Area Development Agreement shall be concurrently transferred to the same transferee;

(l) that the transferee agrees to refurbish the Drive Thru as needed (in Company's discretion) to match Company's then-current building design, trade dress, color scheme and Standards;

(m) that there shall not be any suit, action, or proceeding pending, or to the knowledge of Franchisee any suit, action, or proceeding threatened, against Franchisee with respect to the Drive Thru;

(n) that upon submission of Franchisee's request for Company's consent to any proposed Assignment, Franchisee shall have paid to Company a non-refundable administrative and transfer fee equal to 20% of Company's then-current initial fee plus Company's then-current training fees and reimbursement of its employee's Travel Expenses for transferee's completion of the Initial Training Program; and

(o) that the transferee, or its anticipated Operating Principal and General Manager (and Director of Operations, if applicable), shall have completed Company's Initial Training Program to Company's satisfaction.

13.2.2 Any purported Assignment occurring by operation of law or otherwise without Company's prior written consent shall constitute a material default of this Agreement, and shall be null and void. Except in the instance of Franchisee advertising to sell the Drive Thru and assign this Agreement under the terms of this Agreement, Franchisee shall not, without Company's prior written consent, offer for sale or transfer at public or private auction or advertise publicly for sale or transfer, the furnishings, interior and exterior decor items, supplies, fixtures, equipment, Franchisee's Lease or the real or personal property used in connection with the Drive Thru. Franchisee may not make any Assignment to a public Entity, or to any Entity whose direct or indirect parent's securities are publicly traded and no shares of Franchisee or any Owner of Franchisee may be offered for sale through the public offering of securities. To the extent that any prohibition on the pledge, hypothecation, encumbrance or granting of a security interest in this Agreement or the Assets may be ineffective under Applicable Law, Franchisee shall provide not less than ten (10) days prior written notice containing the name and address of the secured party and the terms of such pledge, hypothecation, encumbrance or security interest in this Agreement or the Assets.

13.2.3 If Franchisee is an Entity, Franchisee shall promptly provide Company with written notice of each and every issuance of Equity by Franchisee and every transfer, assignment and encumbrance by any Owner of any direct or indirect Equity or voting rights in Franchisee, notwithstanding that the same may not constitute an "Assignment".

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

13.3 Right of First Refusal. If Franchisee or any Owner (other than Company, if applicable) desires to cause or permit any Assignment, except an Assignment permitted under Section 13.5, then Franchisee and/or such Owner shall notify Company in writing, provide such information and documentation describing or relating to the proposed Assignment as Company may require, and grant Company a right of first refusal (the "**ROFR**") for thirty (30) days following Company's receipt of Franchisee's written notice of the proposed Assignment and copies of all required documentation (the "**ROFR Period**") to purchase the interest that Franchisee or such Owner proposes to transfer, on the same terms and conditions offered by the third party; provided that Company may substitute cash for any non-cash consideration in an amount determined by Company, reasonably and in good faith, as the approximate equivalent value of the non-cash consideration. Notwithstanding the terms and conditions offered by the third party, Franchisee shall make representations and warranties to Company that are customary for transactions of the type proposed. If Company elects to exercise the ROFR, Company or its nominee shall notify Franchisee in writing, and the closing of the transaction shall occur within sixty (60) days after delivery of Company's notice, subject to the satisfaction of all conditions to closing. If Company does not exercise the ROFR, any material change in the terms of an offer prior to closing, or the failure to close the transaction within sixty (60) days following the ROFR Period, shall cause it to be deemed a new offer, subject to the same ROFR as in the case of the initial offer. Company's failure to exercise the ROFR shall not constitute consent to the transfer or a waiver of any other provision of this Agreement.

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

13.4.1 Franchisee represents, warrants and covenants that: (a) Franchisee has the authority to execute, deliver and perform its obligations under this Agreement and all related agreements and is duly organized or formed and validly existing in good standing under the laws of the state of its incorporation or formation; and (b) the information set forth in Schedule 1, is accurate and complete in all material respects. Franchisee shall notify Company in writing within ten (10) days of any change in the information set forth in Schedule 1, and shall submit to Company a revised Schedule 1, certified by an officer of Franchisee as true, correct and complete. Franchisee promptly shall provide such additional information as Company may request concerning all persons who may have any direct or indirect financial interest in Franchisee.

Franchisee shall, upon demand, reimburse Company for its direct and indirect costs, including reasonable attorneys' fees, to review any revised or supplemental Schedule 1.

13.4.2 All of Franchisee's organizational documents (including articles of partnership, partnership agreements, articles of incorporation, articles of organization, bylaws, shareholders agreements, trust instruments, or their equivalent) will provide that the issuance and transfer of any interest in Franchisee is restricted by the terms of this Agreement, and that sole purpose for which Franchisee is formed (and the sole activity in which Franchisee is or will be engaged) is the development and operation of the Drive Thru. Upon Company's request, Franchisee shall submit an Officer's Certificate confirming that Franchisee is in compliance with this provision. All certificates and other documents representing Equity in Franchisee must bear a legend in a form prescribed by Company referring to this Agreement's restrictions.

13.4.3 All present and future Owners of 20% or more (directly or indirectly), in the aggregate, of the Equity or voting rights in Franchisee, will execute Company's form of written guaranty, personally, irrevocably and unconditionally guaranteeing, jointly and severally, with all other guarantors, the full payment and performance of Franchisee's obligations to Company and to Company's Affiliates. For purposes of determining whether said 20% threshold is satisfied, holdings of spouses (and family members who live in the same household) and Affiliates shall be aggregated. Upon each transfer or assignment of an interest in Franchisee, or other change in ownership interests in Franchisee, and at any other time upon Company's request, said holders shall re-execute Company's then-current form of written guaranty.

13.4.4 Securities, partnership or other ownership interests in Franchisee may not be offered to the public under the Securities Act of 1933, as amended, nor may they be registered under the Securities Exchange Act of 1934, as amended, or any comparable federal, state or foreign law, rule or regulation. Such interests may be offered by private offering or otherwise only with the prior written consent of Company, which consent shall not be unreasonably withheld. At Company's request, all materials required for any private offering by federal or state law shall be submitted to Company 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 Company for such review prior to their use. No such offering by Franchisee shall imply that Company is participating in an underwriting, issuance or offering of securities of Franchisee, and Company's review of any offering materials shall be limited solely to the subject of the relationship between Franchisee and Company and its Affiliates. Company may, at its option, require Franchisee's offering materials to contain a written statement prescribed by Company concerning the limitations described in the preceding sentence. Franchisee, its Owners and the other participants in the offering must fully defend and indemnify Company, and its Affiliates, their respective Owners and the officers, directors, manager(s) (if a limited liability company), Owners, agents, representatives, independent contractors, servants and employees of each of them, from and against any and all losses, costs and liability in connection with the offering, and shall execute any additional documentation required by Company to further evidence this indemnity. In addition to any transfer fee required under Section 13.2.1(n), for each proposed offering Franchisee shall pay to Company a non-refundable fee of \$5,000 (which dollar amount is subject



to inflation adjustment in Section 4.12), or such greater amount as is necessary to reimburse Company for its reasonable costs and expenses associated with reviewing the proposed offering, including legal and accounting fees. Franchisee shall give Company written notice at least 30 days prior to the date of commencement of any offering or other transaction covered by this Section.

13.5 Assignment to a Wholly Owned Entity.

13.5.1 Subject to the conditions set forth below, upon written notice to Company, Franchisee may transfer (without paying the transfer fee specified in Section 13.2.1(n)) this Agreement and its Assets to an Entity formed by Franchisee solely for the convenience of ownership, provided that Franchisee directly owns not less than 100% of the Equity and voting rights of the transferee Entity. Any other transfer of this Agreement or the Assets shall be an Assignment under Section 13.2.

(a) Franchisee shall not be in material default under the terms of this Agreement, any agreement with Company's Affiliates, the Manual or any other obligations owed Company, and all of its then-due monetary obligations to Company shall have been paid in full;

(b) all obligations to third parties in connection with the Drive Thru shall have been satisfied or assumed by the transferee;

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

(d) the transferee Entity's articles of incorporation or articles of organization, bylaws, operating agreement, and partnership agreement, as applicable, shall provide that its activities are confined exclusively to operating one or more Gravity Drive Thrus;

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

(f) the Entity conducts no other business than the operation of Gravity Drive Thrus;

(g) the Entity assumes all of the obligations under this Agreement pursuant to written agreement, the form and substance of which shall be acceptable to Company, provided that Franchisee will remain jointly and severally liable for payment and performance of the obligations;

(h) each individual comprising Franchisee, and all present and future owners of 20% or more (directly or indirectly), in the aggregate, of the Equity or voting rights of Franchisee shall execute a written guaranty in a form prescribed by Company, personally, irrevocably and

unconditional guaranteeing, jointly and severally, with all other guarantors, the full payment and performance of all of the obligations to Company and its Affiliates under this Agreement;

(i) at Company's request, Franchisee shall, and shall cause each of its Affiliates who have executed a franchise agreement and each of its parents or subsidiaries, to execute and deliver to Company a general release, on a form prescribed by Company of any and all known and unknown claims against Company and its Affiliates and their Owners, officers, directors, agents, and employees; and

(j) Franchisee shall pay to Company \$500.00 to \$2,000.00 to cover the internal and out-of-pocket costs, including reasonable attorneys' fees, Company may incur in connection with the transfer.

13.5.2 In the event that Franchisee exercises its rights under Section 13.5.1 of this Agreement, then Franchisee and such assignee Entity shall affirmatively covenant to continue to satisfy each of the conditions set forth in Section 13.5.1 throughout the term of this Agreement.

13.6 Purchase Option. If Company elects to exercise Company's option under the Purchase Option Agreement, Franchisee must timely and completely comply with all of Franchisee's obligations under the Purchase Option Agreement, and Franchisee must require Franchisee's Owners, officers, directors and Affiliates to comply with their related obligations.

## **ARTICLE 14 DEFAULT AND TERMINATION**

14.1 General. Company shall have the right to terminate this Agreement for any Default, including violation of or non-compliance with any mandatory provision of the Manual. Company shall exercise its right to terminate this Agreement upon notice to Franchisee in the following circumstances and manners.

14.2 Termination with Notice and Opportunity To Cure. If Franchisee violates any material provision of this Agreement, then Company is permitted to terminate this Agreement if Franchisee does not fully cure that violation within five (5) days after notice, in the case of any default in the timely payment of sums due to Company, and within a reasonable time (not to exceed thirty (30) days) after notice for any other default.

14.3 Termination by Company Immediately Upon Notice. Notwithstanding the foregoing Section 14.2, Company may terminate this Agreement effective immediately upon written notice to Franchisee if there exists any basis for termination without opportunity to cure under Applicable Law, or if Franchisee: (i) has misrepresented or omitted material facts in its application or other materials provided to Company prior to the parties' entering into this Agreement; (ii) fails to complete satisfactorily the Initial Training or Additional Training; (iii) becomes bankrupt or insolvent or otherwise is unable to pay its debts as they become due; (iv) makes an assignment for the benefit of creditors, has a receiver or similar custodian appointed, or makes a disposition of substantially all of its Assets, the Drive Thru, or the Premises or any of

the Assets are seized, taken over or foreclosed, or a condemnation or transfer in lieu of condemnation has occurred; (v) abandons or ceases operation of the Drive Thru or ceases to communicate with Company; (vi) itself or through any Owner is held liable for, is convicted of, or pleads guilty or no contest to a charge of violating a law relevant to the Drive Thru, a crime or moral turpitude, or a criminal felony; (vii) commits a violation for the third time of any material provision of this Agreement (whether or not the same material provision each time) within any twelve-month period, for which first two (2) violations Company has given Franchisee written notices of default; (viii) allows a judgment against it in the amount of more than \$50,000 to remain unsatisfied for a period of more than thirty (30) days (unless an appeal has been filed and is in process); (ix) fails to comply with Article 12, including if Franchisee makes an unauthorized use, disclosure, or duplication of the Trade Secrets or other confidential information; (x) makes or attempts to make any Assignment without the prior written consent of Company; provided, however, that if the Drive Thru continues to be operated in conformity with this Agreement, that upon an Assignment or attempted Assignment resulting from death or legal incapacity, Company shall allow Franchisee or his heirs, personal representatives, or conservators (the "**Heirs**") a period of up to six (6) months after such death or legal incapacity to seek and obtain Company's consent to the Assignment to the Heirs or to a third party acceptable to Company. If Franchisee or the Heirs fail to receive Company's consent within that 6-month period, then this Agreement shall immediately terminate at Company's election; (xi) the Drive Thru is ordered closed by any governmental agency responsible for enforcing health and safety regulations, or Company determines that the Drive Thru operations are such that they may pose a significant risk to the health and safety of the Drive Thru's customers; (xii) failure to maintain a good credit rating; or (xiii) Franchisee or its Owners, officers, directors or affiliates fail to timely or completely honor Company's rights under the Purchase Option Agreement following Company's timely notice to Franchisee.

14.4 Reimbursement of Company Costs. In the event of a default by Franchisee under this Agreement, all of Company's costs and expenses arising from such default, including reasonable legal fees, shall be paid to Company by Franchisee within five (5) days after cure or upon demand by Company if such default is not cured.

14.5 Cross-Default. Any monetary default by Franchisee under this Agreement shall be deemed to be a default of each and every franchise agreement and any Area Development Agreement then in effect between Franchisee and Company, if any. Furthermore, in the event of termination for any cause of this Agreement, Company may, at its option, terminate any or all said agreements.

14.6 Right to Withhold Services/Obligations While In Default. If Franchisee commits any act or omission that would give rise to Company's right to terminate, then Company is permitted to, instead of or in addition to terminating, withhold, postpone, or forgo any services, payments, access to any electronic systems or other materials or programs, or any other obligations imposed on Company by this Agreement or the Manual, until Franchisee has cured its violation or has otherwise remedied the default to Company's satisfaction. For the sake of clarity,

Company's rights under this Section include the right to require Franchisee to pay for products or services on a cash-in-advance or cash-on-delivery basis.

14.7 Default by Company. Franchisee may initiate a dispute resolution proceeding as required under Article 19 if Company is in material default of its obligations under this Agreement, provided that such default is not cured by Company within sixty (60) days after Company's receipt of prompt written notice by Franchisee to Company detailing the alleged default with reasonable specificity; provided further that if the default is such that it cannot be reasonably cured within such 60-day period, Company shall not be deemed in default for so long as it commences to cure such default within sixty (60) days and diligently continues to prosecute such cure to completion. A referee shall have no power to modify, change, amend, or waive this Section.

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

15.1 General. Except as provided in Section 15.2 below, upon termination or expiration of this Agreement:

15.1.1 Franchisee shall, at its own cost, follow all of Company's requirements regarding the de-identification of the Drive Thru as may be contained in the Manual or as directed by Company, including sending verification of de-identification in a form satisfactory to Company. Franchisee will promptly, at its own cost, return to Company the Manual, any item bearing the Marks or containing any Trade Secrets, and any other copyright-protected material or proprietary materials or software relating to the System in Franchisee's possession, custody, or control; will cease doing any business under or associated with the Marks; will cancel any corporate or trade name registrations that use any Mark or derivative of any Mark; and will refrain from identifying itself as a franchisee of Company.

15.1.2 Franchisee shall immediately pay any and all amounts owing to Company and suppliers as of the date of termination.

15.1.3 All covenants, guarantees, and other post-termination obligations of Franchisee will remain in effect and any and all obligations of Company to Franchisee under this Agreement shall immediately cease and terminate.

15.1.4 Franchisee shall transfer and assign to Company or its designee all telephone numbers, white and yellow page listings, on-line telephone listings and all other associated listings for the Drive Thru.

15.1.5 Franchisee hereby irrevocably authorizes Company to execute in Franchisee's name and on Franchisee's behalf, any and all documents necessary or appropriate to end and cause the discontinuance of Franchisee's use of the trade dress and Marks following the termination (including the expiration) of this Agreement. As such, Company may act as Franchisee's attorney-in-fact to transfer or discontinue any telephone numbers or directory

listings associated with Franchisee's Drive Thru. Franchisee shall be responsible for any costs or expenses that Company may incur.

15.1.6 Franchisee must furnish to Company, within thirty (30) days after the effective date of termination or expiration, evidence (certified to be true, complete, accurate and correct by Franchisee's Operating Principal) satisfactory to Company of Franchisee's compliance with Sections 15.1.1 through 15.1.5.

15.2 Company's Rights to Acquire the Drive Thru and Assets. Upon expiration or termination of this Agreement, at Company's option Franchisee must:

15.2.1 Assign to Company Franchisee's interest in the Lease for the Drive Thru (or provide Company with a commercially reasonable lease in the event Franchisee owns the Premises). If Company elects not to exercise its option to acquire the Lease, Franchisee must make such modifications or alterations to the Drive Thru as may be necessary to comply with Section 15.1.1.

15.2.2 Sell to Company such of the furnishings, equipment, signs, and fixtures of the Drive Thru as Company may designate, at net book value, using a 5-year straight line amortization period; and such of the inventory and supplies of the Drive Thru as Company may designate, at an amount equal to Franchisee's cost. If Company exercises its option to purchase any items, Company will have the right to set off all amounts due from Franchisee against any payment for such items.

15.2.3 Company may exercise its options under this Section 15.2: (1) anytime in the six (6) month period before the expiration of the Term, in the case of expiration of this Agreement; and (2) at any time between the date of delivery of written notice of termination and ninety (90) days after the effective date of termination, in the case of termination of this Agreement. If Company deems such action desirable in order to preserve the value of such options, Company may issue to Franchisee, and Franchisee must comply with, written instructions to refrain from, delay, or reverse any of the actions required of Franchisee under Section 15.1.

15.3 Early Termination Damages. The termination of this Agreement by Company will not relieve Franchisee of liability for the damages for lost profits that Company sustains as a result of Franchisee's failure to fully perform this Agreement during the full term of this Agreement. Because such damages may be difficult to calculate with reasonable certainty, Franchisee agrees to pay as liquidated damages its average monthly royalties paid (or due) during the preceding 12-month period before the notice of termination multiplied by the number of months remaining until the end of this Agreement's Term.

## **ARTICLE 16 INSURANCE**

16.1 Minimum Coverage. Franchisee shall procure, at its own expense, and maintain in full force and effect during the Term policies of insurance in accordance with the requirements of this Agreement, including the types and the minimum amounts of coverage set forth on Exhibit E, insuring Franchisee, Company and any of Company's designated Affiliates against claims related to the development of Franchisee's Drive Thru and Franchisee's business operations.

### 16.2 Additional Insurance Specifications.

16.2.1 Company shall specify the deductible limits for each required insurance policy and may, from time to time, increase the minimum insurance requirements, establish and change deductible limits, require that Franchisee procure and maintain additional forms of insurance, and otherwise modify the insurance requirements contained in this Agreement based upon inflation, general industry standards, Company's experience with claims, or for other commercially reasonable reasons. Franchisee shall comply with any change imposed by Company within thirty (30) days after written notice from Company and shall submit written proof of compliance to Company upon request. Any deductibles or self-insured retentions in excess of \$25,000 (as such limit may be changed in the Manual) must be approved by Company, such approval not to be unreasonably withheld.

16.2.2 Each insurance policy required by this Agreement shall be written by insurance companies of recognized responsibility meeting the standards stated in the Manual and authorized to do business in the state in which the Drive Thru is located. Before the opening of the Drive Thru, or the earlier date specified in the Lease, and then not less than annually thereafter on or before January 1 of each calendar year after the opening of the Drive Thru, Franchisee shall submit to Company certificates of insurance showing compliance with Company's insurance requirements. Franchisee shall not begin construction or development of, or install equipment in, the Franchised Location pursuant to the final construction drawings prepared or approved by Company's designated architectural firm until Franchisee submits proof of its general contractor's insurance required by this Agreement. All certificates of insurance shall state that the policy will not be canceled without at least forty-five (45) days (or fewer if limited by Applicable Law) prior written notice to Company. Maintenance of required insurance shall not relieve Franchisee of liability under the indemnity provisions set forth in this Agreement.

16.2.3 Company and the Affiliates it designates shall each be named as an additional insured on all required insurance. Franchisee shall additionally cause each policy of insurance required by this Agreement to include a waiver of subrogation, which shall provide that Franchisee, on the one hand, and Company, on the other hand, each releases and relieves the other, and each waives its entire right to recover damages, in contract, tort and otherwise, against the other for any loss or damage occurring to Franchisee's property arising out of or resulting from any of the perils required to be insured against under this Agreement. The effect of these releases and waivers shall not be limited by the amount of insurance carried by Franchisee or as otherwise required by this Agreement or by any deductible applicable thereto.

16.2.4 Should Franchisee not procure or maintain the insurance required by this Agreement, Company may, without waiving its right to declare a breach of this Agreement based on the default, procure the required insurance coverage at Franchisee's expense, although Company has no obligation to do so. Franchisee shall pay Company an amount equal to the premiums and related costs for the required insurance in full upon receipt of invoice, plus an amount sufficient to reimburse Company for its reasonably estimated direct and indirect costs in obtaining the required insurance.

16.2.5 Franchisee understands and agrees that the minimum insurance requirements set forth in this Agreement do not constitute a representation or warranty by Company that the minimum coverage and specified types of insurance will be sufficient for the Drive Thru. Franchisee understands and agrees that it is solely responsible for determining if the Drive Thru requires higher coverage limits or other types of insurance protection.

16.2.6 In the event of damage to the Drive Thru, the proceeds of insurance shall be used to restore the Drive Thru to its original condition as soon as possible, unless such restoration is prohibited by the Location Lease or Applicable Law.

## **ARTICLE 17**

### **RELATIONSHIP OF PARTIES, INDEMNITY**

#### 17.1 Relationship of Parties.

17.1.1 Franchise Relationship. It is expressly agreed that the parties intend by this Agreement to establish between Company and Franchisee the relationship of franchisor and franchisee. It is further agreed that Franchisee has no authority to create or assume in Company's name or on behalf of Company, any obligation, express or implied, or to act or purport to act as agent or representative on behalf of Company for any purpose whatsoever. Neither Company nor Franchisee is the employer, employee, agent, fiduciary, partner or co-venturer of or with the other, each being independent. Franchisee agrees that it shall not under any circumstances hold itself out as the agent, representative, employee, partner or co-venturer of Company. Each party shall file its own tax, regulatory and payroll reports for its respective employees and operations, saving and indemnifying the other party from any liability of any nature whatsoever.

17.1.2 Franchisee Employees. All employees hired by or working for Franchisee shall be the employees of Franchisee and Franchisee is solely responsible for complying with all federal, state, and local labor and employment laws. Franchisee is required to make all decisions regarding the terms of employment of its employees, including, but not limited to, hiring, firing, discipline, wages, scheduling, work assignments, performance evaluations, training, benefits, and employment policies, except, however, Company may require Franchisee to ensure that its employees are certified and trained to perform their responsibilities, and that they pass a background check conforming with the requirements in the Manual.

## 17.2 Indemnity.

17.2.1 Franchisee shall protect, defend and indemnify Company and Licensor, and all of their past, present and future Owners, Affiliates, officers, directors, employees, attorneys and designees, and each of them, and hold them harmless from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any person or Entity or to any property arising out of or in connection with Franchisee's development, construction (including any latent or patent defects), maintenance or operation of the Premises and the Drive Thru.

17.2.2 Company shall protect, defend, hold harmless and indemnify Franchisee, and all of its past, present and future Owners, Affiliates, officers, directors, employees, attorneys and designees from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any person, or Entity or to any property arising out of or in connection with: (i) any claim asserted against Franchisee arising solely out of Franchisee's authorized use of any trademark or service mark licensed by Company to Franchisee pursuant to this Agreement; or (ii) any claim asserted against Franchisee arising solely out of or as a result of Company's (or its Affiliate's) violation of any Applicable Law relating to any Authorized Gravity Coffee Products and Services sold by Franchisee in the Drive Thru, unless caused, directly or indirectly, by Franchisee.

17.2.3 Each party shall give the other party prompt written notice of any claim for which the notifying party demands indemnity; provided that such obligation shall not constitute a condition to these indemnification obligations, unless the indemnifying party has been materially prejudiced by such delay. Company shall retain the right and power to direct, manage, control and settle the litigation of any claim. Any payments made by an indemnified party shall be net of benefits received by any indemnified party on account of insurance in respect of such claims.

## **ARTICLE 18 MISCELLANEOUS PROVISIONS**

18.1 Notices. Except as otherwise expressly provided in this Agreement, all written notices and reports permitted or required to be delivered by the parties shall be deemed so delivered at the time delivered by hand, one business day after transmission by facsimile or by reputable overnight courier, postage prepaid and addressed as follows:

If to Company:	Gravity Franchising LLC 1155 Valentine Ave SE Pacific, WA 98047 (253) 447-8740 Attn: Erika Christiansen, President of Operations Email: echristiansen@gccoffee.com
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With copy to:

Miller Nash LLP  
2801 Alaskan Way, Suite 300  
Seattle, WA 98121  
Attn: Josh M. Piper  
Email: josh.piper@millernash.com

If to Franchisee: To the address(es) listed on the signature page to this Agreement

Any party may change his or its address by giving ten (10) days prior written notice of such change to all other parties.

18.2 Company's Right to Cure Defaults. In addition to all other remedies, if Franchisee shall default in the performance of any of its obligations or breach of this Agreement or any related agreement, Company may immediately or at any time thereafter, without waiving any claim for default or breach and without notice to Franchisee, cure such default or breach for the account and on behalf of Franchisee, and the cost to Company shall be due and payable on demand and shall be deemed to be additional compensation due to Company and shall be added to the amount of compensation next accruing, at the election of Company.

18.3 Waiver and Delay. No waiver by Company of any default or series of defaults in performance by Franchisee, and no failure, refusal or neglect of Company to exercise any right, power or option under this or any other agreement, shall constitute a waiver of the provisions of this Agreement or the Standards for any continuing or subsequent default, or a waiver by Company of its right at any time thereafter to require exact and strict compliance. Company makes no warranties or guarantees upon which Franchisee may rely, and assumes no liability or obligation to Franchisee by providing any waiver, approval, acceptance, consent, assistance, or suggestion to Franchisee in connection with this Agreement, or by reason of any neglect, delay, or denial of any request.

18.4 Survival of Obligations. Termination or expiration shall be without prejudice to any other rights or remedies that Company or Franchisee, shall have in law or in equity, including the right to recover benefit of the bargain damages. The provisions of this Agreement which by their nature or expressly constitute post-termination (or post-expiration) covenants and agreements shall survive the termination or expiration of this Agreement.

18.5 Successors and Assigns; Benefit. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Company and Franchisee, subject to the restrictions on Assignment contained in this Agreement. This Agreement is for the benefit of the parties only, and, except as expressly provided in this Agreement, is not intended to and shall not confer any rights or benefits upon any person who is not a party to this Agreement.

18.6 Joint and Several Liability. If the named Franchisee includes more than one person and/or Entity, such person(s) and/or Entities shall be deemed to be a general partnership and each shall be jointly and severally liable for all obligations and liabilities of the Franchisee.

18.7 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Washington, without giving effect to any conflict of laws principles, except that Washington Law will not apply to (a) any issue relating to the offer, sale, or registration of franchises, and/or (b) any issue relating to franchise relationships, including the termination or nonrenewal of a franchise. All such issues will be decided and resolved under the law of the state in which the Drive Thru is located.

18.8 Entire Agreement. This Agreement and the Manual contain all of the terms and conditions agreed upon by the parties with reference to the subject matter of this Agreement. No other agreements concerning the subject matter of this Agreement, oral or otherwise, shall be deemed to exist or to bind any of the parties. All prior or contemporaneous agreements, understandings and representations relating to the subject matter of this Agreement, are merged and are expressly and superseded by this Agreement, except such representations as are made in the franchise disclosure document (and any updates thereto) delivered to Franchisee (collectively, the "**Franchise Disclosure Document**") and any representations made by Franchisee in acquisition of this Agreement. Nothing in this Agreement or in any related agreement is intended to disclaim the representations Company made in the Franchise Disclosure Document. No officer or employee or agent of Company has any authority to make any representation or promise not contained in this Agreement or in the Franchise Disclosure Document, and Franchisee agrees that it has executed this Agreement without reliance upon any such representation or promise. This Agreement cannot be modified or changed except by written instrument signed by all of the parties.

18.9 Amendment and Modification. Except for any change reflected by a change in the Manual, this Agreement may be amended or modified only by a written document signed by an authorized representative for each party.

18.10 Titles for Convenience. Article and Section titles used in this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any of the terms, provisions, covenants, or conditions of this Agreement.

18.11 Construction. The terms of the Recitals, Acknowledgments, and all Exhibits and Schedules to this Agreement are incorporated into and made a part of this Agreement as if set forth in full. Neither this Agreement nor any uncertainty or ambiguity in this Agreement shall be construed or resolved against the drafter, whether under any rule of construction or otherwise. This Agreement is a fully integrated contract and has been reviewed by all parties and shall be construed and interpreted without resort to parol or extrinsic evidence according to the ordinary meaning of the words. Any use of the word "including" or synonymous terms, followed by one or more examples, does not limit in any way the antecedent word or phrase.

18.12 Severability. If any part, article, section, sentence or clause of this Agreement or the Manual shall be held to be indefinite, invalid or otherwise unenforceable, the indefinite, invalid or unenforceable provision shall be deemed deleted, and the remaining part of this Agreement or the Manual shall continue in full force and effect.

18.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

18.14 Fees and Expenses. If any party to this Agreement shall bring any action or proceeding for any relief against the other arising out of this Agreement, the losing party shall pay to the prevailing party a reasonable sum for attorneys' fees and costs incurred in bringing or defending such action or proceeding and shall be paid whether or not such action or proceeding is prosecuted to final judgment.

## **ARTICLE 19 DISPUTE RESOLUTION**

19.1 Mediation. Each controversy, dispute or claim between the parties arising out of relating to this Agreement, the parties relationship, or the breach, termination, enforcement, interpretation or validity of this Agreement, other than suits described in Section 19.2.3 (hereafter referred to as "**Claim**") shall first be submitted to mediation conducted in accordance with the commercial mediation rules of JAMS, unless the parties agree in writing on alternative rules and a mediator within fifteen (15) days after either party first gives notice of mediation. Prior to the mediation each party shall furnish the other and the mediator a detailed explanation of the dispute(s) and their respective position (the "**Mediation Statement**"). The mediation shall last for at least one full day and each party shall have present a representative with authority to make settlement decisions on its behalf. The mediation shall be conducted in Seattle, Washington, unless the parties agree otherwise, and shall be conducted and completed within forty-five (45) days following the date either party first gives notice of mediation. If the parties fail to complete the mediation within the 45-day period, either party may initiate an arbitration proceeding in accordance with Section 19.2. The fees and expenses of the mediator shall be shared equally by the parties. The mediator shall be disqualified as a witness, expert or counsel for any party for any suit and any related matter. The entire mediation process shall be confidential and the conduct, statements, promises, offers, views and opinions of the mediator and the parties shall not be discoverable or admissible in any legal proceeding for any purpose; provided, however, that evidence which is otherwise discoverable or admissible shall not be excluded from discovery or admission as a result of its use in the mediation.

### 19.2 Arbitration.

19.2.1 In the event the Claim(s) is not resolved through the mediation, the parties agree to submit such Claim(s) to binding arbitration by a single arbitrator who shall use the Commercial Arbitration Rules of JAMS in effect as of the date an arbitration demand is filed or

served, except as those rules have been modified by this Agreement. The arbitrator shall have exclusive power and jurisdiction to determine the arbitrability of any dispute. Unless consented to by both parties, the arbitration and the arbitrator shall consider and decide only those issues raised in the Mediation Statement.

19.2.2 The exclusive venue of any arbitration hearing shall be in Seattle, Washington, unless the parties agree otherwise. All claims asserted in the proceeding, whether by way of the initiating party's claim, or any counterclaims or defenses shall be resolved individually, and shall not be heard on a class basis or joined with the claims of any other franchisee. With respect to any such arbitration hearing between the parties:

(a) The arbitrator shall only consider a claim, defense, or counterclaim that has been plead with specificity in the Mediation Statement, setting forth all facts essential to the party's claim, defense, or counterclaim. The arbitrator shall not consider any conclusory claims or allegations.

(b) The arbitrator shall limit discovery to a reasonable number of document production requests, no more than fifteen (15) interrogatories, and three (3) depositions per party, unless the arbitrator determines that additional discovery is both necessary and essential to the fair administration of the matter.

(c) The arbitrator shall schedule the hearing as soon as practicable, which shall be no later than one hundred fifty (150) days after the arbitrator's appointment, unless the parties agree otherwise.

(d) The arbitrator shall reject any claim, and shall consider such claim to be barred by the parties' contractual limitations period, unless the claim has been asserted within one year from the occurrence of the facts, circumstances, or events giving rise to the claim.

(e) The arbitrator shall have no power to award punitive damages, as the parties hereby waive any right to or claim of punitive, exemplary, or multiple damages against the other and agree to be limited to the recovery of actual damages sustained.

(f) The substantially prevailing party shall be awarded its costs, reasonable attorneys' fees, and expert witness expenses, and the losing party shall be responsible for all arbitration fees, including the fees of the arbitrator.

19.2.3 Subject to Section 12.2.4, nothing in this Article 19 shall prejudice the right of any party to obtain provisional relief (preliminary injunctive relief) from a court of competent jurisdiction that is necessary to maintain the status quo or to prevent a party from incurring irreparable injury or harm pending the appointment of an arbitrator.

19.3 Waiver of Jury Trial; Venue. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES: (1) HEREBY WAIVE THEIR RIGHT TO JURY TRIAL WITH RESPECT TO ALL CLAIMS AND ISSUES ARISING UNDER, IN CONNECTION WITH, TOUCHING UPON OR RELATING TO THIS AGREEMENT, INCLUDING ANY BREACH AND/OR THE SCOPE OF THE PROVISIONS OF THIS ARTICLE 20, WHETHER SOUNDING IN CONTRACT OR TORT, AND INCLUDING ANY CLAIM FOR FRAUDULENT INDUCEMENT, AND (2) AGREE THAT SEATTLE, WASHINGTON SHALL BE THE VENUE FOR ANY LITIGATION ARISING UNDER THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THEY HAVE REVIEWED THIS SECTION AND HAVE HAD THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE AS TO ITS MEANING AND EFFECT.

## **ARTICLE 20 SUBMISSION AND FRANCHISEE REPRESENTATIONS**

20.1 Submission of this Agreement. This Agreement shall not be binding on Company, unless and until it shall have been accepted and signed on its behalf by an authorized officer of the Company.

### 20.2 Franchisee Representations.

20.2.1 Franchisee represents that it has completed and executed the closing questionnaire in substantially the form attached to the Franchise Disclosure Document (the "**Closing Questionnaire**"), and that it completed the Closing Questionnaire truthfully and fully answered all questions, and is tendering to Company the fully completed and executed Closing Questionnaire along with this executed Agreement.

20.2.2 Franchisee represents that the person signing this Agreement on Franchisee's behalf has been duly authorized to do so and commits to be bound to the terms of the Agreement.

20.2.3 Franchisee represents that it has conducted an independent investigation of the business venture contemplated by this Agreement and recognize that it involves business risks and that its results will be largely dependent upon its efforts and abilities, including its marketing and promotional efforts. Franchisee further represents it has been accorded ample time to consult with its own legal counsel and other advisors about the potential risks and benefits of entering into this Agreement, and Company has advised Franchisee to do so.

*Signatures on next page*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**"Company"**

**"Franchisee"**

GRAVITY FRANCHISING LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

- an individual;
- a \_\_\_\_\_ general partnership;
- a \_\_\_\_\_ limited partnership;
- a \_\_\_\_\_ limited liability company;
- a \_\_\_\_\_ corporation

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Notice Address:

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

Attn: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email: \_\_\_\_\_

**SCHEDULE 1**  
**TO THE**  
**FRANCHISE AGREEMENT**

1. Franchisee's Name: \_\_\_\_\_

2. If Franchisee is an Entity, Franchisee represents and warrants that the following information is accurate and complete in all material respects:

Franchisee is a (check as applicable):

corporation

limited liability company

general partnership

limited partnership

Other (specify): \_\_\_\_\_

3. Franchisee's State of Organization (if applicable): \_\_\_\_\_

4. Franchisee shall provide to Company concurrently with the execution of this Agreement true and accurate copies of its charter documents including Articles of Incorporation or Articles of Organization, Bylaws, Operating Agreement, Partnership Agreement, resolutions authorizing the execution of this Agreement, and any amendments to the foregoing ("**Entity Documents**").

5. Ownership of Franchisee: The name, address, and ownership shares of each of Franchisee's Owners is set for below:

NAME	ADDRESS	NUMBER OF SHARES / PERCENTAGE INTEREST

6. There is set forth below the names, titles and addresses of Franchisee's principal officers or partners who will be devoting their full time to the Business:

NAME	TITLE	ADDRESS

7. The address where Franchisee's Financial Records, and Entity records (e.g., Articles of Incorporation or Articles of Organization, Bylaws, Operating Agreement, Partnership Agreement, etc.) are maintained is:

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8. Site Selection Area (Section 5.1):

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9. Location (Section 5.1): \_\_\_\_\_

10. Operating Principal (Section 7.3): \_\_\_\_\_

11. General Manager (Section 7.3): \_\_\_\_\_

*Signatures on next page*



**COMPANY**

GRAVITY FRANCHISING LLC

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

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

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

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

**FRANCHISEE**

(IF ENTITY)

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

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

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

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

(IF INDIVIDUALS)

\_\_\_\_\_  
(Name)

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

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

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

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

Schedule 1 addendum

(to be completed after site selection and acceptance, if not determined at the time the Franchise Agreement is signed)

1. Location (Section 5.1):

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**COMPANY**

**FRANCHISEE**

GRAVITY FRANCHISING LLC

(IF ENTITY)

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

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

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

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

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

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

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

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

(IF INDIVIDUALS)

\_\_\_\_\_  
(Name)

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

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

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

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

## **EXHIBIT A**

### **Definitions**

In this Agreement in addition to those terms defined elsewhere, the following capitalized terms shall have the meanings set forth below:

**"Additional Training"** shall have the meaning set forth in Section 6.5.1.

**"Affiliate"** when used in connection with Company or Franchisee, includes each person or Entity which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Company or Franchisee, as applicable. Without limiting the foregoing, the term "Affiliate" when used in connection with Franchisee includes any Entity 10% or more of whose Equity or voting control, is held by person(s) or Entities who, jointly or severally, hold 10% or more of the Equity or voting control of Franchisee. For purposes of this definition, control of a person or Entity means the power, direct or indirect, to direct or cause the direction of the management and policies of such person or Entity whether by contract or otherwise. Notwithstanding the above definition, if Company or its Affiliate has any ownership interest in Franchisee, the term "Affiliate" shall not include or refer to Company or that Affiliate (the **"Company Affiliate"**), and no obligation or restriction upon an "Affiliate" of Franchisee, shall bind Company, or Company's Affiliate or their respective parents or subsidiaries, officers, directors, or managers.

**"Agreement"** means this Franchise Agreement, together with all exhibits, schedules, and addenda to this Franchise Agreement.

**"Applicable Law"** means applicable common law and all applicable statutes, laws, rules, regulations, ordinances, policies and procedures established by any Governmental Authority or by the common law of the state in which the Drive Thru is located, governing the development, construction and operation of the Drive Thru, including all health and safety, labor, immigration, food and drug laws and regulations, the Americans with Disabilities Act, zoning laws, construction codes, and permit variance, conditional use permit or similar requirements and conditions, all as may be amended, supplemented or enacted from time to time.

**"Area Development Agreement"** means an agreement with Company under which Franchisee or its Affiliate has agreed to open multiple Gravity Drive Thrus and pursuant to which Franchisee has executed this Agreement.

**"Assets"** means all of the following personal property and assets owned by Franchisee or in which Franchisee otherwise has any rights, and located at, or used in connection with the Drive Thru: (a) all accounts, licenses, permits, and contract rights, including this Agreement, leasehold interests, all telephone and telecopier numbers, telephone and other directory listings, general intangibles, receivables, claims of Franchisee, all guaranties and security therefor and all of Franchisee's right, title and interest in the goods purchased and represented by any of the

foregoing; (b) all chattel paper including electronic chattel paper and tangible chattel paper; (c) all documents and instruments; (d) all letters of credit and letter-of-credit rights and all supporting obligations; (e) all deposit accounts; (f) all investment property and financial assets; (g) all inventory and products thereof and documents therefor; (h) all furniture, fixtures, equipment, leasehold improvements and machinery, wherever located and all documents and general intangibles covering or relating thereto; (i) all books and records pertaining to the foregoing, including computer programs, data, certificates, records, circulation lists, subscriber lists, advertiser lists, supplier lists, customer lists, customer and supplier contracts, sales orders, and purchasing records; (j) all software including computer programs and supporting information; (k) all commercial tort claims; (l) all other personal property of Franchisee of any kind used in connection with the Drive Thru; and (m) all proceeds of the foregoing, including proceeds of insurance policies. The terms used in this definition shall have the meanings given them in the Washington Uniform Commercial Code if defined in such code.

**"Assignment"** means any assignment, transfer, gift or other conveyance, voluntarily or involuntarily, in whole or in part, by operation of Applicable Law or otherwise, of any interest in this Agreement or any of Franchisee's rights or privileges under this Agreement, or all or any substantial portion of the Assets; provided, further, however, that if Franchisee is an Entity, each of the following shall be deemed to be an Assignment of this Agreement: (i) the sale, assignment, transfer, conveyance, gift, pledge, mortgage, hypothecation or other encumbrance of more than 49% in the aggregate, whether in one or more transactions, of the Equity or voting power of Franchisee, by operation of law or otherwise or any other event(s) or transaction(s) that, directly or indirectly, effectively changes control of Franchisee; (ii) the issuance of any securities by Franchisee that itself or in combination with any other transaction(s) results in the Owners, as constituted on the Effective Date, owning less than 51% of the outstanding Equity or voting power of Franchisee; (iii) if Franchisee is a Partnership, the resignation, removal, withdrawal, death or legal incapacity of a general partner or of any limited partner owning more than 49% of the Partnership Rights of the Partnership, or the admission of any additional general partner, or the transfer by any general partner of any of its Partnership Rights in the Partnership, or any change in the ownership or control of any general partner; (iv) the death or legal incapacity of any Owner owning more than 49% of the Equity or voting power of Franchisee; and (v) any merger, stock redemption, consolidation, reorganization, recapitalization or other transfer of control of Franchisee, however effected.

**"Authorized Gravity Coffee Products and Services"** means the beverages, foods, smoothies, and other food items and products (which may include specialty foods, packaged foods, hats, apparel, retail items, and gift or loyalty cards), as specified by Company from time to time in the Manual, or as otherwise directed by Company, in writing, for sale at the Drive Thru, prepared, sold and/or manufactured in strict accordance with Company's recipes, and Standards, including specifications as to ingredients, brand names, preparation and presentation.

**"Certified Training Store"** shall have the meaning set forth in Section 6.5.

**"Claim"** shall have the meaning set forth in Section 19.2.1.

**"Company"** means Gravity Franchising LLC. In addition, (i) where this Agreement requires Franchisee to satisfy or be in compliance with any contractual obligation to "Company," that term shall include any Affiliate of Company to which Franchisee is a party to any agreement or otherwise has made any covenant or owes any obligation; and (ii) where this Agreement provides that Company shall perform any act or may exercise any right, then any agent or other party duly authorized by Company may perform that act or exercise that right.

**"Competitive Activities"** means to own, operate, lend to, advise, be employed by, have any financial interest in, or sell any assets of the Drive Thru to any retail store or business that predominantly prepares, produces or sells, at retail or wholesale, any type of coffee beverage, energy drink, tea, smoothies, or any other food product or featured menu item that is now or in the future an Authorized Gravity Coffee Product and Services, other than one of the Gravity Drive Thrus operated pursuant to a validly subsisting franchise or license agreement with Company. Notwithstanding the foregoing, **"Competitive Activities"** shall not include the direct or indirect ownership solely as an investment, of securities of any Entity which are traded on any national securities exchange if the owner (i) is not a controlling person of, or a member of a group which controls, such Entity and (ii) does not, directly or indirectly, own 5% or more of any class of securities of such Entity.

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

**"Co-op Advertising Regions"** shall have the meaning set forth in Section 8.4.

**"Crisis Management Event"** means any event that occurs at or about the Drive Thru or has been reported or alleged to have occurred at the Drive Thru or by the Franchisee's staff relating to an event that has caused or could cause harm or injury to Drive Thru customers, guests, or employees, such as food or beverage contamination, food or beverage spoilage/poisoning, food or beverage tampering/sabotage, safety violations, the spread of any contagious or infectious diseases, shootings or other criminal activity at the Location or by Franchisee's agents or employees, data breach, or any other circumstance which may injure or impair the System, Marks, or image or reputation of the Gravity Drive Thrus or Company.

**"Default"** or **"default"** means any breach of, or failure to comply with, any of the terms or conditions of this Agreement, including any mandatory provisions of the Manual, or any other agreement between Company and Franchisee.

**"Director of Operations"** means an individual, acceptable to, and certified by Company, and responsible for overseeing the day-to-day operation of two or more Gravity Drive Thrus operated by Franchisee or its Affiliates.

**"Drive Thru"** means the Gravity Drive Thru to be developed, or already developed, at the Location by Franchisee pursuant to this Agreement, under the Marks and the System, and featuring the sale of Authorized Gravity Coffee Products and Services on the Premises and from the Location.

**"Effective Date"** means the date entered in the space so designated on the signature page of this Agreement, which is the date that Company counter-signs this Agreement.

**"EFT"** shall have the meaning set forth in Section 4.8.1.

**"Entity"** means any limited liability company, Partnership, trust, association, corporation or other entity which is not an individual.

**"Equity"** means capital stock, membership interests, Partnership Rights, or other equity ownership interests of an Entity.

**"Force Majeure"** means acts of God (such as tornadoes, earthquakes, hurricanes, floods, fire or other natural catastrophe); strikes, lockouts or other industrial disturbances; war, terrorist acts, riot, or other civil disturbance; epidemics or pandemics; or other similar forces which could not, by the exercise of reasonable diligence, have been avoided; provided, however, that neither an act or failure to act by a Governmental Authority, nor the performance, non-performance or exercise of rights under any agreement with Franchisee by any lender, landlord, contractor, or other person shall be an event of Force Majeure, except to the extent that such act, failure to act, performance, non-performance or exercise of rights results from an act which is otherwise an event of Force Majeure. For the avoidance of doubt, a change in general economic conditions, however severe, or Franchisee's financial inability to perform or Franchisee's insolvency shall not be an event of Force Majeure.

**"Gravity Drive Thru"** means an independent business that provides coffee, energy drinks, other beverages, and certain food items and merchandise through a retail "Gravity®," "Gravity® Coffee Co." or "GC®" drive thru, that is operated by a franchisee, or by Company or its Affiliate, under the Marks and System, in compliance with the Standards, and which features Authorized Gravity Coffee Products and Services.

**"General Manager"** means an individual, acceptable to, and certified by Company, and responsible for overseeing the operation of the Drive Thru. The General Manager must have successfully completed all training, must work on or from the Drive Thru at least forty (40) hours a week, and may be the Operating Principal or another Owner if she/he otherwise satisfies the General Manager requirements.

**"Governmental Authority"** means and includes all federal, state, county, municipal and local governmental and quasi-governmental agencies, commissions and authorities.

**"Gross Sales"** means the total of all sales made and revenue and income derived by Franchisee, whether in cash or for credit or barter, or other means of exchange (and, if for credit or barter, whether or not payment is received therefor), on account of any and all goods, merchandise, services or products sold in or from the Drive Thru, or which are promoted or sold under any of the Marks, whether or not Company offers such services or products in its other locations, including; (a) revenues from sales of any nature or kind whatsoever, derived by Franchisee or by any other person or Entity (including Franchisee's Affiliate(s)) from the Drive Thru;

(b) sales of Authorized Gravity Coffee Products and Services at any location, whether in compliance or in contravention of this Agreement; (c) the full sale price to the consumer for items sold through third-party delivery services, with no discount for the delivery service's fee or commission; and (d) the proceeds of any business interruption insurance, after the satisfaction of any applicable deductible. Notwithstanding the foregoing, "Gross Sales" shall exclude the following: (i) sums representing sales taxes collected directly from customers by Franchisee in the operation of the Drive Thru, and any sales, value added or other tax, excise or duty charged to customers which is levied or assessed against Franchisee by any federal, state, municipal or local authority, based on sales of specific goods, products, merchandise or services sold or provided at or from the Drive Thru, provided that such taxes are actually transmitted to the appropriate Governmental Authority; (ii) sums representing tips, gratuities or service charges paid directly by customers to employees of Franchisee or paid to Franchisee and promptly, and to the extent, remitted to such employees by Franchisee in lieu of direct tips or gratuities; and (iii) proceeds from isolated sales of equipment and trade fixtures not constituting any part of Franchisee's products and services offered for resale at the Drive Thru nor having any material effect upon the ongoing operation of the Drive Thru required under this Agreement.

**"Heirs"** shall have the meaning set forth in Section 14.3.

**"Information Systems"** means all electronic based hardware, software, middleware, web-based solutions, wireless, electronic interfaces, cabling, and other electronic devices, including, computer systems, point of sale and cash collection systems, data systems, network systems, printer systems, Internet systems, telecommunication systems, menu systems, security systems, digital media systems, video and still digital cameras, power systems, music systems, and required service and support systems and programs.

**"Information"** shall have the meaning set forth in Section 10.1.

**"Intranet"** shall have the meaning set forth in Section 7.15.1.

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

**"Local Advertising Expenditure"** shall have the meaning set forth in Section 8.2.

**"Location"** means the address identified on Schedule 1. It is the address in which the Drive Thru Premises are located, and which has been approved by Company as specified in Section 5.1.2.

**"Manual"** is described in Section 7.2. It refers collectively to Company's operations and brand standards manual, and any other written directive, suggestions, or guidelines related to the System, as the same may be amended and revised from time to time, including all bulletins, supplements and ancillary and additional manual and written directives established by Company.

**"Marketing Fee"** shall have the meaning set forth in Section 4.3.

**"Marketing Fund"** shall have the meaning set forth in Section 4.3.

**"Marks"** shall mean all owned or licensed trade names, trademarks, service marks, logos, decor, trade dress, lay out, domain names, and commercial symbols, and similar and related words or symbols, now or in the future associated with Company, Licensor, Franchisee, the System or the Drive Thru, whether or not they are registered, including "GC," "GRAVITY," and "STAY GROUNDED." Company reserves the right to change the Marks.

**"Non-Proprietary Products"** shall have the meaning set forth in Section 9.2.

**"Notice of Election"** shall have the meaning set forth in Section 3.3.1.

**"On-Site Assistance"** shall have the meaning set forth in Section 6.3.1.

**"Operating Principal"** means such person described in Section 7.3.1, and shall be (a) Franchisee, if Franchisee is an individual; or (b) the person identified on Schedule 1, or such other individual hereafter designated by Franchisee, and accepted by Company (and until subsequently disapproved by Company), if Franchisee is an Entity, as the Operating Principal, who shall hold more than 10% of the Equity of Franchisee or (with Company's prior approval) be an executive officer of Franchisee, and shall have the authority to act on behalf of Franchisee during the Term. At all times, Company may regard all decisions by the Operating Principal as fully authorized by Franchisee.

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

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

**"Partnership"** means any general partnership, limited partnership, or limited liability partnership.

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

**"Premises"** means the premises owned, leased or subleased by Franchisee at the Location of the Drive Thru including any ancillary common area, parking lot, campus, buildings and other structures associated with the Premises.

**"Proprietary Products"** shall have the meaning set forth in Section 9.1.



**"Restricted Persons"** means Franchisee, and each of its Owners and Affiliates, and their respective officers, directors, managers, and Affiliates, the Operating Principal, General Manager(s), and the spouse and family members who live in the same household of each of the foregoing.

**"ROFR Period"** shall have the meaning set forth in Section 13.3.

**"ROFR"** shall have the meaning set forth in Section 13.3.

**"Site Review Request"** shall have the meaning set forth in Section 5.1.2.

**"Site Selection Area"** means the geographical area in which Franchisee must secure a Location for the Drive Thru. The Site Selection Area is described in Schedule 1.

**"Standards"** means the then-current specifications, standards, policies, procedures and rules Company prescribes for the development, ownership and operation of Gravity Drive Thrus, as modified by Company from time to time in writing.

**"Successor Agreement Right"** shall have the meaning set forth in Section 3.2.1.

**"Successor Franchise Agreement"** shall have the meaning set forth in Section 3.2.1.

**"Successor Term"** shall have the meaning set forth in Section 3.2.1.

**"Supplier"** shall have the meaning set forth in Section 9.2.1.

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

**"Taxes"** means any sales, remittance, stamp, use, service, occupation, excise, import or export, value-added, or similar tax or duty, gross receipts, income, property, withholding, goods and services and value added taxes and any levies, imposts, duties, or other charges and taxes of whatsoever nature imposed upon any fees or payments payable to Company (except taxes imposed on Company's income) on account of the operation of the Drive Thru. "Taxes" includes any interest, penalties, late charges or other charges assessed against Company as a result of Franchisee's failure to pay or delinquent payment of Taxes.

**"Term"** shall have the meaning set forth in Section 3.1.

**"Trade Secrets"** means proprietary and confidential information, including recipes, ingredients, Standards, specifications, procedures, policies, concepts, systems, know-how, plans, software, strategies, and methods and techniques of operating the Drive Thru and producing and preparing Authorized Gravity Coffee Products and Services.

**"Travel Expenses"** means reasonable costs and expenses incurred by or assessed in connection with travel, including airfare, hotel/lodging, local transportation, meals, and, with regard to Company's employees', agents' and/or representatives' expenses, a reasonable per diem charge determined by Company, in advance, for other incidental expenses incurred, including laundry and/or telephone expenses.

**"Wages"** means all salaries and hourly wages, and all related direct and indirect payroll expenses of employees, including employment-related taxes, overtime compensation, vacation benefits, pension and profit sharing plan contributions, medical insurance premiums, medical benefits, and the like, and all direct and indirect fees, costs and expenses payable to independent contractors, agents, representatives and outside consultants.

**EXHIBIT B**  
**Electronic Funds Transfer**

Authorization to Honor Charges Drawn by and Payable to  
Gravity Franchising LLC.

<b>Bank Name</b>	<b>Name on Bank Account</b>

<b>Account No.</b>	<b>ABA #</b>	<b>FEIN</b>

The undersigned Depositor hereby authorizes and requests the Depository designated below to honor and to charge to the following designated account, checks, and electronic debits (collectively, "debits") drawn on such account which are payable to the above named Payee. It is agreed that Depository's rights with respect to each such debit shall be the same as it if were a check drawn and signed by the Depositor. It is further agreed that is any such debit is not honored, whether with or without cause, and whether intentionally or inadvertently, Depository shall be under no liability whatsoever. This authorization shall continue in force until Depository and Payee have received at least thirty (30) days written notification from Depositor of its termination.

The Depositor agrees with respect to any action taken pursuant to the above authorization.

(1) To indemnify the Depository and hold it harmless from any loss it may suffer resulting from or in connection with any debit, including, without limitation, execution and issuance of any check, draft or order, whether or not genuine, purporting to be authorized or executed by the Payee and received by the Depository in the regular course of business for the purpose of payment, including any costs or expenses reasonably incurred in connection therewith.

(2) To indemnify Payee and the Depository for any loss arising in the event that any such debit shall be dishonored, whether with or without cause, and whether intentionally or inadvertently.

(3) To defend, at Depositor's own cost and expense, any action which might be brought by a depositor or any other persons because of any actions taken by the Depository or Payee pursuant to the request and authorization, or in any manner arising by reason of the Depository's or Payee's participation.

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

Name of Depositor: \_\_\_\_\_

Designated Bank Account: \_\_\_\_\_

(Please attach one voided check for the above account)

Drive Thru Location/Drive Thru Number: \_\_\_\_\_

For information call: \_\_\_\_\_

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

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_  
Name of Franchisee/Depositor (please print)

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

Title of Authorized Representative: \_\_\_\_\_

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

**EXHIBIT C**  
**Addendum to Lease**

THIS ADDENDUM TO LEASE ("**Addendum**") is made this \_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ ("**Landlord**") and \_\_\_\_\_ ("**Tenant**") with reference to the following facts:

A. Gravity Franchising LLC, a Washington limited liability company ("**Company**"), and Tenant are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "**Franchise Agreement**").

B. Landlord and Tenant desire to enter into a lease (the "**Lease**") pursuant to which Tenant will occupy the premises located at \_\_\_\_\_ (the "**Premises**") for a "Gravity®," "Gravity® Coffee Co." or "GC®" retail drive thru (the "**Drive Thru**") licensed under the Franchise Agreement.

C. Tenant is required to execute and to cause Landlord to execute this Addendum.

NOW, THEREFORE, the parties agree as follows:

1. Notwithstanding anything to the contrary contained in the Lease:
  - (a) Landlord shall not change the traffic flow around the Premises;
  - (b) Landlord shall not permit the erection of signs or structures which obstruct the view of the Premises or its signage;
  - (c) Landlord shall maintain the common areas on a consistent basis;
  - (d) Tenant shall be the only facility, excluding supermarkets or similar convenience stores, specializing in similar food sales in the center;
  - (e) The Premises shall only be used as a "Gravity®," "Gravity® Coffee Co." or "GC®" Drive Thru and be constructed and improved pursuant to the Franchise Agreement, including exterior signs displaying Company's service marks (the "**Marks**") in accordance with Company's standards and specifications;
  - (f) Company or its designee shall have an option, without cost or expense to Company or such designee, to assume the Lease, or execute a substitute lease on the same terms, in the event of termination or expiration of the Franchise Agreement for any reason;

- (g) Company or its designee shall have the right (but not the obligation) to succeed to Tenant's rights under the Lease if Tenant fails to exercise any option to renew, and or extend the term of the Lease;
- (h) Upon Tenant's actual or alleged default under the Lease, the Landlord shall notify Company in writing at least fifteen (15) days prior to the date of termination or non-renewal of the Lease and, in the case of a default, Company or its designee shall have the right, but not the obligation, without liability to Tenant, to cure the default and to succeed to Tenant's rights under said Lease or request that the Landlord terminate the Lease and enter into a substitute Lease with Company on the same terms by giving written notice of such election to Tenant and such Landlord;
- (i) Tenant shall have the unrestricted right, without Landlord consent, payment to Landlord or modification of any term of the Lease, during the entire term of the Lease (including any renewal terms) to assign or sublet the Premises to Company, its designee, or any franchisee approved by Company and who meets Landlord's reasonable financial suitability requirements;
- (j) Except as permitted in (i) above, the Lease may not be assigned, subleased, modified or amended by Tenant without Company's prior written consent and that Company shall be provided with copies of all such assignments, subleases, modifications and amendments;
- (k) Landlord must disclose to Company, upon Company's request, all sales and other information furnished to the Landlord by Tenant; and
- (l) Upon expiration or termination of the Lease for any reason, Tenant shall, upon Company's demand, remove all of the Marks from the Location and Premises and modify the decor of the Location so that it no longer resembles, in whole or in part, the Drive Thru, and otherwise comply with ARTICLE 15 of the Franchise Agreement. If Tenant shall fail do so, Company will be given written notice and the right to enter the Location and Premises to make such alterations, in which event Tenant shall reimburse Company for all direct and indirect costs and expense it may incur in connection therewith, including attorneys' fees.
- (m) If Landlord is Franchisee's Affiliate, Landlord represents that it has read and understood the Purchase Option Agreement and Sections 2.4 and 13.3 of the Franchise Agreement (which may affect the possible disposition of the real estate under the Drive Thru), and agrees to be bound by these provisions.

2. If Company or its designee elects to succeed to Tenant's rights under the Lease, Tenant shall assign to Company or such designee all of its right, title and interest in and to the Lease. Upon such assignment, Landlord shall attorn to Company or such designee as the tenant under the Lease. Tenant shall execute and deliver to Company or such designee such assignment and take such further action as Company or such designee may deem necessary or advisable to effect such assignment, upon demand, Company or such designee shall be, and hereby is, appointed Tenant's attorney in fact to execute such assignment and/or take further action in Tenant's name and on its behalf. This power of attorney granted by Tenant to Company and such designee is a special power of attorney coupled with an interest and is irrevocable and shall survive the death or disability of Tenant. Any sum expended by Company or such designee to cure Tenant's default of the Lease shall be deemed additional sums due Company and Tenant shall pay such amount to Company upon demand.

3. Nothing in the Lease or this Addendum shall create or purport to create any obligations on behalf of Company to Landlord or Tenant and nothing in the Lease or this Addendum shall grant or purport to grant to Landlord any right to pursue any claim against Company arising out of Tenant's breach or default under the Lease.

4. In the event of any conflict or inconsistency between the Lease and this Addendum, this Addendum shall control.

*Signature page follows*

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date first set forth above.

**"Landord"**

**"Tenant"**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



## **EXHIBIT D**

### **Co-Op Advertising Program**

Company may, but is not obligated to, establish regions for co-operative advertising ("Co-op Advertising Regions"), to coordinate advertising, marketing efforts and programs, and maximize the use of local and/or regional advertising media.

If Company creates a Co-op Advertising Region for the region in which the Drive Thru is located, Franchisee shall become a subscriber and member of the Co-op Advertising Region. Franchisee will execute and participate in accordance with the organizational and formation documents prescribed by Company for the Co-op Advertising Region. The size and membership of such regions shall be binding upon Franchisee, and all other similarly situated franchisees of the System and Company or such Affiliate of Company, if it operates Drive Thru(s) in the region; provided, however, that Company reserves the right to exempt Franchisee or certain franchisees from participation, such as Gravity Drive Thrus at non-traditional venues in the region. At all meetings of Co-op Advertising Region, each participating member shall be entitled to one vote for each Drive Thru located within the Co-op Advertising Region or such other vote as may reasonably be determined by Company.

Franchisee and other members of the Co-op Advertising Region, whose agreements require their participation, will contribute to the Co-op Advertising Region such minimum amount as may be determined by Company; provided, however, the rate of contribution may be changed from time to time upon the affirmative vote or consent of at least a majority of the voting power of the Co-op Advertising Region, but the Co-op Advertising Region may not reduce the contribution rate below any minimum established by Company.

Each Co-op Advertising Region will decide the use of funds available to it for advertising or marketing. The Co-op Advertising Region shall then, in writing, request approval from Company. Company shall not withhold its approval unreasonably, but no placement of advertising or commitment of Marketing Funds on behalf of a Co-op Advertising Region will be made without Company's prior written approval. Company reserves the right to establish standards concerning the operation of the Co-op Advertising Region, advertising agencies retained by Co-op Advertising Region, and advertising programs conducted by the Co-op Advertising Region. Any disputes (other than pricing) arising among or between Franchisee and/or franchisees and/or the Co-op Advertising Region, may be resolved by Company whose decision shall be final and binding on all parties. No Co-op Advertising Region may appoint or pay from the funds collected by the Co-op Advertising Region fees or costs of any advertising agency or buying group without the prior written consent of Company.

**EXHIBIT E**  
**Insurance Requirements**

Set forth below are the types and minimum coverage amounts that Company currently requires for each Drive Thru location:

COMMERCIAL GENERAL LIABILITY:

Bodily Injured and Property Damage:	\$2,000,000 per occurrence combined general; \$5,000,000 combined aggregate.
Personal Injury and Advertising Injury:	\$1,000,000 any one person or organization.
Products/Completed Operations:	\$2,000,000 annual aggregate.
Fire Legal Liability:	\$1,000,000 any one fire.
Water and Liquid Damage Legal Liability:	\$1,000,000 any one occurrence, unless covered in General Liability policy.

PROPERTY:

Goods, fixtures, furniture, equipment, and other personal property located at the premises	100% of their full replacement cost. Maximum deductible of \$10,000. Insurance to include coverage for loss of income and extra expenses, for the actual loss incurred, and include coverage for Franchisee's obligations to Company and its Affiliates
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OTHER:

Workers Compensation:	STATUTORY
Employer's Liability:	\$1,000,000 per employee, bodily injury by disease; \$1,000,000 policy limit, bodily injury by disease; \$1,000,000 per employee, bodily injury by accident.
Umbrella Liability:	\$2,000,000 any one occurrence; \$2,000,000 annual aggregate.
Cyber Liability	\$1,000,000 annual aggregate

Franchisee acknowledges that these are minimum requirements; Company does not represent that these coverages will be sufficient to cover all losses. Franchisee is advised to seek counsel and use its own judgment as to coverages appropriate to Franchisee's situation.

## EXHIBIT F

### Purchase Option Agreement

THIS PURCHASE OPTION AGREEMENT (this "Agreement") is entered into as of the Effective Date by and between Gravity Franchising LLC, a Washington limited liability company ("**Company**"), and the franchisee ("**Franchisee**") and its owners, officers and directors identified on the signature page of this Agreement.

As a condition to Company entering into a franchise agreement (the "**Franchise Agreement**") and, if applicable, an area development agreement ("**ADA**"), with Franchisee, Company requires that Franchisee and Franchisee's owners covenant and agree to be bound by this Agreement. Capitalized terms used but not defined in this Agreement have the meanings given to them under the Franchise Agreement or ADA, as applicable.

### Purchase Option

1. Purchase Option. Franchisee and Franchisee's owners, officers, directors, and Affiliates hereby grant Company the right and option, but not the obligation, to purchase the Assets (as defined below) from Franchisee in accordance with the terms of this Agreement (the "**Purchase Option**"). Company may exercise the Purchase Option at any time during the term of the Franchise Agreement. To exercise the Purchase Option, Company will provide Franchisee with written notice of exercise in accordance with the notice provisions of the Franchise Agreement (the "**Exercise Notice**"). Company may assign this Purchase Option to a third party in Company's sole discretion. At Company's request, the terms and conditions of the Purchase Option may be recorded in the real property records under Applicable Law, and Franchisee shall execute all documents as may be necessary and appropriate to do so. Company's rights under this Agreement shall be in addition to, and not in lieu of, Company's ROFR and such rights may be exercised separately, concurrently or in the alternative. Company shall have the right to revoke its Exercise Notice at any time. Thereafter, the Purchase Option shall be immediately reinstated.
2. Deferral. If Company delivers an Exercise Notice to Franchisee, Franchisee may defer Company's Purchase Option if Franchisee fulfills all of the following conditions:
  - a. Franchisee has, within seven (7) days from the date of the Exercise Notice, provided notice to Company that Franchisee is opting to defer Company's purchase option (the "**Deferral Notice**");
  - b. For thirty (30) days after the Deferral Notice, Franchisee has made the Premises and Drive-Thru available to Company and cooperated in Company's development of a plan for required remodeling, renovation, modernization, and refurbishing of the Premises and the Drive Thru, which may include installation of new or replacement furnishing, fixtures, and equipment, to comply with Company's then-current Standards for new Gravity Drive Thrus (the "**Improvement Plan**"); and

- c. Within ninety (90) days after the Exercise Notice, Franchisee has at its expense completed all aspects of the Improvement Plan to the reasonable satisfaction of Company.

If Franchisee satisfies all of the foregoing conditions, the Purchase Option shall be deferred until the earlier of (i) five (5) years from the date of the Exercise Notice, or (ii) the end of the Term; after which time Company may exercise the Purchase Option at any time, as provided for in this Agreement or in the terms of any similar purchase option right granted under a Successor Franchise Agreement.

If Franchisee fails to satisfy any of the foregoing conditions, Company may immediately enforce its Purchase Option right as provided for in this Agreement.

3. Assets. The assets covered by the Purchase Option consist of all of Franchisee's rights and interests in the Franchise Agreement, together with any tenant leasehold interests associated with the Drive Thru, all of the tangible assets located at or used in connection with the Drive Thru, including without limitation all furniture, fixtures, equipment, inventory, all favorable rights and covenants associated with the Drive Thru, and all rights under the ADA, regardless whether owned by Franchisee or Franchisee's Owners, officers, directors, or Affiliates (the "**Assets**"). The Assets will be conveyed free and clear of all liens, encumbrances and liabilities (unless Company or Company's designee otherwise expressly agree in writing). For the avoidance of doubt, the parties acknowledge and agree that the Assets include all franchise rights relating to the Drive Thru, so that Company's (or Company's designee's) exercise of this option results in the transfer of the Franchise Agreement rather than the termination of the Franchise Agreement.

4. Purchase Price.

- a. The purchase price of the Assets (the "**Purchase Price**") will equal the sum of (i) four times the annual Drive Thru-Level EBITDA for the 12 full calendar months immediately prior to the date of the Exercise Notice, plus (ii) Franchisee's cost for the inventory included in the Assets, subject to adjustments and alternatives provided in this Section 3.
- b. If the Drive Thru has been open for less than 12 full calendar months immediately prior to the date of the Exercise Notice, then the annual Drive Thru-Level EBITDA will be determined by annualizing the monthly Drive Thru-Level EBITDA for the total number of months the outlet has been in operation immediately prior to the date of the Exercise Notice (i.e., the annual Drive Thru-Level EBITDA will be equal to 12 times the average monthly Drive Thru-Level EBITDA).
- c. If the Drive Thru has been open for less than two full years immediately prior to the date of the Exercise Notice, then Franchisee will have the option to have the Purchase Price equal to the sum of all of the following items:

- Initial franchisee fee Franchisee paid to Company
  - Franchisee's cost of opening inventory, supplies, and smallwares purchased from Company or Company's Affiliate
  - Franchisee's actual documented cost of Drive Thru building and site development
  - Franchisee's actual documented cost of signs
  - Franchisee's actual documented cost of installation
- d. If the Assets include Franchisee's rights under an ADA with Company, the Purchase Price shall also include Developer's necessary and reasonable documented out-of-pocket costs paid to third parties to construct, equip, and furnish all Drive Thrus in the Development Area that have not been open and operating for the 12 full calendar months immediately prior to the date of the Exercise Notice, excluding (i) any payments to Developer's Affiliates, and (ii) the Wages of Developer's employees.
- e. The Purchase Price will be reduced by the amount of any of Franchisee's debts or liabilities Company (or Company's designee) may assume, and by the amount of any debts or liabilities that Franchisee owes to Company or any of Company's Affiliates.
- f. If the total amount of Franchisee's debts and liabilities associated with the Drive Thru that are secured by any liens or encumbrances on any of the Assets exceeds the Purchase Price, then Company (or Company's designee) will have the option to (1) withdraw without prejudice the Exercise Notice for that Drive Thru, or (2) proceed with the exercise of the Purchase Option but with the assumption of all (not part) of Franchisee's debts and liabilities associated with the Drive Thru which are secured by any liens or encumbrances on any of the Assets.
5. Drive Thru-Level EBITDA. "**Drive Thru-Level EBITDA**" means the gross revenues of the Drive Thru after deducting normal operating expenses, but without deducting any interest, taxes, depreciation or amortization. In determining Drive Thru-Level EBITDA, (a) no effect will be given to extraordinary gains and losses from sales, exchanges, and other dispositions of assets or securities not in the ordinary course of business, and other nonrecurring items, (b) if the amount for the Wages component of Franchisee's operating expenses is less than the amount this component should reasonably have been (based on prevailing market rate conditions and a fully-staffed Gravity Drive Thru commensurate with similarly-sized and operated Gravity Drive Thrus in the state or region), Company will adjust this expense component upward to a reasonable amount based on prevailing market rate conditions and a fully-staffed outlet, (c) if the real property associated with the Drive Thru is owned by Franchisee (or any of Franchisee's Owners, officers, directors, members or Affiliates), but for accounting or other purposes, Franchisee has chosen not to recognize a reasonable cost of ground rent in the computation of EBITDA, Company will make an adjustment in Franchisee's real estate expense component to reflect a reasonable cost of ground rent based upon similar real estate and prevailing market rates in the state or region, and (d) the Drive Thru-Level EBITDA will be adjusted for any material expenses not included in the Drive

Thru's financial statements but which are reasonably expected normally to be incurred by Gravity Drive Thrus, and such adjustments will be based on normal and reasonable prevailing market conditions. The financial statements used to calculate Drive Thru-Level EBITDA (subject to adjustment as provided in this Section) will be prepared by Franchisee in accordance with US generally accepted accounting principles which have been consistently applied, or in a manner which is otherwise acceptable to Company.

6. Inventory. The cost of Franchisee's inventory included in the Purchase Price will be determined by Company following after an inventory count, and will be based on Franchisee's actual cost.
7. Real Property.
  - a. Franchisee and Franchisee's Owners, officers, directors and Affiliates also grant Company the right and option to purchase the real property on which the Drive Thru is situated described in the attached Appendix A ("**Relevant Real Property**") (if the Relevant Real Property is or will be owned, directly or indirectly, by Franchisee, or any of Franchisee's Owners, officers, directors, or Affiliates) at the same time that Company purchases the Assets. Company will exercise this right by expressly specifying in the Exercise Notice Company's election to purchase the Relevant Real Property (or otherwise in writing within 10 days after Company become aware that the Relevant Real Property is owned, directly or indirectly, by Franchisee, or any of Franchisee's Owners, officers, directors or Affiliates). The purchase price for the Relevant Real Property will be determined by mutual agreement or by a mutually-agreed-upon appraiser. If Company chooses to exercise the Purchase Option as to the Relevant Real Property owned, directly or indirectly, by Franchisee, or any of Franchisee's Owners, officers, directors or Affiliates, then the Relevant Real Property will become part of the Assets, and the Purchase Price will be increased by the agreed-upon or appraised value of the Relevant Real Property.
  - b. If the parties cannot agree on fair market value of the Relevant Real Property within five days after Company provides notice of its intent to purchase, the parties shall together select an appraiser. If the parties have not agreed on an appraiser within 10 days following delivery of Company's Exercise Notice as to the real property option, then the parties agree to use the first appraiser on the randomly-ordered list of members of the Appraisal Institute (obtained by Company from the Appraisal Institute's web site) who meets the following criteria: (1) is licensed or certified by the relevant state agency for commercial appraisals, (2) has at least 10 years' experience as a commercial appraiser in the same market area as the Relevant Real Property, (3) is available to complete the appraisal within 10 days after selection, and (4) is not affiliated or related (directly or indirectly) to either party. If the appraiser agreed upon by the parties or selected under the foregoing procedure does not complete the appraisal within 10 days after selection, then either party may request that a replacement appraiser be selected according to the same procedure.

- c. If Company does not elect to purchase the Relevant Real Property, and there is no existing tenant leasehold interest to assume as part of the Assets, Franchisee (or Franchisee's relevant Owners, officers, directors or Affiliates) will lease the Relevant Real Property to Company (or Company's designee) upon the following terms: (a) the form of lease will be Company's then-current standard lease form for Company's franchisees, if any, (b) the amount of the rent will be market rent as mutually agreed to by the parties in good faith, and (c) the term will last until the expiration of the Franchise Agreement term (taking into account all renewals that extend the term).
  - d. If a particular site for the Drive Thru has not been selected and approved as required under the Franchise Agreement at the time that this Agreement is signed, or if a particular site for the Drive Thru has been selected and approved but the real property is not then owned, directly or indirectly, by Franchisee, or any of Franchisee's Owners, officers, directors, or Affiliates) then Appendix A will initially be left blank. The parties agree that when the site has been selected and approved, Appendix A will be automatically amended to describe the Relevant Real Property, and will have the same effect as if the description of the Relevant Real Property was included in Appendix A at the time this Agreement was originally executed.
8. Multiple Drive Thrus. If Franchisee and/or Franchisee's Owners or Affiliates are franchisees in more than one Gravity Drive Thru, then the Purchase Option will apply to all of the Drive Thrus for which Franchisee, Franchisee's Owners or Affiliates are franchisees, so that Company or Company's designee may exercise the Purchase Option as to some or all of the relevant Drive Thrus. If Company exercises the Purchase Option as to more than one Drive Thru, then the total Purchase Price will be the aggregate Purchase Price determined for each Drive Thru.
9. Possession, Control, and Operation of the Drive Thru Pending Closing. Within 10 days after delivery of the Exercise Notice, Franchisee will deliver to Company full and exclusive possession, control and operation of the Drive Thru(s) for the interim period before Closing, and Company will operate the Drive Thru according to the Gravity system on Franchisee's behalf until the Closing. At the Closing, Company will provide to Franchisee a full accounting for the revenues and expenses of the Drive Thru(s) during the time of Company's interim possession and operation, after deducting Company's standard on-site assistance fee and expenses as specified in the Franchise Agreement and after deducting any other amounts Franchisee owe to Company or Company's Affiliates. If for any reason beyond Franchisee's control, the Closing does not occur, then Company will restore Franchisee to full and exclusive possession, control and operation of the Drive Thru(s), subject only to Company's retention of Company's normal on-site assistance fee and expenses as specified in the Franchise Agreement and any other amounts Franchisee owes to Company or Company's Affiliates.
10. Closing. The closing of the purchase of the Assets (the "**Closing**") will take place at a time and place reasonably determined by Company, which will be no later than 90 days after

delivery of the Exercise Notice, unless otherwise mutually-agreed or unless a later date for Closing is required to comply with any applicable bulk sales or similar laws. The parties will execute and deliver customary transfer documents and instruments at the Closing, including, if Company elects, a purchase and sale agreement (collectively, the "**Transaction Documents**"). The Transaction Documents will contain customary representations, warranties, and covenants, including an indemnification of Company (or Company's designee) for all known or unknown liabilities relating to the Drive Thru and the Assets arising or accruing prior to the Closing date. Company will pay Franchisee the Purchase Price in cash at the Closing. Utilities, property taxes, rent and similar ongoing expense items will be prorated between the parties as of the Closing date. Franchisee will cause Franchisee's Owners, officers, directors and Affiliates to execute and deliver all documents necessary to vest title in the Assets and leasehold interests free and clear of all liens, encumbrances and liabilities. Franchisee will require each of Franchisee's Owners, officers, directors, members and Affiliates to agree that if any such person or entity does not execute and deliver any required documents to effectuate the purposes of this Agreement, each such person and entity shall irrevocably appoint Franchisee as its lawful attorney-in-fact with full power and authority to execute and deliver in its name all such required documents.

11. Dispute Resolution. The parties acknowledge and agree that it is in the best interest of both parties for the transactions contemplated by this Agreement to occur as quickly as possible following the Exercise Notice. Time is of the essence. If any dispute arises under this Agreement, the disputed issue(s) will be resolved as quickly as possible under the dispute resolution provisions in the Franchise Agreement. The parties incorporate by reference Articles 18 and 19 of the Franchise Agreement (and intend that such provisions be deemed modified as necessary to apply to this Agreement). The parties acknowledge and agree that the existence of any dispute will not operate to delay or excuse delay of the delivery of possession, control and operation of the Drive Thru(s) or operate to delay or excuse delay of the Closing. The parties agree to make reasonable accommodations in order to transfer possession, control and operation of the Drive Thru(s) pending the Closing, and to close the transactions contemplated by this Agreement despite the existence of any dispute. For example, if the amount of the Purchase Price is in dispute, Company will pay Franchisee at Closing the undisputed amount of the Purchase Price, and deposit the disputed amount into an escrow account. If there is any dispute as to the legality or enforceability of this Agreement, Franchisee agrees to nevertheless transfer full and exclusive possession, control and operation of the Assets to Company during the pendency of the dispute. Franchisee acknowledges that any failure to fully and strictly comply with this Agreement will result in irreparable injury to Company for which there is no adequate remedy at law, and Franchisee further agrees that, in the event of any noncompliance with this Agreement, Company will be entitled to temporary, preliminary, and permanent injunctions and all other equitable relief that any court with jurisdiction may deem just and proper. It is the intent of the parties that upon a showing of failure to comply with this Agreement, no further demonstration of irreparable injury must be shown in order for a provisional remedy to enter.



12. Adequacy and Fairness. Franchisee acknowledges and agrees that the option provided under this Agreement, the calculation of the Purchase Price, the procedures for the Closing, and all other aspects of this Agreement are fair to Franchisee, and adequately protect Franchisee's interests in the Franchise Agreement, the Drive Thru, the other Assets, and the lease or other relevant real estate interest.
  
13. Owners, Officers, Directors, and Affiliates. Franchisee and the undersigned Owners, officers and directors represent that the undersigned Owners, officers and directors are all of Franchisee's Owners, officers and directors Franchisee and they acknowledge and agree that the covenants contained in this Agreement apply to Franchisee, and all of Franchisee's current and future Owners, officers, directors and Affiliates. Franchisee and the undersigned Owners, officers and directors acknowledge and agree that Franchisee and they will cause all of Franchisee's Owners, officers, directors and Affiliates to comply with the requirements of this Agreement.

*Signatures on next page*

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

**"Company"**

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**"Franchisee"**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Franchisee Owners / Officers / Directors**

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

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument, on oath stated that he/she/they was/were authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

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

Notary Seal

\_\_\_\_\_  
Notary Public for \_\_\_\_\_

\_\_\_\_\_  
Name of Notary

My appointment expires: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in the instrument.

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

Notary Seal

\_\_\_\_\_  
Notary Public for Washington

\_\_\_\_\_  
Name of Notary

My appointment expires: \_\_\_\_\_

**APPENDIX A  
TO THE PURCHASE OPTION AGREEMENT**

**Description of the Relevant Real Property**

**EXHIBIT B**

**Area Development Agreement**

**GRAVITY<sup>®</sup>**

**AREA DEVELOPMENT AGREEMENT**

**BY AND BETWEEN**

**GRAVITY FRANCHISING LLC**

**AND**

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## **AREA DEVELOPMENT AGREEMENT**

THIS **AREA DEVELOPMENT AGREEMENT** ("**Agreement**") is entered into by and between Gravity Franchising LLC, a Washington limited liability corporation ("**Company**"), person(s) or entity identified as "Developer" on the signature page of this Agreement and in the attached Exhibit E ("**Developer**"), as of the Effective Date (as defined in the attached Exhibit A and as indicated on the signature page of this Agreement).

### **RECITALS**

A. Company grants franchises to operate an independent business that provides coffee, energy drinks, other beverages, and certain food items and merchandise through the operation of a retail "Gravity®," "Gravity® Coffee Co." or "GC®" drive thru.

B. Company has been granted a license by Gravity Coffee Company LLC (the "**Licensor**") to award Gravity Drive Thru franchises using the Marks. Licensor is not a party to this Agreement or responsible for Developer's or Company's performance under this Agreement or otherwise, but is an intended beneficiary of its terms, conditions and covenants.

C. Developer applied for the rights to establish, own and operate multiple Gravity Drive Thrus and to obtain the advantages associated with the System and Company's support services. Company is willing to contract only with developers who are willing and able to develop and operate Gravity Drive Thrus in complete compliance with Company's core values of uncompromising product quality, an inspiring, compelling customer environment, and a superior customer experience. Developer understands these core values, and is willing and able to commit to delivering them in the development and operation of multiple Gravity Drive Thrus.

D. Developer's application has been approved by Company in reliance upon the information Developer has provided.

E. Capitalized terms not defined in these recitals have the meanings set forth in the attached Exhibit A.

### **ACKNOWLEDGMENTS**

Developer acknowledges that:

- (1) Retaining customers will require a high level of customer service and strict adherence to the System and Standards; it understands that Company is willing to contract only with developers and franchisees who are willing and able to operate Gravity Drive Thrus in complete compliance with Company's core values of uncompromising product quality, an inspiring, compelling customer environment, and superior customer experience. Developer understands these core values, and is willing and able to commit to delivering them in the development and operation of Gravity Drive Thrus.

- (2) It has independently investigated this opportunity and recognizes that, like any other business, the nature of Gravity Drive Thrus will evolve and change over time, and further recognizes that an investment in Gravity Drive Thrus involves business risks that could result in the loss of a significant portion or all of Developer's investment.
- (3) If Developer is an entity, all its Owners are accurately listed on attached Exhibit E. Developer understands that some or all of its shareholders, if a corporation; members, if a limited liability company; or limited partners, if a limited partnership, must agree to personally guarantee all Developer's obligations to Company in accordance with Section 11.1(d).
- (4) Company and Developer will first attempt to resolve disputes through mediation and if not resolved, certain disputes will be resolved by judicial reference in Seattle, Washington under Section 13.2, except that provisional relief or other equitable remedies may be sought in a court with jurisdiction.
- (5) Developer has not received from Company, and is not relying upon, any representations or guarantees, express or implied, as to the potential volume, sales, income, or profits of a Drive Thru, and any information Developer has acquired from Gravity Drive Thru franchisees or licensees regarding their sales, income, profits, or cash flows was not information obtained from Company and Company makes no representation about that information's accuracy.
- (6) In all of Company's dealings with Developer, Company's officers, directors, employees, and agents act only in a representative capacity, and not in an individual capacity, and business dealings between Developer and them are deemed to be only between Developer and Company.
- (7) Developer has represented to Company that all statements Developer has made and all information it has given Company is accurate and complete and Developer has made no misrepresentations or material omissions in entering into this Agreement.
- (8) Developer has been afforded an opportunity, and has been encouraged by Company, to have this Agreement and all other agreements and materials it has been given or made available to it by Company, reviewed by an attorney and has either done so or chosen not to do so.
- (9) Developer has capital and net worth that is sufficient to invest in this opportunity and it will have sufficient funds to meet all of its obligations under this Agreement.

## AGREEMENT

**NOW, THEREFORE**, the parties agree as follows:

### ARTICLE 1 DEFINITIONS

Capitalized terms used but not otherwise defined in this Agreement shall have the meanings set forth in Exhibit A.

### ARTICLE 2 GRANT OF DEVELOPMENT RIGHTS

#### 2.1 Grant of Development Rights

(a) Company hereby grants to Developer during the Term, and Developer hereby accepts, the right and obligation, to develop Traditional Drive Thrus in the geographic area defined in Exhibit B (the "**Development Area**") during the Term.

(b) This Agreement does not grant the Developer the right to use any copyrights, the Marks, or designs owned or licensed by Company or its Affiliates, which rights are governed by Franchise Agreements. This Agreement also does not grant Developer any separate rights in "**Trade Secrets**," as defined by any Franchise Agreements entered into by the parties, which rights are governed by those Franchise Agreements.

#### 2.2 Exclusivity

(a) Subject to Company's Reserved Rights (defined below), Company will not operate or grant a license to any person other than Developer or a Subsidiary of Developer to operate a Traditional Drive Thru within the Development Area during the Term of this Agreement.

(b) Company expressly reserves all other rights, including (i) the right to own and operate, and license others to own and operate Gravity Drive Thrus outside of the Development Area, and (ii) the Reserved Rights. "**Reserved Rights**" means Company's exclusive, unrestricted rights, in its discretion, directly and indirectly, itself and through its employees, Affiliates, representatives, franchisees, licensees, assigns, agents and others:

(i) to own or operate, and to license others to own or operate, Gravity Drive Thrus at Non-Traditional Venues at any location;

(ii) to own or operate, and to license others to own or operate, businesses operating under names other than "GRAVITY®," "GRAVITY® COFFEE CO." or "GC®," as well as "STAY GROUNDED®," at any location, and of any type whatsoever, regardless of their proximity to any Drive Thru in the Development Area;

(iii) to produce, license, distribute and market "GRAVITY," "GC," and "STAY GROUNDED" brand named products through a channel of trade other than a Gravity Drive Thru, such as the sale of packaged beverages, books, apparel, and retail items, sold through any retail outlet (including grocery stores, supermarkets and convenience stores) and at any location regardless of proximity to the Drive Thrus in the Development Area;

(iv) to produce, license, distribute and market "Gravity," "GC," and "Stay Grounded" brand named products through wholesale distribution, or by direct sales through the Internet or Internet website, mail order catalogs, or direct mail advertising; and

(v) to own, operate, develop or become associated with other concepts (including dual branding), and award franchises and/or licenses under other concepts for locations anywhere.

### 2.3 Company's Right to Develop

If during the Term, Developer is unable or unwilling, or fails for any reason to satisfy the Development Obligation as described in Article 3 (other than for Force Majeure), Company shall have the right to terminate this Agreement. Upon termination, Company may open and operate, or grant others licenses or development rights to open and operate Gravity Drive Thrus anywhere in the Development Area.

## **ARTICLE 3 DEVELOPMENT OBLIGATION**

### 3.1 Development Obligation

(a) Developer shall act diligently, in good faith and continuously to find locations, sign leases (or purchase agreements), construct, equip and open Drive Thrus, and shall participate in all regularly scheduled telephone conferences and appointments with Company's representatives designated by Company from time to time.

(b) Within each Development Period, Developer shall construct, equip, open and thereafter continuously operate within the Development Area not less than the number of Traditional Drive Thrus required by the Development Obligation for that Development Period.

(c) Drive Thrus that are open and operating and that have been assigned to a Subsidiary shall be Included in determining whether Developer has satisfied the Development Obligation for so long as the Subsidiary continues to satisfy the conditions set forth in Section 8.3(d).

(d) Upon Company's request, Developer shall provide adequate assurances to Company that Developer is actively performing its obligations under the terms described herein. Failure to provide commercially reasonable assurances of Developer's performance hereunder shall be cause for termination of this Agreement.

### 3.2 Timing of Execution of Leases and Franchise Agreements

No later than one hundred twenty (180) days before the end of each Development Period, Developer shall have executed a lease (or purchase agreement) and Franchise Agreement, and shall have paid the required fees for each Drive Thru that must be constructed, equipped, and operated by the end of that Development Period.

### 3.3 Force Majeure

(a) Subject to Developer's continuing compliance with Section 3.3(b), if Developer fails to meet the Development Obligation for any Development Period due solely to either a Force Majeure that prevents Developer from constructing or operating the Drive Thrus in the Development Area, or Company's inability to deliver a Franchise Disclosure Document under Section 7.2, only that particular Development Period shall be extended by an amount of time equal to the time period during which the Force Majeure existed or Company was unable to deliver a Franchise Disclosure Document, and subsequent Development Periods shall not be extended. Other than as a result of Force Majeure, any delay in Company's acceptance of any site under Article 7, including as a result of Developer's failure to satisfy the conditions set forth in Section 7.3, shall not extend any Development Period.

(b) If Developer claims an event of Force Majeure, Developer shall provide written notice to Company within ten (10) days after the occurrence of the event. The notice must (i) state that Developer believes that an event of Force Majeure has occurred, (ii) describe the circumstances of the event with particularity, and (iii) describe how the Force Majeure has impacted Developer's performance under this Agreement. Developer must also provide all other information as Company may reasonably request and periodically provide updates on Developer's progress and diligence in responding to the Force Majeure. Thereafter, Developer must notify Company promptly upon cessation of Force Majeure.

## **ARTICLE 4 TRAINING**

### 4.1 Initial Training Program Under Franchise Agreement

(a) After entering into a Franchise Agreement, but prior to Developer's opening the first Drive Thru, Company will provide at no additional charge the initial training program as described in that first Franchise Agreement ("**Initial Training Program**"). Developer's Operating Principal and other personnel shall successfully complete this training to Company's satisfaction, as required in the Franchise Agreement. Developer shall bear all Travel Expenses, Wages and other expenses incurred by Developer's Operating Principal and other personnel in connection with training, and Developer acknowledges that Company shall not be obligated to pay compensation for services performed by trainee(s).

(b) Developer acknowledges that its ability to perform its obligations under the Franchise Agreements contemplated by this Agreement, completion of all training provided by

Company to Developer and its employees, and the uncompromising execution of the Company's Systems and Standards in the operation of the Drive Thrus under the Franchise Agreements are essential elements of the consideration provided to Company in exchange for the rights granted to Developer under this Agreement.

(c) Developer acknowledges that because of Company's superior skill and knowledge of the training and skill required to manage a Gravity Drive Thru, the Company's judgment as to whether a person has satisfactorily completed the Initial Training Program shall prevail. If Developer's Operating Principal and other personnel are required under the Franchise Agreement to complete the Initial Training Program to Company's satisfaction and one or more fail to do so, Company shall have the right to terminate this Agreement under Article 10, rendering this agreement null and void, with no further force or effect other than those that shall remain in effect pursuant to Section 12.5.

## **ARTICLE 5 TERM OF AREA DEVELOPMENT AGREEMENT**

### 5.1 Term

The term of this Agreement shall commence on the Effective Date and continue until the earlier of (i) the Expiration Date set forth in Exhibit C, or (ii) the date of execution of the Franchise Agreement granting Developer the right to open the last Drive Thru necessary for Developer to fully satisfy the Development Obligation (the "**Term**").

### 5.2 Additional Development Proposal

If Developer desires to develop Drive Thrus in the Development Area in excess of the Development Obligation, Developer shall notify Company in writing ("**Additional Development Proposal**") and include a plan describing the number of proposed Drive Thrus and the deadlines for the development of each, at the earlier of (i) one hundred eighty (180) days prior to the scheduled Expiration Date or (ii) the date on which Company issues its acceptance of the proposed site for the last Drive Thru required to meet the Development Obligation. This right of additional development proposal by Developer shall be exercised only under Section 5.3 and is subject to the conditions set forth in Section 5.4.

### 5.3 Exercise of Right of Additional Development Proposal

(a) Company shall notify Developer if it determines the additional development obligation proposed in the Additional Development Proposal is unacceptable in any respect. Company and Developer shall then negotiate for a period not to exceed forty five (45) days in an effort to reach a mutually agreeable additional development obligation. Each party may negotiate to protect its own interests as it deems appropriate in its discretion and unless the parties reach agreement, neither shall be obligated to any new development obligation.

(b) If the additional development obligation proposed by the Additional Development Proposal is acceptable to Company, or if Company and Developer reach agreement on an alternative additional development obligation (the "**Additional Development Obligation**"), under Section 5.3(a), then Company shall deliver to Developer a copy of Company's then-current Franchise Disclosure Document (if required by Applicable Law) and two (2) copies of an amendment to this Agreement setting forth the Additional Development Obligation. Within thirty (30) days after Company's delivery of the amendment, but not before the expiration of any waiting period(s) prescribed by Applicable Law, Developer shall execute two (2) copies of the amendment and return them to Company together with the applicable development fee, if any. If Developer has satisfied the conditions under Section 5.4, Company will then execute the copies and return one fully executed copy to Developer.

#### 5.4 Conditions to Exercise of Right of Additional Development Proposal

Developer's right to an additional development proposal described in Section 5.2 shall be subject to Developer's fulfillment of the following conditions precedent:

(a) Developer and each of its Affiliates that have developed or operate Drive Thrus in the Development Area shall have fully performed all of their obligations and not be in default under this Agreement and all other agreements with Company and Company's Affiliates.

(b) Developer shall have demonstrated to Company its financial capacity to perform the Additional Development Obligation. In determining if Developer is financially capable, Company will apply the same criteria to Developer as it then applies to other prospective area developers.

(c) At the expiration of each Development Period and at the expiration of the Term, Developer shall have opened and thereafter continuously operated not less than the aggregate number of Drive Thrus then required by the Development Obligation.

(d) Developer shall have executed a new area development agreement pursuant to Section 5.3.

(e) Developer, and all Affiliates of Developer who then have a currently effective franchise agreement or area development agreement with Company, shall have executed and delivered to Company a general release, on a form of release prescribed by Company, of any and all known and unknown Claims against Company or its Affiliates, and their respective officers, directors, agents, shareholders and employees.

#### 5.5 Effect of Expiration

Unless an Additional Development Obligation is agreed upon and an amendment is executed by the parties under Sections 5.2 and 5.3 following the expiration of the Term, (a) Developer's right to construct, equip, own, open or operate Drive Thrus shall be limited to the rights under any Franchise Agreements then in effect, and (b) Company may thereafter itself



construct, equip, open, own or operate, and grant licenses and development rights to others to construct, equip, open, own or operate Drive Thrus at any location(s) within or outside of the Development Area.

## **ARTICLE 6 PAYMENTS BY DEVELOPER**

### 6.1 Development Fee

Concurrently with the execution of this Agreement, Developer shall pay to Company, in immediately available funds, a development fee in the amount set forth on the attached Exhibit C (the "**Development Fee**"). The Development Fee is calculated based on the number of Drive Thrus scheduled to be opened under the Development Obligation, pursuant to Exhibit C. The Development Fee shall be an amount equal to \$54,900 for the first Drive Thru, plus \$45,000 for the second Drive Thru, plus \$30,000 multiplied by the number of remaining Drive Thrus in the Development Obligation. The Development Fee is fully earned upon the execution of this Agreement, and is non-refundable, regardless of the number of Drive Thrus Developer opens.

### 6.2 Initial Franchise Fees

Under each Franchise Agreement, Developer will owe to Company an initial franchise fee ("**Initial Franchise Fee**"). During the Term, Company shall credit the Development Fee paid against Developer's Initial Franchise Fees due upon the signing of each Franchise Agreement as follows: \$54,900 for the first Drive Thru, \$45,000 for the second Drive Thru, and \$30,000 for the third and subsequent Drive Thrus in the Development Obligation, until the Development Fee is exhausted. The remainder of the Initial Franchise Fee will be due when you sign each Franchise Agreement.

## **ARTICLE 7 EXECUTION OF INDIVIDUAL FRANCHISE AGREEMENTS**

### 7.1 Site Review

(a) Developer acknowledges that it is responsible for finding each site for the Drive Thrus it develops. Company may assist Developer in obtaining or evaluating the sites for the Drive Thrus it develops. Company is not required to visit any proposed site, but Company shall pay its own expenses for any initial visit to a proposed site. If Company deems it necessary to conduct any subsequent site visits prior to approving a proposed site, or upon Developer's request for such subsequent site visit, then Developer shall reimburse Company for the reasonable expenses incurred by Company's personnel on any such subsequent visit.

(b) Developer must locate proposed sites that meet the Standards. Developer shall submit in a form prescribed by Company the information regarding the proposed site(s) that Company shall require ("**Site Review Request**"). The Site Review Request must include, in part, (i) trade area and site analysis including layout; (ii) timeline and (iii) sales forecast. Company may

seek additional information as it deems necessary following submission of Developer's Site Review Request, and Developer shall respond promptly to each request. Company may accept or reject a proposed site in its sole discretion. Company will deliver written notice to Developer of Company's acceptance or rejection of the proposed site as soon as practicable, and will strive to provide its notice within approximately thirty (30) days of receipt of Developer's Site Review Request, or within approximately fifteen (15) days after receipt of additional requested information, whichever is later. If Company accepts a proposed site, it will send Developer a letter (the "**Site Acceptance Letter**"). Company's current form of Site Acceptance Letter is attached as Exhibit D.

(c) Company's assistance, if any, and its acceptance of a site is solely an indication that the accepted site meets Company's minimum Standards and acceptance shall not be construed as any express or implied representation or warranty that a Gravity Drive Thru at that site will be profitable or successful.

## 7.2 Delivery of Franchise Disclosure Document, Execution of Lease and Franchise Agreement

(a) After Company's acceptance of a proposed site, Company shall deliver to Developer a copy of Company's then-current franchise disclosure document (the "**Franchise Disclosure Document**") if required by Applicable Law. Immediately upon receipt of the Franchise Disclosure Document, Developer shall return to Company a signed copy of the Receipt of the Franchise Disclosure Document. Unless otherwise agreed to between the parties, Developer acknowledges that the new Franchise Agreement may vary substantially from prior Franchise Agreements between Developer and Company. If Company is not legally able to deliver a Franchise Disclosure Document to Developer by reason of any lapse or expiration of its franchise registration, or because Company is in the process of amending its registration, or for any reason beyond Company's reasonable control, Company may delay acceptance of a site or delivery of a Franchise Agreement until Company is legally able to deliver a Franchise Disclosure Document.

(b) Within thirty (30) days after Developer's receipt of the Franchise Disclosure Document and the Franchise Agreement, but not sooner than the expiration of any applicable waiting periods prescribed by Applicable Law, Developer shall execute two (2) copies of the Franchise Agreement and all exhibits thereto, and return them to Company, together with the applicable fees. If Developer satisfies the conditions set forth in Section 7.3, Company shall execute the copies and return one fully executed copy of the Franchise Agreement to Developer.

(c) Developer shall not execute a lease or purchase agreement for a Drive Thru until Company has delivered a Site Acceptance Letter and an executable Franchise Agreement to Developer. Developer shall only execute a lease or purchase agreement under the terms of the applicable Franchise Agreement.

### 7.3 Condition Precedent to Company's Obligations

It shall be conditions precedent to Company's obligations in Sections 7.1 and 7.2, and to Developer's right to develop each and every Drive Thru, that Developer: (i) has fully performed all of its obligations under this Agreement and all Franchise Agreements and other written agreements between Company and Developer (or any Affiliate of Developer), (ii) is in compliance with its material obligations with vendors, suppliers and Government Authorities, (iii) has maintained its financial and other capacity to perform the obligations set forth in this Agreement, and (iv) has continued to operate in the Development Area not less than the number of Traditional Drive Thrus required by the Development Obligation under Exhibit C.

## **ARTICLE 8 ASSIGNMENT AND SUBLICENSING**

### 8.1 Assignment by Company

Company may at any time assign, transfer, or delegate any or all of its rights and obligations under this Agreement without the consent of Developer. Company shall be permitted to perform these actions without liability or obligation to Developer who expressly and specifically waives any Claims, demands or damages arising from or related to any or all of the above or similar actions.

### 8.2 No Sublicensing by Developer

Developer shall not offer, sell, or negotiate the sale of "GRAVITY," "GC" or "STAY GROUNDED" licenses or franchises, including licenses granted pursuant to this Agreement, to any third party, either in Developer's own name or in the name and/or on behalf of Company, or otherwise subfranchise, subcontract, sublicense, share, divide or partition this Agreement, and nothing in this Agreement will be construed as granting Developer the right to do so.

### 8.3 Assignment by Developer

(a) This Agreement has been entered into by Company in reliance upon and in consideration of the singular individual or collective character, reputation, skill, business ability, and financial capacity of Developer (and its Owners if Developer is an entity) who will actively and substantially participate in the development ownership and operation of the Drive Thrus. Accordingly, neither Developer nor any Owner shall cause or permit any Assignment unless Developer obtains Company's prior written consent. Developer shall comply with Company's right of first refusal pursuant to Section 8.3(g). Except as provided in Section 8.3(d), Developer acknowledges and agrees that it will not be permitted to make an Assignment of this Agreement or sell, gift, convey, assign or transfer the assets used in any of the Drive Thrus or any Franchise Agreement except in conjunction with a concurrent Assignment to the same approved assignee of all of the assets used in all Drive Thrus developed under this Agreement, and all of the Franchise Agreements executed pursuant to this Agreement, or at Company's election the execution by the assignee of new Franchise Agreements on Company's then-current form for each of the

Drive Thrus then developed or under development by Developer, and otherwise under the terms and conditions of Developer's Franchise Agreement(s).

(b) Developer shall not, directly or indirectly, pledge, encumber, hypothecate or otherwise grant any third party a security interest in this Agreement in any manner whatsoever without the prior written consent of Company. To the extent that the foregoing prohibition may be ineffective under Applicable Law, Developer shall provide not less than ten (10) days prior written notice containing the name and address of the secured party and the terms of the pledge, encumbrance, hypothecation or security interest in this Agreement.

(c) If Developer is an Entity, Developer shall promptly provide written notice of each and every transfer, assignment and encumbrance by any Owner of any direct or indirect Equity or voting rights in Developer, whether or not the same may constitute an "Assignment."

(d) Notwithstanding Section 8.3(a), Developer may, with Company's prior written consent, not to be unreasonably withheld, execute and contemporaneously assign a Franchise Agreement to a separate Entity controlled by Developer (each a "**Subsidiary**"); provided, and on condition that:

(i) Upon request, Developer delivers to Company a true, correct and complete copy of the transferee Subsidiary's articles of incorporation or articles of organization, bylaws, operating agreement, partnership agreement, and other organizational documents, and Company has accepted the same;

(ii) The Subsidiary's articles of incorporation or articles of organization, bylaws, operating agreement, and partnership agreement, as applicable, shall provide that its activities are confined exclusively to operating Gravity Drive Thrus;

(iii) Developer directly owns and controls not less than 100% of the Equity and voting rights of the Subsidiary;

(iv) The Subsidiary in good standing in its jurisdiction of organization and each other jurisdiction where the conduct of its business or the operation of its properties requires it to be so qualified;

(v) The person designated by Developer as the Operating Principal has exclusive day-to-day operational control over the Subsidiary;

(vi) The Subsidiary conducts no business other than the operation of the Drive Thru;

(vii) The Subsidiary assumes all of the obligations under the Franchise Agreement as licensee pursuant to written agreement, the form and substance of which shall be acceptable to Company;

(viii) Each person or Entity comprising Developer, every other Subsidiary, and all present and future Owners of 20% or more (directly or indirectly), in the aggregate, of the Equity or voting rights of any licensee under any and all Franchise Agreements executed pursuant to this Agreement shall execute a written guaranty in a form prescribed by Company, personally, irrevocably and unconditionally guaranteeing, jointly and severally, with all other guarantors, the full payment and performance of all of the obligations to Company and to Company's Affiliates under this Agreement and each Franchise Agreement executed pursuant to this Agreement;

(ix) None of the Owners of the Equity of Developer is engaged in Competitive Activities;

(x) Upon request, Developer shall have executed and delivered to Company a general release, on a form prescribed by Company, of any and all known and unknown Claims against Company or its Affiliates, and their respective officers, directors, agents, shareholders and employees; and

(e) In the event that Developer exercises its rights under Section 8.3(d), then Developer and the assignee Subsidiary shall, in addition to any other covenants contained in the applicable Franchise Agreement, affirmatively covenant to continue to satisfy each of the conditions in Section 8.3(d) throughout the term of the Franchise Agreement.

(f) Securities, partnership or other ownership interests in Developer 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. Equity interests may be offered by private offering or otherwise only with the prior written consent of Company, which consent shall not be unreasonably withheld. At Company's request, all materials required for any private offering by federal or state law shall be submitted to Company 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 Company for review prior to their use. No offering by Developer shall imply that Company is participating in an underwriting, issuance or offering of securities of Developer or Company, and Company's review of any offering materials shall be limited solely to the subject of the relationship between Developer and Company and its Affiliates. Company may, at its option, require Developer's offering materials to contain a written statement concerning the limitations described in the preceding sentence. Developer, its Owners and the other participants in the offering must fully defend and indemnify Company and its Affiliates, their respective Owners and the officers, directors, manager(s) (if a limited liability company), shareholders, members, partners, agents, representatives, independent contractors, servants and employees of each of them, from and against any and all losses, costs and liability in connection with the offering, and shall execute any additional documentation required by Company to further evidence this indemnity. For each proposed offering, Developer shall pay to Company a non-refundable fee of \$5,000, or greater amount as is necessary to reimburse Company for its reasonable costs and expenses associated with reviewing the proposed offering, including reasonable legal and accounting fees. Developer shall give Company written notice at least thirty (30) days prior to the date of commencement of any offering or other transaction covered by this Section.

(g) If Developer or any Owner (other than Company, if applicable) desire to cause or permit any Assignment, then Developer and/or such Owner shall notify Company in writing, provide such information and documentation describing or relating to the proposed Assignment as Company may require, and grant Company a right of first refusal (the "**ROFR**"), for a period of thirty (30) days following Company's receipt of Developer's written notice of the proposed Assignment and copies of all required documentation (the "**ROFR Period**"), to purchase the interest that Developer or such Owner proposes to transfer, on the same terms and conditions offered by the third party; provided that Company may substitute cash for any non-cash consideration in an amount determined by Company, reasonably and in good faith, as the approximate equivalent value of the non-cash consideration. Notwithstanding the terms and conditions offered by the third party, Developer shall make representations and warranties to Company that are customary for transactions of the type proposed. If Company elects to exercise the ROFR, Company or its nominee shall notify Developer in writing, and the closing of the transaction shall occur within sixty (60) days after delivery of Company's notice, subject to the satisfaction of all conditions to closing. If Company does not exercise the ROFR, any material change in the terms of an offer prior to closing, or the failure to close the transaction within sixty (60) days following the ROFR Period, shall cause it to be deemed a new offer, subject to the same ROFR as in the case of the initial offer. Company's failure to exercise the ROFR shall not constitute consent to the transfer or a waiver of any other provision of this Agreement.

## **ARTICLE 9**

### **COMPETITION AND CONFIDENTIALITY**

#### 9.1 In Term Non-Competition

During the Term, no Restricted Person shall engage in any Competitive Activities, in any capacity, either directly or indirectly, through itself or one or more Affiliates or otherwise, whether within or outside the Development Area.

#### 9.2 Post-Term Non-Competition

To the extent permitted by Applicable Law, upon (i) the expiration or termination of this Agreement, (ii) the occurrence of any Assignment, or (iii) the cession of any Restricted Person's relationship with Developer, each person who was a Restricted Person before such event shall not for a period of eighteen (18) months thereafter, either directly or indirectly, own, operate, advise, be employed by, or have any financial interest in any business engaged in Competitive Activities within a ten-mile straight-line radius from the front door of any Drive Thru then existing, or in development.

#### 9.3 Modification

The parties have attempted in Sections 9.1 and 9.2 to limit the Developer's right to compete only to the extent necessary to protect the Company from unfair competition. The parties agree that if the scope or enforceability of Section 9.1 or 9.2 is disputed at any time by Developer or a Restricted Person, a court may modify either or both of such provisions to the

extent that it deems necessary to make such provision(s) enforceable under Applicable Law. In addition, Company reserves the right to reduce the scope of either, or both, of said provisions without Developer's consent at any time effective immediately upon notice to Developer.

#### 9.4 Confidentiality

Developer acknowledges and agree that: (1) Company owns all right, title and interest in and to the System; (2) the System includes Trade Secrets and confidential and proprietary information and know-how that gives Company a competitive advantage; (3) Company has taken all measures appropriate to protect the Trade Secrets and the confidentiality of the proprietary information and know-how of the System; (4) all material or other information now or hereafter provided or disclosed to Developer regarding the System is disclosed in confidence; (5) Developer will maintain absolute confidentiality of the Trade Secrets and confidential and proprietary System information during and after the Term; (6) Developer will make no unauthorized copy of any portion of the Trade Secrets, including the Manual, confidential correspondence, or other confidential communications, whether written or oral; (7) Developer has no right to disclose any part of the System to anyone who is not Developer's employee; (6) Developer will disclose to Developer's employees only those parts of the System that an employee needs to know to develop the Drive Thrus in compliance with this Agreement and the Manual; (7) Developer will have a system in place to ensure that Developer's employees keep confidential the Trade Secrets and confidential and proprietary information, and, if requested by Company, Developer shall obtain from those of Developer's employees designated by Company an executed confidentiality and non-disclosure agreement in the form prescribed by Company; (8) by entering into this Agreement, Developer does not acquire any ownership interest in the System; and (9) Developer's or any Restricted Person's use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which Company would be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond.

Developer shall not, during the term of this Agreement or at any time thereafter, communicate or disclose any Trade Secrets or confidential or proprietary information or know-how of the System to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to the System. Any and all information, knowledge, know-how and techniques, including all drawings, materials, equipment, specifications, methods, techniques and other data that Company or its affiliates designate as confidential shall be deemed confidential for purposes of this Agreement.

#### 9.5 Special Relief

In view of the importance of Company's System, Marks, copyrights, designs and other intellectual property, and the incalculable and irreparable harm that would result to the parties in the event of a Default under Article 9, the parties agree that each party may seek specific performance and/or injunctive relief, in addition to any other relief to which such party may be entitled at law or in equity. Each party submits to the exclusive jurisdiction of the courts of the State of Washington and the U.S. Federal courts sitting in Seattle, Washington for those purposes.

The parties agree that venue for any such proceeding shall be the State and Federal courts located in Seattle, Washington. Developer agrees that Company may have temporary or preliminary injunctive relief without bond, but upon due notice, and Developer's sole remedy in the event of the entry of such injunctive relief will be the dissolution of the injunctive relief, if warranted, upon hearing duly had.

## **ARTICLE 10 TERMINATION**

### 10.1 Termination Pursuant to a Default of this Agreement

(a) This Agreement may be terminated by Company in the event of any Default by Developer, unless such Default is cured by Developer within ten (10) days following written notice of the Default in the case of a failure to pay money, or thirty (30) days following written notice of the Default in the case of any other Default.

(b) The term "Default" includes the following:

(i) Failure of Developer to satisfy the Development Obligation.

(ii) Failure of Developer or any Affiliate of Developer to timely pay any fees as required by this Agreement.

(iii) Developer's opening of any Drive Thru in the Development Area except under the procedures set forth in Sections 7.1 through 7.3.

(iv) Failure of Developer to provide adequate reasonable assurances to Company pursuant to Section 3.1(d).

(v) Any material breach of this Agreement or of any other agreement between Developer (or any Affiliate of Developer) and Company (or any Affiliate of Company), including any Franchise Agreement. In the case of a Default by Developer or its Affiliate under any Franchise Agreement or other written agreement, the notice and cure provisions of the Franchise Agreement or other agreement shall control.

(c) Notwithstanding the foregoing, but subject to Applicable Law, this Agreement may be immediately terminated by Company (without opportunity to cure) upon written notice to Developer in the event of any of the following events of default:

(i) Any attempt to make any Assignment without the prior written consent of Company; provided, however, that upon an Assignment or attempted Assignment resulting from death or legal incapacity, Company shall allow Developer or his heirs, personal representatives, or conservators (the "**Heirs**") a period of up to six (6) months after such death or legal incapacity to seek and obtain Company's consent to the Assignment to the Heirs or to a third party acceptable to Company. If Developer or the Heirs fail to receive Company's consent



within that 6-month period, then this Agreement shall immediately terminate at Company's election.

(ii) Failure of Developer to satisfy the Development Obligation within the Development Periods or failure of Developer to comply with Section 3.2.

(iii) Developer provides notice to Company indicating that it is unable or unwilling to meet or pursue the Development Obligation.

(iv) Failure of Developer's Operating Principal to complete the Initial Training Program to Company's satisfaction.

(v) Failure of Developer to fully comply with the requirements of Section 9.1 or 9.4.

## 10.2 Effect of Termination

Following the termination of this Agreement, (a) Developer's right to construct, equip, own, open or operate Drive Thrus shall be limited to the rights under any Franchise Agreements then in effect (subject to any termination rights therein), and (b) Company may thereafter itself construct, equip, open, own or operate, and grant licenses and development rights to others to construct, equip, open, own or operate Drive Thrus at any location(s) within or outside of the Development Area.

## **ARTICLE 11 ADDITIONAL COVENANTS**

### 11.1 Entity Developer Information

If Developer is an Entity, the following provisions will apply:

(a) Developer represents, warrants and covenants that: (i) Developer has the authority to execute, deliver and perform its obligations under this Agreement and all related agreements and is duly organized or formed and validly existing in good standing under the laws of the state of its incorporation or formation; and (ii) the information set forth in Exhibit E, is accurate and complete in all material respects.

(b) Developer shall notify Company in writing within ten (10) days of any change in the information set forth in Exhibit E, and shall submit to Company a revised Exhibit E, certified by an officer of Developer as true, correct and complete. Developer promptly shall provide such additional information as Company may reasonably request concerning all persons who may have any financial interest in Developer.

(c) All of Developer's organizational documents (including articles of partnership, partnership agreements, articles of incorporation, articles of organization, bylaws, shareholders agreements, trust instruments, or their equivalent) will provide that the issuance and

transfer of any interest in Developer is restricted by the terms of this Agreement, and that sole purpose for which Developer is formed (and the sole activity in which Developer is or will be engaged) is the development and operation of Drive Thrus. Upon Company's request, Developer shall submit a resolution of Developer (or its governing body) confirming that Developer is in compliance with this provision. All certificates and other documents representing Equity in Developer must bear a legend in a form prescribed by Company referring to this Agreement's restrictions.

(d) All present and future Owners of 20% or more (directly or indirectly), in the aggregate, of the Equity or voting rights in Developer, will execute Company's form of written guaranty, personally, irrevocably and unconditionally guaranteeing, jointly and severally, with all other guarantors, the full payment and performance of Developer's obligations to Company and to Company's Affiliates. For purposes of determining whether said 20% threshold is satisfied, holdings of spouses (and family members who live in the same household) and Affiliates shall be aggregated. Upon each transfer or assignment of an interest in Developer, or other change in ownership interests in Developer, and at any other time upon Company's request, said holders shall re-execute Company's then-current form of written guaranty.

#### 11.2 Operating Principal; Director of Operations

(a) The Operating Principal shall be principally responsible for communicating and coordinating with Company regarding business, operational and other matters concerning this Agreement and all of the Drive Thrus opened pursuant to the Development Obligation herein. The Operating Principal shall have the full authority to act on behalf of Developer in regard to performing, administering or amending this Agreement and all Franchise Agreements. Company may deal exclusively with the Operating Principal in such regards unless and until Company's receipt of written notice from Developer of the appointment of a successor Operating Principal, who shall have been accepted by Company.

(b) Commencing on the date that Developer, or one or more Affiliate(s), opens a second Drive Thru within the Development Area, and at all times thereafter, Developer shall employ and retain, or shall cause the Subsidiary to which each Franchise Agreement is assigned to employ and retain, an individual (the "**Director of Operations**") who shall be responsible for the day-to-day operations of all Drive Thrus within the Development Area. The Director of Operations shall: (i) devote full time and best efforts exclusively to the operation of all Drive Thrus in the Development Area and to no other business activities; (ii) meet Company's educational, experience, financial and such other reasonable criteria, as set forth in the Manual(s) or otherwise in writing by Company; (iii) be acceptable to Company; and (iv) successfully complete Company's initial training program, as described in the Franchise Agreements. The Director of Operations may be an Owner, and with the prior written consent of Company, may be the same individual as the Operating Principal. The Director of Operations must reside in the Development Area at all times during the Term of this Agreement, unless Company has otherwise consented in writing. The Director of Operations shall be responsible for all actions necessary to ensure that all Drive Thrus in the Development Area are operated in compliance with this Agreement, all Franchise Agreements and the Standards. If, during the Term or the term of any Franchise

Agreement, the Director of Operations is not able to continue to serve in such capacity or no longer qualifies to act as such under this Section, Developer shall designate a replacement within thirty (30) days, such replacement being subject to Company's acceptance.

(c) Developer shall notify Company in writing at least ten (10) days prior to employing or replacing the Director of Operations setting forth in reasonable detail all information reasonably requested by Company. Company's acceptance of the Operating Principal and Director of Operations shall not prevent Company from subsequently disapproving or otherwise challenging such person's qualifications or performance.

### 11.3 Business Practices

Developer represents, warrants and covenants to Company that as of the Effective Date, Developer and each of its Owners (if Developer is an Entity) shall be, and shall remain, in full compliance with all Applicable Laws.

## **ARTICLE 12 GENERAL CONDITIONS AND PROVISIONS**

### 12.1 Relationship of Developer to Company

It is expressly agreed that you are an independent contractor. It is further agreed that Developer has no authority to create or assume in Company's name or on its behalf, any obligation, or to act or purport to act as agent or representative on behalf of Company for any purpose whatsoever. Neither Company nor Developer is the employer, employee, agent, fiduciary, partner or co-venturer of or with the other. Developer agrees that it will not hold itself out as the agent, employee, partner, co-venturer, or franchisee (unless Developer later enters into a Franchise Agreement with Company) of Company. All employees hired by or working for Developer shall be the employees of Developer and shall not, for any purpose, be deemed employees of Company. Each of the parties shall file its own tax, regulatory and payroll reports for its respective employees and operations, saving and indemnifying the other party from any liability of any nature whatsoever from any failure to do so accurately and completely.

### 12.2 Indemnity

(a) Developer shall protect, defend, hold harmless and indemnify Company, and all of its past, present and future Owners, Affiliates, officers, directors, employees, attorneys and designees from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, Claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any person, or Entity or to any property arising out of or in connection with Developer's breach or default of this Agreement or the construction, development and/or operation of Drive Thrus, except to the extent caused by intentional acts of the Company in breach of this Agreement.

(b) Company shall protect, defend, hold harmless and indemnify Developer, and all of its past, present and future Owners, Affiliates, officers, directors, employees, attorneys

and designees from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, Claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any person, or Entity or to any property arising out of or in connection with: (i) any Claim asserted against Developer or its Affiliate arising out of Developer's (or Affiliate's) authorized use of any trademark or service mark licensed by Company to Developer or its Affiliate pursuant to a Franchise Agreement; or (ii) any Claim asserted against Developer or its Affiliate arising solely out of Company's (or its Affiliate's) violation of any Applicable Law relating to any Authorized Gravity Coffee Products and Services sold by Developer or its Affiliate in a Drive Thru.

(c) The terms of this Section 12.2 shall survive the termination or expiration of this Agreement.

### 12.3 Legal Incapacity

Company shall not be liable to Developer for any consequential, indirect, special or punitive damages, including lost profits, interest expense, increased construction or occupancy costs, or other costs and expenses incurred by Developer by reason of any delay in the delivery of Company's Franchise Disclosure Document caused by legal incapacity during the Term, not due to the gross negligence or intentional misfeasance of Company.

### 12.4 Waiver and Delay

No waiver by either party of any Default, and no failure, refusal or neglect of a party to exercise any right, power or option under this or any other agreement between Company and Developer, shall constitute a waiver of the provisions of this Agreement for any continuing or subsequent Default or a waiver of the right at any time thereafter to require exact and strict compliance.

### 12.5 Survival of Covenants

The covenants and agreements contained in this Agreement which, by their nature or terms, require performance or forbearance by the parties after the expiration or termination of this Agreement shall be enforceable notwithstanding the expiration or other termination of this Agreement.

### 12.6 Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Company and shall be binding upon and inure to the benefit of Developer, subject to the prohibitions and restrictions against Assignment contained in this Agreement. This Agreement is for the benefit of the parties only, and, except as expressly provided in this Agreement, is not intended to and shall not confer any rights or benefits upon any person who is not a party to this Agreement.

#### 12.7 Joint and Several Liability

If the named Developer includes more than one person and/or Entity, such person(s) and/or Entities shall be deemed to be a general partnership and each shall be jointly and severally liable for all obligations and liabilities of the "Developer."

#### 12.8 Governing Law

This Agreement shall be governed by and construed under the laws of the State of Washington (without giving effect to any conflict of laws), except that Washington law will not apply to (a) any issue relating to the offer, sale, or registration of franchises, and (b) any issue relating to franchise relationships, including termination or nonrenewal. All such issues will be decided and resolved under the law of the state in which the Drive Thru is located.

#### 12.9 Entire Agreement

This Agreement contains all of the terms and conditions agreed upon by the parties with reference to the subject matter of this Agreement. No other agreements concerning the subject matter of this Agreement, oral or otherwise, shall be deemed to exist or to bind any of the parties. All prior or contemporaneous agreements, understandings and representations relating to the subject matter of this Agreement are merged and are expressly superseded by this Agreement, except representations made in the Franchise Disclosure Document received by Developer and any representations made by Developer in acquisition of this Agreement. Nothing in this Agreement or in any related agreement is intended to disclaim the representation we made in the Franchise Disclosure Document. No officer or employee or agent of Company has any authority to make any representation or promise not included in this Agreement or the Franchise Disclosure Document delivered to Developer, and Developer agrees that it has executed this Agreement without reliance upon any such representation or promise. This Agreement cannot be modified or changed except by written instrument signed by both parties.

#### 12.10 Titles for Convenience

Article and paragraph titles used this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any of the terms, provisions, or conditions of this Agreement.

#### 12.11 Construction

The terms of all Exhibits to this Agreement are incorporated into and made a part of this Agreement as if set forth in full. Neither this Agreement nor any uncertainty or ambiguity in this Agreement shall be construed or resolved against the drafter, whether under any rule of construction or otherwise. This Agreement has been reviewed by all parties and shall be construed and interpreted without resort to parol or extrinsic evidence according to the ordinary meaning of the words.

#### 12.12 Severability

If any part, article, paragraph, sentence or clause of this Agreement shall be held to be indefinite, invalid or otherwise unenforceable, the indefinite, invalid or unenforceable provision shall be deemed deleted, and the remainder of this Agreement shall continue in full force and effect.

#### 12.13 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

#### 12.14 Fees and Expenses

If any party to this Agreement shall bring any action or proceeding for any relief against the other, arising out of this Agreement, the losing party shall pay to the prevailing party a reasonable sum for attorney fees and costs incurred in bringing or defending such action or proceeding and shall be paid whether or not such action or proceedings is prosecuted to final judgment.

#### 12.15 Notices

Except as otherwise expressly provided in this Agreement, all written notices and reports permitted or required to be delivered by the parties shall be deemed so delivered at the time delivered by hand, one business day after transmission by facsimile or by reputable overnight courier, and addressed as follows:

If to Company: Gravity Franchising LLC  
1155 Valentine Ave SE  
Pacific, WA 98047  
(253) 447-8740  
Attn: Erika Christiansen, President of Operations  
Email: echristiansen@gccoffee.com

With copy to: Miller Nash LLP  
2801 Alaskan Way, Suite 300  
Seattle WA 98121  
Attn: Josh M. Piper  
Email: josh.piper@millernash.com

If to Developer: To the address(es) listed on the signature page to this Agreement or to such other address as such party may designate by ten (10) days' advance written notice to the other party.

#### 12.16 General

The submission of this Agreement does not constitute an offer and this Agreement shall become effective only upon the execution by Company and Developer. This Agreement shall not be binding on Company unless and until it shall have been accepted and signed on its behalf by an authorized officer of Company.

### **ARTICLE 13 DISPUTE RESOLUTION**

#### 13.1 Mediation

Except to the extent precluded by Applicable Law, the parties agree that prior to initiating any reference proceeding as described below (other than suits described in Section 13.2(c)), they shall first attempt to resolve any dispute pursuant to mediation conducted in accordance with the commercial mediation rules of JAMS, unless the parties agree in writing on alternative rules and a mediator within fifteen (15) days after either party first gives notice of mediation. Prior to the mediation each party shall furnish the other and the mediator a detailed explanation of the dispute(s) and their respective position (the "**Mediation Statement**"). The mediation shall last for at least one full day and each party shall have present a representative with authority to make settlement decisions on its behalf. The mediation shall be conducted in Seattle, Washington, unless the parties agree otherwise, and shall be conducted and completed within forty five (45) days following the date either party first gives notice of mediation. If the parties fail to complete the mediation within the 45-day period, either party may initiate an arbitration proceeding in accordance with Section 13.2. The fees and expenses of the mediator shall be shared equally by the parties. The mediator shall be disqualified as a witness, expert or counsel for any party for any suit and any related matter. The entire mediation process shall be confidential and the conduct, statements, promises, offers, views and opinions of the mediator and the parties shall not be discoverable or admissible in any legal proceeding for any purpose; provided, however, that evidence which is otherwise discoverable or admissible shall not be excluded from discovery or admission as a result of its use in the mediation.

#### 13.2 Arbitration

(a) Each controversy, dispute or claim ("**Claim**") between the parties arising out of or relating to this Agreement, the parties' relationship, or the breach, termination, enforcement, interpretation or validity of this Agreement, will be resolved by binding arbitration by a single arbitrator who shall use the Commercial Arbitration Rules of JAMS in effect as of the date an arbitration demand is filed or served, except as those rules have been modified by this Agreement. The arbitrator shall have exclusive power and jurisdiction to determine the arbitrability of any dispute. Unless consented to by both parties, the arbitration and the arbitrator shall consider and decide only those issues raised in the Mediation Statement.

(b) The exclusive venue of any arbitration hearing shall be in Seattle, Washington, unless the parties agree otherwise. All claims asserted in the proceeding, whether

by way of the initiating party's claim, or any counterclaims or defenses shall be resolved individually, and shall not be heard on a class basis or joined with the claims of any other franchisee. With respect to any such arbitration hearing between the parties:

(i) The arbitrator shall only consider a claim, defense, or counterclaim that has been plead with specificity in the Mediation Statement, setting forth all facts essential to the party's claim, defense, or counterclaim. The arbitrator shall not consider any conclusory claims or allegations.

(ii) The arbitrator shall limit discovery to a reasonable number of document production requests, no more than fifteen (15) interrogatories, and three (3) depositions per party, unless the arbitrator determines that additional discovery is both necessary and essential to the fair administration of the matter.

(iii) The arbitrator shall schedule the hearing as soon as practicable, which shall be no later than 150 days after the arbitrator's appointment, unless the parties agree otherwise.

(iv) The arbitrator shall reject any claim, and shall consider such claim to be barred by the parties' contractual limitations period, unless the claim has been asserted within one year from the occurrence of the facts, circumstances, or events giving rise to the claim.

(v) The arbitrator shall have no power to award punitive damages, as the parties hereby waive any right to or claim of punitive, exemplary, or multiple damages against the other and agree to be limited to the recovery of actual damages sustained.

(vi) The substantially prevailing party shall be awarded its costs, reasonable attorneys' fees, and expert witness expenses, and the losing party shall be responsible for all arbitration fees, including the fees of the arbitrator.

(c) Nothing in this Article 13 shall prejudice the right of any party to obtain provisional relief or other equitable remedies from a court of competent jurisdiction as shall otherwise be available under the Applicable Law.



13.3 Waiver of Jury Trial; Venue. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES: (1) WAIVE THEIR RIGHT TO JURY TRIAL WITH RESPECT TO ALL CLAIMS AND ISSUES ARISING UNDER, IN CONNECTION WITH, TOUCHING UPON OR RELATING TO THIS AGREEMENT, INCLUDING ANY BREACH AND/OR THE SCOPE OF THE PROVISIONS OF THIS Article 13, WHETHER SOUNDING IN CONTRACT OR TORT, AND INCLUDING ANY CLAIM FOR FRAUDULENT INDUCEMENT; AND (2) AGREE THAT SEATTLE, WASHINGTON SHALL BE THE VENUE FOR ANY LITIGATION ARISING UNDER THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THEY HAVE REVIEWED THIS SECTION AND HAVE HAD THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE AS TO ITS MEANING AND EFFECT.

\_\_\_\_\_  
DEVELOPER  
INITIALS

\_\_\_\_\_  
COMPANY  
INITIALS

#### **ARTICLE 14**

#### **SUBMISSION AND FRANCHISEE REPRESENTATIONS**

##### 14.1 Submission of this Agreement

This Agreement shall not be binding on Company, unless and until it shall have been accepted and signed on its behalf by an authorized officer of the Company.

##### 14.2 Developer Representations

(a) Developer represents that it has completed and executed the closing questionnaire in substantially the form attached to the Franchise Disclosure Document (the "**Closing Questionnaire**"), and that it completed the Closing Questionnaire truthfully and fully answered all questions, and is tendering to Company the fully completed and executed Closing Questionnaire along with this executed Agreement.

(b) Developer represents that the person signing this Agreement on Developer's behalf has been duly authorized to do so and commits to be bound to the terms of the Agreement.

(c) Developer represents that it has conducted an independent investigation of the business venture contemplated by this Agreement and recognize that it involves business risks and that its results will be largely dependent upon its efforts and abilities, including its marketing and promotional efforts. Franchisee further represents it has been accorded ample time to consult with its own legal counsel and other advisors about the potential risks and benefits of entering into this Agreement, and Company has advised Developer to do so.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

**"Company"**

**"Developer"**

GRAVITY FRANCHISING LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

- an individual;
- a \_\_\_\_\_ general partnership;
- a \_\_\_\_\_ limited partnership;
- a \_\_\_\_\_ limited liability company;
- a \_\_\_\_\_ corporation

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Notice Address:

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

Attn: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email: \_\_\_\_\_

**EXHIBIT A**  
**DEFINITIONS**

**"Additional Development Obligation"** shall have the meaning set forth in Section 5.3(b) of this Agreement.

**"Additional Development Proposal"** shall have the meaning set forth in Section 5.2 of this Agreement.

**"Affiliate"** when used in connection with Company or Developer, includes each person or Entity which directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Company or Developer, as applicable. Without limiting the foregoing, the term "Affiliate" when used in connection with Developer includes any Entity 10% or more of whose Equity or voting control, is held by person(s) or Entities who, jointly or severally, hold 10% or more of the Equity or voting control of Developer. For purposes of this definition, control of a person or Entity means the power, direct or indirect, to direct or cause the direction of the management and policies of such person or Entity whether by contract or otherwise. Notwithstanding the above definition, if Company or its Affiliate has any ownership interest in Developer, the term "Affiliate" shall not include or refer to Company or that Affiliate (the **"Company Affiliate"**), and no obligation or restriction upon an "Affiliate" of Developer, shall bind Company, a Company Affiliate or their respective parents or subsidiaries, officers, directors, or managers.

**"Agreement"** means this Area Development Agreement, together with all exhibits, schedules, and addenda to this Area Development Agreement.

**"Applicable Law"** means applicable common law and all applicable statutes, laws, rules, regulations, ordinances, policies and procedures established by any Governmental Authority or by the common law of the state in which the Development Area is located, governing the development, construction and operation of a Drive Thru, including all health and safety, labor, immigration, food and drug laws and regulations, the Americans with Disabilities Act, zoning laws, construction codes, and permit variance, conditional use permit or similar requirements and conditions, all as may be amended, supplemented or enacted from time to time.

**"Assets"** means all of the following personal property and assets owned by Developer and each Subsidiary or in which Developer and each Subsidiary otherwise has any rights, and located at, or used in connection with Drive Thrus developed or in development pursuant to this Agreement: (a) all accounts, licenses, permits, and contract rights, including this Agreement, leasehold interests, all telephone and facsimile numbers, telephone and other directory listings, general intangibles, receivables, Claims of Developer and each Subsidiary, all guaranties and security therefor and all of Developer's and each Subsidiary's right, title and interest in the goods purchased and represented by any of the foregoing; (b) all chattel paper including electronic chattel paper and tangible chattel paper; (c) all documents and instruments; (d) all letters of credit and letter-of-credit rights and all supporting obligations; (e) all deposit accounts; (f) all investment property and financial assets; (g) all inventory and products thereof and documents therefor; (h)

all furniture, fixtures, equipment, leasehold improvements and machinery, wherever located and all documents and general intangibles covering or relating thereto; (i) all books and records pertaining to the foregoing, including computer programs, data, certificates, records, circulation lists, subscriber lists, advertiser lists, supplier lists, customer lists, customer and supplier contracts, sales orders, and purchasing records; (j) all software including computer programs and supporting information; (k) all commercial tort Claims; (l) all other personal property of Developer and/or each Subsidiary of any kind; and (m) all proceeds of the foregoing, including proceeds of insurance policies. The terms used in this definition shall have the meanings given them in the Washington Uniform Commercial Code if defined in such code.

**"Assignment"** means any assignment, transfer, gift or other conveyance, voluntarily or involuntarily, in whole or in part, by operation of Applicable Law or otherwise, of any interest in this Agreement or any of Developer's rights or privileges under this Agreement, or all or any substantial portion of the Assets; provided, further, however, that if Developer is an Entity, each of the following shall be deemed to be an Assignment of this Agreement: (i) the sale, assignment, transfer, conveyance, gift, pledge, mortgage, hypothecation or other encumbrance of more than 49% in the aggregate, whether in one or more transactions, of the Equity or voting power of Developer, by operation of law or otherwise or any other event(s) or transaction(s) that, directly or indirectly, effectively changes control of Developer; (ii) the issuance of any securities by Developer that itself or in combination with any other transaction(s) results in the Owners, as constituted on the Effective Date, owning less than 51% of the outstanding Equity or voting power of Developer; (iii) if Developer is a Partnership, the resignation, removal, withdrawal, death or legal incapacity of a general partner or of any limited partner owning more than 49% of the Partnership Rights of the Partnership, or the admission of any additional general partner, or the transfer by any general partner of any of its Partnership Rights in the Partnership, or any change in the ownership or control of any general partner; (iv) the death or legal incapacity of any Owner owning more than 49% of the Equity or voting power of Developer; and (v) any merger, stock redemption, consolidation, reorganization, recapitalization or other transfer of control of Developer, however effected.

**"Authorized Gravity Coffee Products and Services"** means the beverages, foods, smoothies, and other food items and products (which may include specialty foods, packaged foods, hats, apparel, retail items, and gift or loyalty cards), as specified by Company from time to time in the Manual, or as otherwise directed by Company, in writing, for sale at the Drive Thrus, prepared, sold and/or manufactured in strict accordance with Company's recipes, and Standards, including specifications as to ingredients, brand names, preparation and presentation.

**"Claim"** shall have the meaning set forth in Section 13.2(a).

**"Company"** means Gravity Franchising LLC. In addition, (i) where this Agreement requires Developer to satisfy or be in compliance with any contractual obligation to "Company," that term shall include any Affiliate of Company to which Developer (or a Subsidiary) is a party to any agreement or otherwise has made any covenant or owes any obligation; and (ii) where this Agreement provides that Company shall perform any act or may exercise any right, then any Affiliate of Company may perform that act or exercise that right.

**"Competitive Activities"** means to own, operate, lend to, advise, be employed by, have any financial interest in, or sell any assets of any Drive Thru to any retail store or business that predominantly prepares, produces or sells, at retail or wholesale, any type of coffee beverage, energy drink, tea, smoothies, or any other food product or featured menu item that is now or in the future an Authorized Gravity Coffee Product and Services, other than one of the Gravity Drive Thrus operated pursuant to a validly subsisting franchise or license agreement with Company. Notwithstanding the foregoing, **"Competitive Activities"** shall not include the direct or indirect ownership solely as an investment, of securities of any Entity which are traded on any national securities exchange if the owner (i) is not a controlling person of, or a member of a group which controls, such Entity and (ii) does not, directly or indirectly, own 5% or more of any class of securities of such Entity.

**"Court"** shall have the meaning set forth in Section 13.2(a).

**"Default"** or **"default"** means any breach of, or failure to comply with, any of the terms or conditions of this Agreement, including any mandatory provisions of the Manual, or any other agreement between Company and Developer.

**"Developer"** shall have the meaning set forth in the preamble of this Agreement.

**"Development Area"** shall have the meaning set forth in Section 2.1(a) of this Agreement.

**"Development Period"** means each of the time periods indicated on Exhibit C during which Developer shall have the right and obligation to construct, equip, open and thereafter continuously operate the Drive Thrus under the Development Obligation and Franchise Agreements.

**"Development Obligation"** shall mean the Developer's right and obligation to construct, equip, open and thereafter continuously operate at sites within the Development Area the number of Drive Thrus set forth in Exhibit C within each Development Period and, if applicable, within the specified geographic areas.

**"Director of Operations"** shall have the meaning set forth in Section 11.2(b).

**"Drive Thrus"** means the Gravity Drive Thrus to be developed, or already developed, by Developer pursuant to this Agreement, under the System, and featuring the sale of Authorized Gravity Coffee Products and Services (each referred to individually as a **"Drive Thru"**).

**"Effective Date"** means the date entered in the space so designated on the signature page of this Agreement, which is the date that Company counter-signs this Agreement.

**"Entity"** means any limited liability company, Partnership, trust, association, corporation or other entity which is not an individual.

**"Equity"** means capital stock, membership interests, Partnership Rights or other equity ownership interests of an Entity.

**"Expiration Date"** means the date listed as such on Exhibit C, which shall be the date the Term expires, if not expired earlier under Section 5.1.

**"Franchise Agreement"** means the form of agreement prescribed by Company and used to grant to Developer the right to own and operate a single Drive Thru in the Development Area, including all exhibits, riders, guarantees or other related instruments.

**"Franchise Disclosure Document"** shall have the meaning set forth in Section 7.2(a).

**"Force Majeure"** means acts of God (such as tornadoes, earthquakes, hurricanes, floods, fire or other natural catastrophe); strikes, lockouts or other industrial disturbances; war, terrorist acts, riot, or other civil disturbance; epidemics or pandemics; or other similar forces which Developer could not by the exercise of reasonable diligence, have been avoided; provided, however, that neither an act or failure to act by a Governmental Authority, nor the performance, non-performance or exercise of rights under any agreement with Developer by any lender, landlord, contractor, or other person shall be an event of Force Majeure, except to the extent that such act, failure to act, performance, non-performance or exercise of rights results from an act which is otherwise an event of Force Majeure. For the avoidance of doubt, a change in general economic condition, however severe, or Developer's financial inability to perform or Developer's insolvency shall not be an event of Force Majeure.

**"Gravity Drive Thru"** means an independent business that provides coffee, energy drinks, other beverages, and certain food items and merchandise through a retail "Gravity®", "Gravity® Coffee Co." or "GC®" drive thru, that is operated by a franchisee, or by Company or its Affiliate, under the Marks and System, in compliance with the Standards, and which features Authorized Gravity Coffee Products and Services.

**"Governmental Authority"** means and includes all Federal, state, county, municipal and local governmental and quasi-governmental agencies, commissions and authorities.

**"Heirs"** shall have the meaning set forth in Section 10.1(c)(i).

**"Initial Franchise Fee"** shall have the meaning set forth in Section 6.2.

**"Manual"** refers collectively to Company's operations and brand standards manual, and any other written directive, suggestions, or guidelines related to the System, as the same may be amended and revised from time to time, including all bulletins, supplements and ancillary and additional manual and written directives established by Company.

**"Marks"** shall mean all owned or licensed trade names, trademarks, service marks, logos, decor, trade dress, lay out, domain names, and commercial symbols, and similar and related words or symbols, now or in the future associated with Company, Licensor, Company's franchisees, the System or the Drive Thrus, whether or not they are registered, including "GC," "GRAVITY," and "STAY GROUNDED." Company reserves the right to change the Marks.

**"Non-Traditional Venue"** means airports, hotels, motels, casinos, sports arenas, stadiums, convention centers, hospitals, universities, colleges, schools, museums, movie theatres, theme parks, aquariums, toll roads, freeways and motorway locations, military and other governmental facilities, and similar venues such as any site for which the lessor, owner or operator shall have indicated its intent to prefer or limit the operation of its food service facilities to a master concessionaire or contract food service provider.

**"Operating Principal"** means (a) Developer, if Developer is an individual; or (b) the person identified in attached Exhibit E, or such other individual hereafter designated by Developer, and accepted by Company (and until subsequently disapproved by Company), if Developer is an Entity, as the Operating Principal, who shall hold more than 10% of the Equity of Developer or (with Company's prior approval) be an executive officer of Developer, and who shall have the authority to act on behalf of Developer during the Term. At all times, Company may regard all decisions by the Operating Principal as fully authorized by Developer.

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

**"Partnership"** means any general partnership, limited partnership or limited liability partnership.

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

**"Reserved Rights"** shall have the meaning set forth in Section 2.2(b).

**"Restricted Persons"** means Developer, and each of its Owners and Affiliates, and their respective officers, directors, managers, and Affiliates, the Operating Principal, and the spouse and family members who live in the same household of each of the foregoing.

**"ROFR"** shall have the meaning set forth in Section 8.3(g).

**"ROFR Period"** shall have the meaning set forth in Section 8.3(g).

**"Site Acceptance Letter"** shall have the meaning set forth in Section 7.1(b).

**"Site Review Request"** shall have the meaning set forth in Section 7.1(b).

**"Standards"** means the then-current specifications, standards, policies, procedures and rules Company prescribes for the development, ownership and operation of Gravity Drive Thrus, as modified by Company from time to time in writing.

**"Subsidiary"** shall have the meaning set forth in Section 8.3(d).

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

**"Term"** shall have the meaning set forth in Section 5.1.

**"Trade Secrets"** means proprietary and confidential information, including recipes, ingredients, Standards, specifications, procedures, policies, concepts, systems, know-how, plans, software, strategies, and methods and techniques of operating Gravity Drive Thrus and producing and preparing Authorized Gravity Coffee Products and Services.

**"Traditional Drive Thru"** means a business premises that exists primarily as a Gravity Drive Thru, excluding any Gravity Drive Thru at a Non-Traditional Venue.

**"Travel Expenses"** means reasonable costs and expenses incurred by or assessed in connection with travel, including airfare, hotel/lodging, local transportation, meals, and, with regard to Company's employees', agents' and/or representatives' expenses, a reasonable per diem charge determined by Company in advance, for other incidental expenses incurred, including laundry and/or telephone expenses.

**"Wages"** means all salaries and hourly wages, and all related direct and indirect payroll expenses of employees, including employment-related taxes, overtime compensation, vacation benefits, pension and profit sharing plan contributions, medical insurance premiums, medical benefits, and the like, and all direct and indirect fees, costs and expenses payable to independent contractors, agents, representatives and outside consultants.



**EXHIBIT B**  
**DEVELOPMENT AREA**

The Development Area\* is defined as the territory within the boundaries described below:

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\* If the Development Area is defined by streets, highways, freeways or other roadways, or rivers, streams, or tributaries, then the boundary of the Development Area shall extend to the center line of each such street, highway, freeway or other roadway, or river, stream, or tributary.

**EXHIBIT C**  
**DEVELOPMENT OBLIGATIONS**

	<b>DEVELOPMENT PERIOD ENDING</b>	<b>NO. OF NEW DRIVE THRUS</b>	<b>CUMULATIVE NO. OF DRIVE THRUS TO BE IN OPERATION</b>
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____

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

**Development Fee:**\_\_\_\_\_

**EXHIBIT D**  
**Site Acceptance Letter**

\_\_\_\_\_, 20\_\_

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

Re: Proposed Location at \_\_\_\_\_ (the "**Location**")

Dear \_\_\_\_\_:

Based on the information you provided in the Site Review Request, this will confirm our acceptance for your development of a Gravity Drive Thru at the above-referenced location, subject to the conditions set forth below. You must not construe our acceptance as a guarantee or other assurance that this site will be successful. We have relied on your investigation experience, and knowledge of the market in which the Location is situated, as well as the information submitted to us, in making this decision.

Our acceptance of the Location is subject to you entering into a lease for the Location that we have accepted and satisfies the terms of the Franchise Agreement for the Gravity Drive Thru at the Location.

We have enclosed our current Franchise Disclosure Document and two execution copies of our current Franchise Agreement. Please detach the receipt that appears at the end of the Franchise Disclosure Document, sign and date it, and return it to us in the enclosed self-addressed stamped envelope. We cannot enter into an agreement with you until we get back that receipt, and at least fourteen (14) days have passed from the date you that you received the Franchise Disclosure Document and sign the Receipt.

A Federal Trade Commission Rule requires that you hold the enclosed execution documents for at least seven (7) calendar days prior signing them. Please note that your Area Development Agreement requires that you sign the enclosed Franchise Agreement within thirty (30) days of receipt (but no sooner than after the expiration of applicable waiting periods) and pay us the applicable fees. Once you have signed the documents, paid the required fees, and have satisfied the conditions in Section 7.3 of your Area Development Agreement, we will sign and return one fully executed copy of the Franchise Agreement to you.

If you have any questions regarding our approval procedures, please contact me. We look forward to another Gravity Drive Thru in \_\_\_\_\_ soon.

Sincerely,

**EXHIBIT E**  
**Developer Information**

Developer represents and warrants that the following information is accurate and complete in all material respects:

(i) Developer Name: \_\_\_\_\_

(ii) Developer is a (check as applicable):  
 corporation  
 limited liability company  
 general partnership  
 limited partnership  
 Other (specify): \_\_\_\_\_

(iii) Developer shall provide to Company concurrently with the execution of this Agreement true and accurate copies of its charter documents including Articles of Incorporation, Bylaws, Operating Agreement, Regulations Partnership Agreement, resolutions authorizing the execution of this Agreement, and any amendments to the foregoing ("**Entity Documents**").

(iv) Developer promptly shall provide such additional information as Company may from time to time request concerning all persons who may have any direct or indirect financial interest in Developer.

(v) The name and address of each of Developer's owners, members, or general and limited partner:

NAME	ADDRESS	NUMBER OF SHARES / PERCENTAGE INTEREST

(vi) There is set forth below the names, titles, and addresses of Developer's principal officers or partners who will be devoting their full time to the Business:

NAME	TITLE	ADDRESS

(vii) The address where Developer's Financial Records, and Entity Documents are maintained is:

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(viii) Operating Principal: \_\_\_\_\_

**EXHIBIT C**

**Franchise Continuing Guaranty**

# GRAVITY®

## FRANCHISE CONTINUING GUARANTY

FOR VALUE RECEIVED, and in consideration of Gravity Franchising LLC, a Washington limited liability company ("**Company**"), granting a franchise agreement for the operation of a Gravity® or GC® drive-thru to \_\_\_\_\_, a \_\_\_\_\_ ("**Franchisee**"), each of the undersigned ("**Guarantor**") agrees as follows:

### 1. Guaranty of Obligations.

1.1 Guarantor unconditionally, absolutely and irrevocably guarantees the full and prompt payment and performance when due, of all obligations of Franchisee or any affiliates of Franchisee to Company and its affiliates, however created, arising or evidenced, whether direct or indirect, absolute or contingent, or now or in the future existing or due or to become due, including, without limitation, under or in connection with the Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "**Franchise Agreement**") and each of the documents, instruments and agreements executed and delivered in connection with the Franchise Agreement or this continuing guaranty, as each may be modified, amended, supplemented or replaced from time to time (all such obligations are referred to collectively as the "**Obligations**"), and all documents evidencing or securing any of the Obligations. This continuing guaranty (this "**Continuing Guaranty**") is a guaranty of payment and performance when due and not of collection. *[ARIZONA and NEW MEXICO Community Property: If any Guarantor is a married individual who resides in ARIZONA or NEW MEXICO and the Guarantor's spouse is signing the Consent of Spouse for this Guaranty, add the following: "Guarantor" shall also include the individual signing the Consent to Guaranty at the end of this Continuing Guaranty, but subject to the limitations stated in such Consent.]*

1.2 In the event of any default by Franchisee in making payment of, or default by Franchisee in performance of, any of the Obligations, Guarantor agrees on demand by Company to pay and perform all of the Obligations as are then or thereafter become due and owing or are to be performed under the terms of the Obligations. Guarantor further agrees to pay all expenses (including reasonable attorneys' fees and expenses) paid or incurred by Company in endeavoring to collect the Obligations, or any part thereof, and in enforcing this Continuing Guaranty.

2. Continuing and Independent Nature of Guaranty and Obligations. This Continuing Guaranty shall be continuing and shall not be discharged, impaired or affected by: (i) the insolvency of Franchisee or the payment in full of all of the Obligations at any time or from time to time; (ii) the power or authority or lack thereof of Franchisee to incur the Obligations; (iii) the validity or invalidity of any of the Obligations; (iv) the existence or non-existence of Franchisee as a legal entity; (v) any statute of limitations affecting the liability of Guarantor or the ability of Company to enforce this Continuing Guaranty, the Obligations or any provision of the Obligations;



(vi) any right of offset, counterclaim or defense of Guarantor, including, without limitation, those waived by Guarantor pursuant to Paragraph 4 of this Continuing Guaranty; (vii) any disability or other defense of Franchisee or any other person; (viii) any impairment of the value of any interest in any security for the Obligations, including without limitation, the failure to obtain or maintain perfection or recordation of any interest in any such security, the release of any such security without substitution, and/or the failure to preserve the value of, or to comply with applicable law in disposing of, any such security; and (ix) any election of remedies by Company, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for any portion of the Indebtedness, destroys Guarantor's rights of subrogation or Guarantor's rights to proceed against Franchisee for reimbursement. The obligations under this Continuing Guaranty are independent of the obligations of Franchisee or any other guarantor, and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against Franchisee or any other guarantor or whether Franchisee or any other guarantor be joined in any such action or actions.

3. Permitted Actions of Company. Company may from time to time, in its sole discretion and without notice to Guarantor, take any or all of the following actions: (i) retain or obtain the primary or secondary obligation of any obligor or obligors, in addition to Guarantor, with respect to any of the Obligations; (ii) extend or renew for one or more periods (whether or not longer than the original period), alter, amend or exchange any of the Obligations; (iii) waive, ignore or forbear from taking action or otherwise exercising any of its default rights or remedies with respect to any default by Franchisee under the Obligations; (iv) release, waive or compromise any obligation of Guarantor under this Continuing Guaranty or any obligation of any nature of any other obligor primarily or secondarily obligated with respect to any of the Obligations; (v) demand payment or performance of any of the Obligations from Guarantor at any time or from time to time, whether or not Company shall have exercised any of its rights or remedies with respect to any property securing any of the Obligations or any obligation under this Continuing Guaranty; or (vi) proceed against any other obligor primarily or secondarily liable for payment or performance of any of the Obligations.

4. Specific Waivers.

4.1 Without limiting the generality of any other provision of this Continuing Guaranty, Guarantor expressly waives: (i) notice of the acceptance by Company of this Continuing Guaranty; (ii) notice of the existence, creation, payment, nonpayment, performance or nonperformance of all or any of the Obligations; (iii) presentment, demand, notice of dishonor, protest, notice of protest and all other notices whatsoever with respect to the payment or performance of the Obligations or the amount thereof or any payment or performance by Guarantor under this Agreement; (iv) all diligence in collection or protection of or realization upon the Obligations or any thereof, any obligation under this Agreement or any security for or guaranty of any of the foregoing; (v) any right to direct or affect the manner or timing of Company's enforcement of its rights or remedies; (vi) any and all defenses that would otherwise arise upon the occurrence of any event or contingency described in Paragraph 1 hereof or upon the taking of any action by Company permitted under this Agreement; (vii) any defense, right of set-off, claim or counterclaim

whatsoever and any and all other rights, benefits, protections and other defenses available to Guarantor now or at any time hereafter; and (viii) all other principles or provisions of law, if any, that conflict with the terms of this Continuing Guaranty, including, without limitation, the effect of any circumstances that may or might constitute a legal or equitable discharge of a guarantor or surety.

4.2 Guarantor waives all rights and defenses arising out of an election of remedies by Company.

4.3 Guarantor further waives all rights to revoke this Continuing Guaranty at any time, and all rights to revoke any agreement executed by Guarantor at any time to secure the payment and performance of Guarantor's obligations under this Continuing Guaranty.

5. Subordination; Subrogation. Guarantor subordinates any and all indebtedness of Franchisee to Guarantor to the full and indefeasible payment and performance of all of the Obligations. Company shall be entitled to receive payment of all Obligations prior to Guarantor's receipt of payment of any amount of any indebtedness of Franchisee to Guarantor. Guarantor will not exercise any rights that it may acquire by way of subrogation under this Continuing Guaranty, by any payment hereunder or otherwise, until all of the Obligations have been indefeasibly paid in full, in cash, and Company shall have no further obligations to Franchisee under the Obligations or otherwise.

6. Non-Competition, Confidentiality, Etc. Sections 12.1 (Non-Competition), 12.2 (Confidentiality), and 12.5 (Effect of Applicable Law) of the Franchise Agreement, are incorporated into this Continuing Guaranty by reference, and Guarantor agrees to comply with and perform each of such covenants as though fully set forth in this Continuing Guaranty as a direct and primary obligation of Guarantor.

7. Assignment of Company's Rights. Company may, from time to time, without notice to Guarantor, assign or transfer any or all of the Obligations or any interest therein and, notwithstanding any assignment(s) or transfer(s), the Obligations shall be and remain Obligations for the purpose of this Continuing Guaranty. Each and every immediate and successive assignee or transferee of any of the Obligations or of any interest therein shall, to the extent of such party's interest in the Obligations, be entitled to the benefits of this Continuing Guaranty to the same extent as if such assignee or transferee were Company.

8. Indulgences Not Waivers. No delay in the exercise of any right or remedy shall operate as a waiver of the such right or remedy, and no single or partial exercise by Company of any right or remedy shall preclude other or further exercise of such right or remedy or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Continuing Guaranty be binding upon Company, except as expressly set forth in a writing signed by Company. No action of Company permitted under this Continuing Guaranty shall in any way affect or impair the rights of Company or the obligations of Guarantor under this Continuing Guaranty.

9. Financial Condition of Franchisee. Guarantor represents and warrants that it is fully aware of the financial condition of Franchisee, and Guarantor delivers this Continuing Guaranty based solely upon its own independent investigation of Franchisee's financial condition. Guarantor waives any duty on the part of Company to disclose to Guarantor any facts it may now or hereafter know about Franchisee, regardless of whether Company has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor. Guarantor knowingly accepts the full range of risk encompassed within a contract of "Continuing Guaranty" which includes, without limitation, the possibility that Franchisee will contract for additional obligations and indebtedness for which Guarantor may be liable hereunder.

10. Purchase Options. Guarantor has read and understood the provisions in the Franchise Agreement (including Sections 2.4, 13.3, 13.6, and 15.1) that grant Company the option (a) to purchase all or part of Franchisee's assets, (b) to assume Franchisee's tenant leasehold interest in the real property underlying the Drive Thru, and/or (c) if Franchisee, any Owners, or any of Franchisee's officers, directors or affiliates directly or indirectly own or control the real property on which the Drive Thru is located, to require the owner(s) of the real property to lease or convey the real property to Company. Guarantor acknowledges and agrees that it will comply with the requirements of these provisions, and it will cause all of Franchisee's officers, directors or Affiliates to comply with the requirements of these provisions.

11. Representation and Warranty. Guarantor represents and warrants to Company that this Continuing Guaranty has been duly executed and delivered by Guarantor and constitutes a legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

12. Definitions; Binding Upon Successors; Death of Guarantor; Joint and Several.

12.1 Capitalized terms used but not defined in this Continuing Guaranty have the meanings given to them under the Franchise Agreement.

12.2 This Continuing Guaranty shall inure to the benefit of Company and its successors and assigns.

12.3 All references herein to Franchisee shall be deemed to include its successors and permitted assigns, and all references herein to Guarantor shall be deemed to include Guarantor and Guarantor's successors and permitted assigns and, upon the death of a Guarantor, the duly appointed representative, executor or administrator of the Guarantor's estate. This Continuing Guaranty shall not terminate or be revoked upon the death of a Guarantor, notwithstanding any knowledge by Company of a Guarantor's death.

12.4 If there shall be more than one Guarantor (or more than one person or entity comprises Guarantor) under this Agreement, all of the Guarantor's obligations and the other obligations, representations, warranties, covenants and other agreements of any Guarantor under this Agreement shall be joint and several obligations and liabilities of each Guarantor.

12.5 In addition and notwithstanding anything to the contrary contained in this Continuing Guaranty or in any other document, instrument or agreement between or among any of Company, Franchisee, Guarantor or any third party, the obligations of Guarantor with respect to the Obligations shall be joint and several with each and every other person or entity that now or hereafter executes a guaranty of any of the Obligations separate from this Continuing Guaranty.

13. Governing Law. This Continuing Guaranty has been delivered and shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of Washington. Wherever possible each provision of this Continuing Guaranty shall be interpreted as to be effective and valid under applicable law, but if any provision of this Continuing Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Continuing Guaranty.

14. Dispute Resolution. Any dispute arising between the Guarantor and Company shall be governed by the dispute resolution provisions contained in the Franchise Agreement which are expressly incorporated herein by reference. By signing below, Guarantor acknowledges that it has read the dispute resolution provisions contained in the Franchise Agreement and hereby agrees to be bound by them. The Guarantor and Company agree that the dispute resolution provisions of the Franchise Agreement will govern this Continuing Guaranty regardless of the earlier termination or expiration of the Franchise Agreement.

15. ADVICE OF COUNSEL. GUARANTOR ACKNOWLEDGES THAT GUARANTOR HAS EITHER OBTAINED THE ADVICE OF COUNSEL OR HAS HAD THE OPPORTUNITY TO OBTAIN SUCH ADVICE IN CONNECTION WITH THE TERMS AND PROVISIONS OF THIS CONTINUING GUARANTY.

16. Entire Agreement. This Continuing Guaranty contains the complete understanding of the parties hereto with respect to the subject matter herein. Guarantor acknowledges that Guarantor is not relying upon any statements or representations of Company not contained in this Continuing Guaranty and that such statements or representations, if any, are of no force or effect and are fully superseded by this Continuing Guaranty. This Continuing Guaranty may only be modified by a writing executed by Guarantor and Company.

17. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

*[Paragraph 17 below may be required if Guarantor is a married individual who resides in one of the following states: Arizona, Idaho, New Mexico, Washington, and Wisconsin. Paragraph 17 will be modified according to the requirements of such state, and may be repeated as necessary for multiple individual married guarantors.]*

17. Obligations of Married Persons. \_\_\_\_\_ and \_\_\_\_\_ are married to each other, and each hereby agrees that this Continuing Guaranty benefits or is expected to benefit the marital community, and that under this Continuing Guaranty recourse may be had against the

separate and community property of \_\_\_\_\_ *[Guarantor's name]*, but recourse may be had only against the community property of \_\_\_\_\_ *[spouse's name]*. \_\_\_\_\_ *[spouse's name]* is executing a Consent of Spouse solely in order to allow his or her interest in the marital residence to be used to satisfy the obligations under this Continuing Guaranty.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Guarantor has executed this Continuing Guaranty this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

"Guarantor"

\_\_\_\_\_

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

\_\_\_\_\_

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

*[A Consent of Spouse similar to that below may be required if Guarantor is a married individual who resides in one of the following states: Arizona, Idaho, New Mexico, Washington, and Wisconsin. The Consent of Spouse will be modified according to the requirements of such state, and may be repeated as necessary for multiple individual married guarantors.]*

CONSENT OF SPOUSE

\_\_\_\_\_ *[Guarantor's name]* and \_\_\_\_\_ *[spouse's name]* are married to each other. \_\_\_\_\_ *[spouse's name]* (a) consents to all of the terms and conditions of the foregoing Continuing Guaranty, (b) agrees that this Continuing Guaranty benefits or is expected to benefit the marital community, and (c) agrees that under this Continuing Guaranty recourse may be had against the separate and community property of \_\_\_\_\_ *[Guarantor's name]*, but recourse may be had only against the community property of \_\_\_\_\_ *[spouse's name]*. \_\_\_\_\_ *[spouse's name]* is executing this Consent solely in order to allow his or her interest in the marital residence to be used to satisfy the obligations under this Continuing Guaranty.

\_\_\_\_\_  
*[spouse's name]*

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

**EXHIBIT D**

**Area Development Continuing Guaranty**



# GRAVITY®

## AREA DEVELOPMENT CONTINUING GUARANTY

FOR VALUE RECEIVED, and in consideration of Gravity Franchising LLC, a Washington limited liability company ("**Company**"), granting a right to develop Gravity® or GC® drive-thrus to \_\_\_\_\_, a \_\_\_\_\_ ("**Developer**"), each of the undersigned ("**Guarantor**") agrees as follows:

### 1. Guaranty of Obligations.

1.1 Guarantor unconditionally, absolutely and irrevocably guarantees the full and prompt payment and performance when due, of all obligations of Developer or any affiliates of Developer to Company and its affiliates, however created, arising or evidenced, whether direct or indirect, absolute or contingent, or now or in the future existing or due or to become due, including, without limitation, under or in connection with that certain Area Development Agreement dated \_\_\_\_\_, 20\_\_ (the "**ADA**") and each Franchise Agreement entered into between Developer or an affiliate of Developer and Company pursuant to the ADA (collectively, the "**Franchise Agreements**") and each of the documents, instruments and agreements executed and delivered in connection with the ADA, the Franchise Agreements, or this continuing guaranty, as each may be modified, amended, supplemented or replaced from time to time (all such obligations are referred to collectively as the "**Obligations**"), and all documents evidencing or securing any of the Obligations. This continuing guaranty (this "**Continuing Guaranty**") is a guaranty of payment and performance when due and not of collection. *[ARIZONA and NEW MEXICO Community Property: If any Guarantor is a married individual who resides in ARIZONA or NEW MEXICO and the Guarantor's spouse is signing the Consent of Spouse for this Guaranty, add the following: "Guarantor" shall also include the individual signing the Consent to Guaranty at the end of this Continuing Guaranty, but subject to the limitations stated in such Consent.]*

1.2 In the event of any default by Developer in making payment of, or default by Developer in performance of, any of the Obligations, Guarantor agrees on demand by Company to pay and perform all of the Obligations as are then or thereafter become due and owing or are to be performed under the terms of the Obligations. Guarantor further agrees to pay all expenses (including reasonable attorneys' fees and expenses) paid or incurred by Company in endeavoring to collect the Obligations, or any part thereof, and in enforcing this Continuing Guaranty.

2. Continuing and Independent Nature of Guaranty and Obligations. This Continuing Guaranty shall be continuing and shall not be discharged, impaired or affected by: (i) the insolvency of Developer or the payment in full of all of the Obligations at any time or from time to time; (ii) the power or authority or lack thereof of Developer to incur the Obligations; (iii) the validity or invalidity of any of the Obligations; (iv) the existence or non-existence of Developer as a legal entity; (v) any statute of limitations affecting the liability of Guarantor or the ability of

Company to enforce this Continuing Guaranty, the Obligations or any provision of the Obligations; (vi) any right of offset, counterclaim or defense of Guarantor, including, without limitation, those which have been waived by Guarantor pursuant to Paragraph 4 of this Continuing Guaranty; (vii) any disability or other defense of Developer or any other person; (viii) any impairment of the value of any interest in any security for the Obligations, including without limitation, the failure to obtain or maintain perfection or recordation of any interest in any such security, the release of any such security without substitution, and/or the failure to preserve the value of, or to comply with applicable law in disposing of, any such security; and (ix) any election of remedies by Company, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for any portion of the Indebtedness, destroys Guarantor's rights of subrogation or Guarantor's rights to proceed against Developer for reimbursement. The obligations under this Continuing Guaranty are independent of the obligations of Developer or any other guarantor, and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against Developer or any other guarantor or whether Developer or any other guarantor be joined in any such action or actions.

3. Permitted Actions of Company. Company may from time to time, in its sole discretion and without notice to Guarantor, take any or all of the following actions: (i) retain or obtain the primary or secondary obligation of any obligor or obligors, in addition to Guarantor, with respect to any of the Obligations; (ii) extend or renew for one or more periods (whether or not longer than the original period), alter, amend or exchange any of the Obligations; (iii) waive, ignore or forbear from taking action or otherwise exercising any of its default rights or remedies with respect to any default by Developer under the Obligations; (iv) release, waive or compromise any obligation of Guarantor under this Continuing Guaranty or any obligation of any nature of any other obligor primarily or secondarily obligated with respect to any of the Obligations; (v) demand payment or performance of any of the Obligations from Guarantor at any time or from time to time, whether or not Company shall have exercised any of its rights or remedies with respect to any property securing any of the Obligations or any obligation under this Continuing Guaranty; or (vi) proceed against any other obligor primarily or secondarily liable for payment or performance of any of the Obligations.

4. Specific Waivers.

4.1 Without limiting the generality of any other provision of this Continuing Guaranty, Guarantor expressly waives: (i) notice of the acceptance by Company of this Continuing Guaranty; (ii) notice of the existence, creation, payment, nonpayment, performance or nonperformance of all or any of the Obligations; (iii) presentment, demand, notice of dishonor, protest, notice of protest and all other notices whatsoever with respect to the payment or performance of the Obligations or the amount thereof or any payment or performance by Guarantor under this Agreement; (iv) all diligence in collection or protection of or realization upon the Obligations or any thereof, any obligation under this Agreement or any security for or guaranty of any of the foregoing; (v) any right to direct or affect the manner or timing of Company's enforcement of its rights or remedies; (vi) any and all defenses that would otherwise arise upon the occurrence of

any event or contingency described in Paragraph 1 hereof or upon the taking of any action by Company permitted under this Agreement; (vii) any defense, right of set-off, claim or counterclaim whatsoever and any and all other rights, benefits, protections and other defenses available to Guarantor now or at any time hereafter; and (viii) all other principles or provisions of law, if any, that conflict with the terms of this Continuing Guaranty, including, without limitation, the effect of any circumstances that may or might constitute a legal or equitable discharge of a guarantor or surety.

4.2 Guarantor waives all rights and defenses arising out of an election of remedies by Company.

4.3 Guarantor further waives all rights to revoke this Continuing Guaranty at any time, and all rights to revoke any agreement executed by Guarantor at any time to secure the payment and performance of Guarantor's obligations under this Continuing Guaranty.

5. Subordination; Subrogation. Guarantor subordinates any and all indebtedness of Developer to Guarantor to the full and indefeasible payment and performance of all of the Obligations. Company shall be entitled to receive payment of all Obligations prior to Guarantor's receipt of payment of any amount of any indebtedness of Developer to Guarantor. Guarantor will not exercise any rights that it may acquire by way of subrogation under this Continuing Guaranty, by any payment hereunder or otherwise, until all of the Obligations have been indefeasibly paid in full, in cash, and Company shall have no further obligations to Developer under the Obligations or otherwise.

6. Non-Competition, Confidentiality, Etc. Article 9 (Competition and Confidentiality) of the ADA is incorporated into this Continuing Guaranty by reference, and Guarantor agrees to comply with and perform each of such covenants as though fully set forth in this Continuing Guaranty as a direct and primary obligation of Guarantor.

7. Assignment of Company's Rights. Company may, from time to time, without notice to Guarantor, assign or transfer any or all of the Obligations or any interest therein and, notwithstanding any assignment(s) or transfer(s), the Obligations shall be and remain Obligations for the purpose of this Continuing Guaranty. Each and every immediate and successive assignee or transferee of any of the Obligations or of any interest therein shall, to the extent of such party's interest in the Obligations, be entitled to the benefits of this Continuing Guaranty to the same extent as if such assignee or transferee were Company.

8. Indulgences Not Waivers. No delay in the exercise of any right or remedy shall operate as a waiver of the such right or remedy, and no single or partial exercise by Company of any right or remedy shall preclude other or further exercise of such right or remedy or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Continuing Guaranty be binding upon Company, except as expressly set forth in a writing signed by Company. No action of Company permitted under this Continuing Guaranty shall in any way

affect or impair the rights of Company or the obligations of Guarantor under this Continuing Guaranty.

9. Financial Condition of Developer. Guarantor represents and warrants that it is fully aware of the financial condition of Developer, and Guarantor delivers this Continuing Guaranty based solely upon its own independent investigation of Developer's financial condition. Guarantor waives any duty on the part of Company to disclose to Guarantor any facts it may now or hereafter know about Developer, regardless of whether Company has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor. Guarantor knowingly accepts the full range of risk encompassed within a contract of "Continuing Guaranty" which includes, without limitation, the possibility that Developer will contract for additional obligations and indebtedness for which Guarantor may be liable hereunder.

10. Representation and Warranty. Guarantor represents and warrants to Company that this Continuing Guaranty has been duly executed and delivered by Guarantor and constitutes a legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

11. Binding Upon Successors; Death of Guarantor; Joint and Several.

11.1 This Continuing Guaranty shall inure to the benefit of Company and its successors and assigns.

11.2 All references herein to Developer shall be deemed to include its successors and permitted assigns, and all references herein to Guarantor shall be deemed to include Guarantor and Guarantor's successors and permitted assigns and, upon the death of a Guarantor, the duly appointed representative, executor or administrator of the Guarantor's estate. This Continuing Guaranty shall not terminate or be revoked upon the death of a Guarantor, notwithstanding any knowledge by Company of a Guarantor's death.

11.3 If there shall be more than one Guarantor (or more than one person or entity comprises Guarantor) under this Agreement, all of the Guarantor's obligations and the other obligations, representations, warranties, covenants and other agreements of any Guarantor under this Agreement shall be joint and several obligations and liabilities of each Guarantor.

11.4 In addition and notwithstanding anything to the contrary contained in this Continuing Guaranty or in any other document, instrument or agreement between or among any of Company, Developer, Guarantor or any third party, the obligations of Guarantor with respect to the Obligations shall be joint and several with each and every other person or entity that now or hereafter executes a guaranty of any of the Obligations separate from this Continuing Guaranty.

12. Governing Law. This Continuing Guaranty has been delivered and shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions)

of the State of Washington. Wherever possible each provision of this Continuing Guaranty shall be interpreted as to be effective and valid under applicable law, but if any provision of this Continuing Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Continuing Guaranty.

13. Dispute Resolution. Any dispute arising between the Guarantor and Company shall be governed by the dispute resolution provisions contained in the ADA which are expressly incorporated herein by reference. By signing below, Guarantor acknowledges that it has read the dispute resolution provisions contained in the ADA and hereby agrees to be bound by them. The Guarantor and Company agree that the dispute resolution provisions of the ADA will govern this Continuing Guaranty regardless of the earlier termination or expiration of the ADA.

14. ADVICE OF COUNSEL. GUARANTOR ACKNOWLEDGES THAT GUARANTOR HAS EITHER OBTAINED THE ADVICE OF COUNSEL OR HAS HAD THE OPPORTUNITY TO OBTAIN SUCH ADVICE IN CONNECTION WITH THE TERMS AND PROVISIONS OF THIS CONTINUING GUARANTY.

15. Entire Agreement. This Continuing Guaranty contains the complete understanding of the parties hereto with respect to the subject matter herein. Guarantor acknowledges that Guarantor is not relying upon any statements or representations of Company not contained in this Continuing Guaranty and that such statements or representations, if any, are of no force or effect and are fully superseded by this Continuing Guaranty. This Continuing Guaranty may only be modified by a writing executed by Guarantor and Company.

16. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

*[Paragraph 17 below may be required if Guarantor is a married individual who resides in one of the following states: Arizona, Idaho, New Mexico, Washington, and Wisconsin. Paragraph 17 will be modified according to the requirements of such state, and may be repeated as necessary for multiple individual married guarantors.]*

17. Obligations of Married Persons. \_\_\_\_\_ and \_\_\_\_\_ are married to each other, and each hereby agrees that this Continuing Guaranty benefits or is expected to benefit the marital community, and that under this Continuing Guaranty recourse may be had against the separate and community property of \_\_\_\_\_ *[Guarantor's name]*, but recourse may be had only against the community property of \_\_\_\_\_ *[spouse's name]*. \_\_\_\_\_ *[spouse's name]* is executing a Consent of Spouse solely in order to allow his or her interest in the marital residence to be used to satisfy the obligations under this Continuing Guaranty.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Guarantor has executed this Continuing Guaranty this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

"Guarantor"

\_\_\_\_\_

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

\_\_\_\_\_

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

*[A Consent of Spouse similar to that below may be required if Guarantor is a married individual who resides in one of the following states: Arizona, Idaho, New Mexico, Washington, and Wisconsin. The Consent of Spouse will be modified according to the requirements of such state, and may be repeated as necessary for multiple individual married guarantors.]*

CONSENT OF SPOUSE

\_\_\_\_\_ *[Guarantor's name]* and \_\_\_\_\_ *[spouse's name]* are married to each other. \_\_\_\_\_ *[spouse's name]* (a) consents to all of the terms and conditions of the foregoing Continuing Guaranty, (b) agrees that this Continuing Guaranty benefits or is expected to benefit the marital community, and (c) agrees that under this Continuing Guaranty recourse may be had against the separate and community property of \_\_\_\_\_ *[Guarantor's name]*, but recourse may be had only against the community property of \_\_\_\_\_ *[spouse's name]*. \_\_\_\_\_ *[spouse's name]* is executing this Consent solely in order to allow his or her interest in the marital residence to be used to satisfy the obligations under this Continuing Guaranty.

\_\_\_\_\_  
*[spouse's name]*

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

**EXHIBIT E**

**Form of Non-Disclosure and Non-Competition Agreement**



# GRAVITY®

## **FORM OF NON-DISCLOSURE AND NON-COMPETITION AGREEMENT**

*(to be signed by franchisee and its personnel)*

**THIS NON-DISCLOSURE AND NON-COMPETITION AGREEMENT** (this "**Agreement**") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ ("**Franchisee**"), and \_\_\_\_\_, who is an owner, manager, supervisor, member, partner, or a person in a managerial position with, Franchisee (the "**Member**").

### **RECITALS:**

Gravity Franchising LLC ("**Company**") owns a format and system (the "**System**") relating to the establishment and operation of "Gravity®" or "GC®" drive thru or café-drive thrus that provide coffee, energy drinks, other beverages, and certain food items and merchandise through the operation of a retail Gravity drive thru or café-drive thru (each, a "**Drive-Thru business**").

Company identifies Drive-Thru businesses by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including but not limited to the marks "GC®," "Gravity®" and "Stay Grounded®," and such other trade names, service marks, and trademarks as Company may hereafter designate for use in connection with the System (the "**Proprietary Marks**").

Company and Franchisee have executed a Franchise Agreement ("**Franchise Agreement**") granting Franchisee the right to operate a Drive-Thru business (the "**Business**") located at \_\_\_\_\_ (the "**Drive-Thru Location**") and to use the Proprietary Marks in connection therewith under the terms and conditions of the Franchise Agreement.

Member, by virtue of his or her position with Franchisee, will gain access to certain of Company's Confidential Information, as defined herein, and must therefore be bound by the same confidentiality and non-competition agreement that Franchisee is bound by.

**NOW THEREFORE, IN CONSIDERATION** of these premises, the conditions stated herein, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

**1. Confidential Information.** Member shall not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, or know-how concerning the methods of operation of the business franchised thereunder which may be communicated to Member or of which Member may be apprised by virtue of Franchisee's operation under the terms of the Franchise Agreement. Any and all information, knowledge, know-how, and techniques which Company designates as confidential shall be deemed

confidential for purposes of this Agreement, except information which Member can demonstrate came to his or her attention before disclosure thereof by Company; or which, at or after the time of disclosure by Company to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.

## **2. Covenants Not to Compete.**

(a) Member specifically acknowledges that, pursuant to the Franchise Agreement, and by virtue of his/her position with Franchisee, Member will receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Company and the System.

(b) Member covenants and agrees that during the term of the Franchise Agreement and Member's employment with, or ownership interest in Franchisee, except as otherwise approved in writing by Company, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity:

(1) Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to or have any interest in, either directly or indirectly, any business that predominantly prepares, produces or sells, at retail or wholesale, any type of coffee beverage, energy drink, tea, smoothies, or any other food product or featured menu item that is now or in the future an Authorized Gravity Coffee Product and Service ("**Competing Business**"). During the term of the Franchise Agreement and Member's employment with, or ownership interest in Franchisee, there is no geographical limitation on this restriction; or

(2) Divert or attempt to divert any present or prospective business or customer to any Competing Business by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks and the System.

(c) Member covenants and agrees that during the Post-Term Period (defined below), except as otherwise approved in writing by Company, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, own, maintain, operate, engage in, or have any interest in any Competing Business which business is, or is intended to be, located: (1) within a ten (10) mile straight-line radius from the front door of the Drive Thru Location, or (2) within a ten (10) mile straight-line radius from the front door of any Drive Thru business then existing, or in development. As used in this Agreement, the term "**Post-Term Period**" shall mean a continuous uninterrupted period of eighteen (18) months from the date of: (1) a transfer as contemplated under Section 13.2 of the Franchise Agreement; (2) expiration or termination of the Franchise Agreement (regardless of the cause for termination); (3) termination of Member's employment with Franchisee; and/or (4) a final order of a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to the enforcement of this

Agreement; either directly or indirectly (through, on behalf of, or in conjunction with any persons, partnership, corporation or entity).

**3. Injunctive Relief.** Member acknowledges that any failure to comply with the requirements of this Agreement will cause Company irreparable injury, and Member agrees to pay all costs (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) incurred by Company in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

**4. Severability.** All agreements and covenants contained herein are severable. If any of them, or any part or parts of them, shall be held invalid by any court of competent jurisdiction for any reason, then Member agrees that the court shall have the authority to reform and modify that provision in order that the restriction shall be the maximum necessary to protect Company's and/or Member's legitimate business needs as permitted by applicable law and public policy. In so doing, Member agrees that the court shall impose the provision with retroactive effect as close as possible to the provision held to be invalid.

**5. Delay.** No delay or failure by Company or Franchisee to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right provided herein, and no waiver of any violation of any terms and provisions of this Agreement shall be construed as a waiver of any succeeding violation of the same or any other provision of this Agreement.

**6. Choice of Law and Forum.** This Agreement and any claim or controversy arising out of, or relating to, rights and obligations of the parties under this Agreement and any other claim or controversy between the parties shall be governed by and construed in accordance with the laws of the state in which the Business is or was located without regard to conflicts of laws principles. The parties agree that, to the extent any disputes cannot be resolved directly between them, each party may file suit against the other party only in the federal or state court having jurisdiction where the Business is or was located. Each party consents to the personal jurisdiction of those courts over themselves and to venue in those courts.

**7. Third-Party Beneficiary.** Member hereby acknowledges and agrees that Company is an intended third-party beneficiary of this Agreement with the right to enforce it, independently or jointly with Franchisee.

**IN WITNESS WHEREOF**, Franchisee and Member attest that each has read and understands the terms of this Agreement, and voluntarily signed this Agreement on the date first written above.

**FRANCHISEE**

**MEMBER**

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

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

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

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

**EXHIBIT F**

**Franchise Application and Confidentiality Agreement**

# GRAVITY®

## CONFIDENTIAL Franchise Application

Each person who has expressed an interest in becoming a franchisee of Gravity Franchising LLC (the "Company") is required to answer this Application. The purpose of the Application is to determine, to the satisfaction of the Company, that an applicant is qualified to become a franchisee. The acceptance of this Application by the Company does not constitute the granting of a franchise, which the Company can grant or deny in its sole but absolute discretion.

If you have any questions regarding the information sought herein, please contact the Company. The completed Application should be returned promptly to the Company.

Your answers will be kept strictly confidential. However, by signing the Application you agree that the Company may present this Application to such parties as it deems appropriate and may seek to check your credit.

If the answer to any question is "none" or "does not apply," please so state.

### **PLEASE PRINT**

1. Name: \_\_\_\_\_ Age: \_\_\_\_\_

2. Home Address: \_\_\_\_\_

3. Mobile Telephone No.: \_\_\_\_\_

4. Business Address: \_\_\_\_\_

5. Business Telephone No.: \_\_\_\_\_

6. Social Security No.: \_\_\_\_\_

7. Location of Desired Franchise: \_\_\_\_\_

8. If you intend to use a specific property, please answer the following questions. If you do not have a specific property, go on to Question 9.

A. Do you own the property or lease it? \_\_\_ *Lease* \_\_\_ *Own*

B. Describe the Property: \_\_\_\_\_

i. Dimensions of the store: \_\_\_\_\_

ii. Age of store? \_\_\_\_\_

iii. If part of a shopping center, indicate the name and business of the other tenants

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

iv. Available on-site parking? *Yes or No*

v. Are you aware of any restriction on your use of this property as a restaurant? [*Yes or No*]

C. If the property is subject to a lease provide the following information (*or attach copy of lease*):

Name and Address of Landlord: \_\_\_\_\_

Name and Address of Tenant: \_\_\_\_\_

Term of Lease: From \_\_\_\_\_ to \_\_\_\_\_

Monthly base rent: \$ \_\_\_\_\_

Monthly NNs: \$ \_\_\_\_\_

D. If you own the property, provide the following information:

Name of title holder: \_\_\_\_\_

When was title acquired: \_\_\_\_\_

What is your total monthly cost for utilities, garbage, maintenance, insurance, real estate taxes, and repairs: \$ \_\_\_\_\_

9. Marital Status: \_\_\_\_\_

No. of Dependents: \_\_\_\_\_

10. The state(s) in which you maintained your residence during the past 2 years: \_\_\_\_\_  
\_\_\_\_\_

11. Describe the extent of your formal education and list each degree received, the conferring institution and the date of the degree: \_\_\_\_\_  
\_\_\_\_\_

12. List the name and address of each employer you have had during the past 5 years, the position you held and the dates of service (*or attach CV or resume*):

<u>Employer Name &amp; Address</u>	<u>Position Held</u>	<u>Dates of Service</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

13. Describe your experience in business matters (*or attach bio*).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Please estimate the following (*or attach bank statements, tax returns, or financials*):

- (a) Net Worth (exclude value of home): \$
- (b) Total Indebtedness: \$
- (c) Annual Salary: \$
- (d) Gross Income for past 2 years by year: \$
- (e) Estimated Gross Income for current year: \$

15. List examples of your other investments (stock, bonds, real estate, etc.):

<u>TYPE OF INVESTMENT</u>	<u>AMOUNT INVESTED</u>
---------------------------	------------------------



16. Please complete the following banking information:

Name of Bank: \_\_\_\_\_

Address of Bank: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

17. If you have ever been a franchisee for any other company please answer the following:

Name of Franchisor: \_\_\_\_\_

Business: \_\_\_\_\_

Dates of Franchise: \_\_\_\_\_

Reason for Termination: \_\_\_\_\_

18. If you have any unanswered questions or wish to make any statement regarding your background or experience, please insert it here.

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

19. If you are going to borrow all or part of the funds necessary to open and operate the franchise, please complete the following:

A. Insert Name, Address and Telephone Number of Lender: \_\_\_\_\_

\_\_\_\_\_

B. Terms of the Loan: \_\_\_\_\_

C. Provide the following information (*or attach financial statement*):

ASSETS

Cash	\$
Checking Accounts	\$
Savings Accounts	\$
Marketable Securities	\$
Life Insurance Net Cash Value	\$
Non -Marketable Securities	\$

Real Estate Owned	\$
Vested Interest in Retirement Fund	\$
Net Worth of Business Owned	\$
Automobiles/Pleasure Craft Owned	\$
Furniture and Personal Property	\$
Notes Receivable	\$
Other Assets	\$
TOTAL ASSETS	\$
<u>LIABILITIES</u>	
Installment Debt Payable	\$
Other Unsecured Loans	\$
Real Estate Loans	\$
Automobiles/Pleasure Craft Loans	\$
Other Secured Loans	\$
Other Liabilities	\$
TOTAL LIABILITIES	\$
Net Worth	\$
TOTAL LIABILITIES & NET WORTH	\$

21. Please answer the following: *YES or NO*

	<u>APPLICANT</u>	<u>CO-APPLICANT</u>
Have you any outstanding judgments? In the last 7 years?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Have you been declared bankrupt?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Have you had property foreclosed upon or given title or deed in lieu thereof?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Are you a co-maker or endorser on a note?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Are you a party in a law suit?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Are you obligated to pay alimony, child support or separate maintenance?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Will any part of your cash payment be borrowed?	<i>[Yes/No]</i>	<i>[Yes/No]</i>
Do you or any member of your family have diplomatic status?	<i>[Yes/No]</i>	<i>[Yes/No]</i>

If a "Yes" answer is given to a question in this column, explain on a separate sheet of paper and attach to this Application.

22. Representations of the Applicant.

In order to induce the Company to accept this Application, the undersigned hereby represents and warrants to, and covenants and agrees with, the Company as follows:

- (a) All information provided to the Company by the undersigned, regarding the background, experience and financial condition of the undersigned, is currently true and complete. The undersigned agrees to advise the Company promptly of any change through the Closing Date with respect to this information.
- (b) The undersigned understands that a franchise is a speculative investment, which entails risk.
- (c) The undersigned has been advised to retain legal counsel to review all phases of the transaction and the Franchise Disclosure Document.

The undersigned confirms the accuracy of all of the information contained herein.

By checking this box, I give the Company my express consent to conduct a criminal background check and credit check.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Co-applicant Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# GRAVITY®

## CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of \_\_\_\_\_, 20\_\_\_, by and between Gravity Franchising LLC., a Washington limited liability company ("**Company**"), and \_\_\_\_\_ ("**Applicant**").

Applicant has applied to become a franchisee of Company and, in connection with the application process, may become privy to certain information regarding the business of Company and its Gravity®/GC® Coffee drive thrus and its franchise locations, that Company classifies and protects as confidential and proprietary. Company is willing to divulge such information (as and to the extent it deems appropriate in connection with the Applicant's application) only if the Applicant agrees to protect the confidentiality of such information.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

1. **Definitions.** In this Agreement, unless something in the subject matter or context is inconsistent therewith:

**"Confidential Information"** means all information relating to Company, its affiliates, and their respective businesses and affairs, including all information related to the Gravity®/GC® Coffee drive-thru franchise opportunity, furnished by or on behalf of Company or its affiliates or its franchisees to Applicant or any of Applicant's Representatives, regardless of the manner in which it is furnished or obtained by Applicant or any of its Representatives, but does not include information that: (a) is already published or otherwise readily available to the public, other than by a breach of this Agreement; (b) is rightfully received by Applicant from a third party not in breach of any obligation of confidentiality; (c) is proven to be known by Applicant on a non-confidential basis prior to disclosure hereunder; or (d) is produced in compliance with applicable law or a court order (or similar legal process), provided Applicant complies with the provisions of Section 2.5.

**"Purpose"** means Applicant's evaluation of the opportunity to purchase a Gravity®/GC® Coffee drive-thru or area development franchise and related discussions between Company and Applicant.

**"Representatives"** means, in respect of either party, the directors, officers, employees, agents and advisors (including financial advisors and legal counsel) of that party and the directors, officers, employees and agents of any such agent or advisor.

2. **Confidential Information.**

2.1 Disclosure of Confidential Information. Nothing in this Agreement obligates Company to disclose any particular Confidential Information.

2.2 Use of Confidential Information. Applicant shall use all reasonable efforts to protect Company's interest in the Confidential Information and keep it confidential, using a standard of care no less than the degree of care that Applicant would be reasonably expected to employ for its own similar confidential information, but in all instances no less than a reasonable standard of care. Applicant will use the Confidential Information solely for the Purpose. Applicant will not disclose the Confidential Information to any person other than Applicant's Representatives who have a need to know the Confidential Information for the Purpose. Applicant will:

(a) prior to disclosing the Confidential Information to any such Representative, issue appropriate instructions to such Representative with respect to the restrictions that apply to the Confidential Information and obtain the Representative's agreement to receive and use the Confidential Information on a confidential basis on the same conditions as contained in this Agreement and otherwise to comply with the terms hereof;

(b) when requested by Company, promptly provide a list containing the full name, title, location and function of each person having access to or copies of the Confidential Information; and

(c) be responsible for any and all breaches of the terms of this Agreement by its Representatives.

The Confidential Information will not be copied, reproduced in any form or stored in a retrieval system or database by Applicant without the prior written consent of Company, except for such copies and storage as may be required by Applicant or its Representatives for the Purpose. Applicant will take reasonable security measures and use care to preserve and protect the secrecy of, and to avoid the disclosure or use of, the Confidential Information. Applicant will promptly advise Company in writing of any misappropriation or misuse by any person of the Confidential Information that may come to its attention.

2.3 Return of Confidential Information. Upon the request of Company, any Confidential Information it has furnished to Applicant will be promptly returned (accompanied by all copies thereof made by Applicant and its Representatives) and deleted from all retrieval systems and databases by Applicant. With the consent of Company in writing, any Confidential Information that would otherwise be returned to Company may instead be destroyed by Applicant. Applicant will deliver to Company a certificate by an officer of Applicant of such return (or destruction) and deletion.

## 2.4 Rights in Confidential Information.

(a) All right, title and interest in and to the Confidential Information will remain the exclusive property of Company and the Confidential Information will be held in trust and confidence by Applicant for Company. No interest, license or any right respecting the Confidential Information, other than expressly set out herein, is granted to Applicant under this Agreement by implication or otherwise. Nothing herein contained will be deemed to limit or restrict the rights of Company to assert claims for patent or copyright infringement against Applicant.

(b) This Agreement does not constitute any representation, warranty or guarantee with respect to the accuracy or completeness of any Confidential Information or whether the Confidential Information infringes any rights of third parties. Company will not be held liable for any errors or omissions in the Confidential Information or the use or the results of the use of the Confidential Information.

2.5 Legally Required Disclosure. If Applicant is requested pursuant to, or required by, applicable law or a court order (or similar legal process) to disclose any Confidential Information, Applicant will provide Company with prompt notice of such request or requirement in order to enable Company to seek an appropriate protective order or other remedy or to waive compliance with the terms of this Agreement or both. Applicant will not oppose any action by Company to seek such a protective order or other remedy. If, failing the obtaining of a protective order or other remedy by Company, such disclosure is required, Applicant will use its best efforts to ensure that the disclosure will be afforded confidential treatment.

## 3. General.

3.1 Survival. Due to the valuable and proprietary nature of the Confidential Information to Company the obligations assumed by Applicant hereunder shall (a) be unlimited in time or territory, or, (b) if it is held by a court of competent jurisdiction that this provision is illegal, invalid or unenforceable, shall apply only within those territories within which Company then carries on business and only up to ten (10) years after disclosure of such Confidential Information.

3.2 Relationship of the Parties. Nothing contained in this Agreement will be deemed to create any partnership, joint venture or relationship of principal and agent between the parties or to provide either party with the right, power or authority, whether express or implied, to create any duty or obligation on behalf of the other party.

3.3 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement.

3.4 Amendments and Waivers. No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

3.5 Assignment. This Agreement may not be assigned by either party without the other party's prior written consent. This Agreement will inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties

3.6 Severability. If any provision of this Agreement is held to be invalid or unenforceable in whole in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

3.7 Remedies. Applicant agrees that monetary damages would not alone be sufficient to remedy any breach by Applicant or Applicant's Representatives of any term or provision of this Agreement and that Company will also be entitled to equitable relief, including injunction and specific performance, in the event of any breach hereof and in addition to any other remedy available pursuant to this Agreement or at law or in equity. Applicant further waives any requirement for the deposit of security or posting of any bond in connection with any equitable remedy.

3.8 Governing Law; Venue. This Agreement is made under, and shall be construed and enforced in accordance with, the laws of the State of Washington. The parties agree that the exclusive venue for disputes between them may be set in Seattle, Washington, and the parties each waive any objection they may have to the personal jurisdiction of, or venue in, such courts.

3.9 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original and both of which taken together will be deemed to constitute one and the same instrument.

3.10 Electronic Execution. Delivery of an executed signature page to this Agreement by either party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized representatives to execute this Agreement as of the date set forth above.

**GRAVITY FRANCHISING LLC**

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

**APPLICANT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name Date

**APPLICANT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name Date



**EXHIBIT G**

**Franchisee Closing Questionnaire**

# GRAVITY®

## GRAVITY FRANCHISING LLC CLOSING QUESTIONNAIRE

The undersigned (“**Franchisee**”) desires to enter into a [**Franchise Agreement**] [**Area Development Agreement**] with Gravity Franchising LLC (“**Company**”). Company requires that Franchisee complete this questionnaire in order to enable Company to confirm that it and its employees and representatives have fully complied with all applicable franchise registration and disclosure laws.

1. Full name of Franchisee: \_\_\_\_\_
2. Franchisee Address: \_\_\_\_\_  
\_\_\_\_\_
3. Franchisee is: (Check applicable box)
  - An individual
  - A limited liability company
  - A corporation
  - A general partnership
  - A limited partnership
4. If Franchisee is not an individual, indicate the capacity in which the individual signing this questionnaire on behalf of Franchisee is authorized to act on behalf of Franchisee: (Check applicable box)
  - Officer (insert title): \_\_\_\_\_
  - Manager: \_\_\_\_\_
  - General Partner: \_\_\_\_\_
  - Other (please explain): \_\_\_\_\_
5. If Franchisee is not an individual, has the individual signing the Agreements (see Question 10 below) been duly authorized to sign on behalf of the Franchisee?  
 Yes  No.

6. Did Franchisee receive a copy of Company's Franchise Disclosure Document at least 14 calendar days prior to signing the Franchise Agreement or making any payment to Company?  Yes  No. If "No", please comment:

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7. Did Franchisee request a copy of Company's Franchise Disclosure Document before it was provided to Franchisee by Company?  Yes  No

If "Yes", did Company provide Franchisee a copy of Company's Franchise Disclosure Document within a reasonable amount of time?  Yes  No

If "No", please explain: \_\_\_\_\_

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8. Did Franchisee give Company a signed and accurate receipt for the copy of the Franchise Disclosure Document?  Yes  No.

9. Were all "Franchise Sellers"<sup>1</sup> listed on the receipt you returned, or on a copy later provided to you by Company after you returned the receipt?  Yes  No. If no, please contact Wendy Borgert at (253) 447-8740.

10. Below, please indicate the contracts proposed to be executed by Franchisee (collectively referred to as the "**Agreements**"):

- |   |  |
|---|--|
| <input type="checkbox"/> Area Development Agreement | <input type="checkbox"/> Franchise Agreement |
| <input type="checkbox"/> Personal Guaranty          | <input type="checkbox"/> General Release     |
| <input type="checkbox"/> Confidentiality Agreement  |  |

11. If any changes to the Agreements were made by Company, other than at Franchisee's request, did Franchisee receive a copy of the final form of each Agreement at least 7 calendar days before it was executed?  Yes  No. If "No", please comment:

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<sup>1</sup> A franchise seller is a person that offers for sale, sells, or arranges for the sale of a franchise.

12. Did Franchisee carefully review and understand the Franchise Disclosure Document and the Agreements?  Yes  No. If "No", please explain:

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13. Did Franchisee ask Company any questions concerning the Franchise Disclosure Document or Agreements that were not satisfactorily answered?  Yes  No. If "Yes", please explain:

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14. Has any franchise seller or other person speaking on behalf of Company made any statement or promise to Franchisee (or to the best of Franchisee's knowledge, information and belief, to any person or entity on Franchisee's behalf) concerning:

A. The actual or possible revenues, profits or operating costs of a "GRAVITY" Drive-Thru that is contrary to, or different from, the information contained in the Franchise Disclosure Document?  Yes  No

B. The amount of money Franchisee may earn in operating a "GRAVITY" Drive-Thru that is contrary to, or different from, the information contained in the Franchise Disclosure Document?  Yes  No

C. The costs Franchisee may incur in operating a "GRAVITY" Drive-Thru that is contrary to, or different from, the information contained in the Franchise Disclosure Document?  Yes  No

D. The likelihood of success that Franchisee should or might expect to achieve from operating a "GRAVITY" Drive-Thru?  Yes  No

E. Whether any parent of Company or any other person will financially back Company?  Yes  No

15. If the answer to any part of question 14 is "Yes", who made the statement or representation, when, and where? Please provide full details in the following space (attach additional pages if necessary).

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16. Has any employee, representative or other person speaking on behalf of Company made any statement, agreement or promise to Franchisee (or, to the best of Franchisee's knowledge, information and belief, to any person or entity on Franchisee's behalf) concerning the advertising, marketing, training, support, service or assistance that Company will furnish to Franchisee that is contrary to, or different from, the information contained in the Franchise Disclosure Document?  Yes  No

17. Before today, has Franchisee entered into any binding agreement with Company concerning Franchisee's investment in the "GRAVITY" Drive-Thru franchise or area development agreement which Franchisee is presently contemplating?  Yes  No

18. Before today, has Franchisee paid any money to Company relating to Franchisee's investment in the "GRAVITY" Drive-Thru franchise or area development agreement which Franchisee is presently contemplating?  Yes  No

19. If Franchisee answered "Yes" to any of questions 16-18, provide a full explanation of each "Yes" answer in the following space (attach additional pages if necessary).

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20. Does Franchisee understand that is not granted any territorial rights under a Franchise Agreement?  Yes  No  N/A

21. If Franchisee is signing an Area Development Agreement, does Franchisee understand that the territorial rights granted by the Area Development Agreement are subject to significant limitations and exceptions?  Yes  No  N/A

22. Does Franchisee understand that the Agreements contain the entire agreement between Franchisee and Company concerning the rights for the "GRAVITY" Drive-Thru franchise or area development agreement, and that any prior oral or written statements which are not contained in either the Agreements or the Franchise Disclosure Document will not be binding on Company?  Yes  No

23. If Franchisee answered "No" to any of questions 20-22, provide a full explanation of each "No" answer in the following space (attach additional pages if necessary).

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24. Did Franchisee contact other area developers or franchisees of Company or Gravity Franchising Company to discuss Franchisee's possible execution of the franchise agreement or area development agreement?  Yes  No

25. If the answer to question 24 was "Yes", please identify such developers or franchisee(s) (attach additional pages if necessary):

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26. Does Franchisee understand that the success or failure of its "GRAVITY" Drive-Thru will depend in large part on its skills and abilities, competition from other businesses, interest rates, inflation, labor and supply costs, lease terms and other economic and business factors?  Yes  No

Franchisee understands that Company is acting in reliance on the truthfulness and completeness of Franchisee's responses to the questions above in entering into the **[Franchise Agreement] [Area Development Agreement]** with Franchisee. FRANCHISEE ACKNOWLEDGES AND AGREES THAT IN THE EVENT THAT ANY DISPUTE ARISES, THIS QUESTIONNAIRE SHALL BE ADMISSIBLE AS EVIDENCE IN ANY LEGAL ACTION OR ARBITRATION PROCEEDING, AND FRANCHISEE HEREBY WAIVES, TO THE FULLEST EXTENT PERMISSIBLE UNDER THE LAW, ANY OBJECTION TO SUCH ADMISSION OF THIS QUESTIONNAIRE.

*[Signature Page Follows]*

**Certification**

I, \_\_\_\_\_, certify under penalty of perjury under the laws of the United States of America that the foregoing answers to this Closing Questionnaire are true and correct. I further certify that if I am signing as a representative of an entity (e.g., corporation, or limited liability company) that I am authorized to sign this Closing Questionnaire on behalf of the entity.

Executed this \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.  
(Day) (Month) (Year)

\_\_\_\_\_  
(Signature of Franchisee authorized representative)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Name of Franchisee, if an entity)

**EXHIBIT H**

**Sample General Release**



# GRAVITY®

[FORM OF]

## GENERAL RELEASE

THIS GENERAL RELEASE ("**Release Agreement**") is effective as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ ("**Effective Date**") by and among **Gravity Franchising LLC** ("**Company**"), \_\_\_\_\_ ("**Franchisee**"), \_\_\_\_\_ ("**Affiliate[s]**") and \_\_\_\_\_ ("**Owner**" and together with Franchisee and Affiliate[s], jointly and severally, "**Releasor**").

## RECITALS

**[Alt. 1]A.** Company and Franchisee are parties to **[that][those]** certain Franchise Agreement[s], dated \_\_\_\_\_ (the "**Transaction Document[s]**");

**[Alt. 2]A.** Company and Franchisee are parties to **[that][those]** certain Area Development Agreement[s], dated \_\_\_\_\_ (the "**Transaction Documents[s]**");

**[Alt. 3]A.** Company and Franchisee are parties to that certain Area Development Agreement[s], dated \_\_\_\_\_, and those certain Franchise Agreement[s], dated \_\_\_\_\_ (collectively, the "**Transaction Documents[s]**");

B. Franchisee desires to **[assign the Transaction Document[s]] [enter into a Franchise Agreement with Company]**; and

C. This Release Agreement has been requested at a juncture in the relationship of the parties where the Company is considering either a change or an expansion of the relationship between the parties and/or their affiliates. The Company is unwilling to make the anticipated change or expansion in the relationship of the parties unless it is certain that it is proceeding with a "clean slate" and that there are no outstanding grievances or Claims against it. Releasor, therefore, gives this Release Agreement as consideration for receiving the agreement of the Company to an anticipated change or expansion of the relationship between the parties. Releasor acknowledges that this Release Agreement is intended to wipe the slate clean.

## AGREEMENT

NOW, THEREFORE, in consideration of the premises set forth above, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Releasor and Company hereby agree as follows:

1. Definitions. As used in this Release Agreement, the following capitalized terms have the meanings ascribed to them.

1.1 **"Claims"** means all actual and alleged claims, demands, Losses, charges, covenants, responsibilities, warranties, obligations, oral and written agreements, debts, violations, suits, counterclaims, cross claims, third party claims, accounts, liabilities, costs, expenses (including attorneys' fees and court costs), rights to terminate and rescind, rights of action and causes of action of any kind or nature, which in any way relate to or arise from or in connection with the Transaction Documents.

1.2 **"Company Released Parties"** means Company and each of its Constituents.

1.3 **"Constituents"** means past, present and future affiliates, parents, subsidiaries, divisions, partners, owners, shareholders, members, trustees, receivers, executors, representatives, administrators, and the respective officers, directors, agents, managers, principals, members, employees, insurers, successors, assigns, representatives and attorneys of each of them.

1.4 **"Excluded Matters"** means **[(i)]** Company's continuing contractual obligations which arise or continue under and pursuant to the Transaction Document[s] on and after the date of this Release Agreement; **and (ii) if this Release Agreement is entered into in connection with the grant of a franchise or license, this Release Agreement is not intended to release or waive the provisions of any applicable franchise registration or disclosure law in connection with the grant of that franchise or license.]**

1.5 **"Losses"** means all damages, liabilities, accounts, suits, awards, judgments, payments, diminutions in value and other losses, costs and expenses, however suffered or characterized, including interest, costs and expenses of investigating and prosecuting any Claim, reference proceeding, lawsuit, arbitration or any appeal; all associated actual attorneys' fees, whether or not the Claim, reference proceeding, lawsuit or arbitration is ultimately defeated and, all amounts paid to compromise or settle of any Claim, reference proceeding, lawsuit or arbitration.

2. General Release. Releasor for itself and its Constituents, hereby releases and forever discharges the Company Released Parties from any and all Claims, whether known or unknown, based upon anything that has occurred or existed, or failed to occur or exist, from the beginning of time to the Effective Date, except for the Excluded Matters and the obligations under this Release Agreement.

### **[SECTION 3 TO BE USED IF ANY RELEASOR IS LOCATED IN CALIFORNIA]**

3. Waiver of California Civil Code Section 1542.

3.1 Releasor, for itself and its Constituents, acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

3.2 With respect to those Claims being released pursuant to Section 2, Releasor, for itself and its Constituents, acknowledges that it is releasing unknown claims and waives all rights it has or may have under California Civil Code Section 1542 or any other statute or common law principle of similar effect. For purposes of this Section 3, Releasor shall be considered to be a creditor of the Company Released Parties, and each of them.

3.3 Releasor acknowledges that this general release extends to claims which Releasor does not know or suspect to exist in favor of Releasor at the time of executing this Release Agreement, which if known by Releasor may have materially affected its decision to enter into this Release Agreement. It is understood by Releasor that the facts in respect of which this Release Agreement is given may hereafter turn out to be other than or different from the facts in that connection known or believed to be true. Releasor therefore, expressly assumes the risk of the facts turning out to be so different and agrees that this Release Agreement shall be in all respects effective and not subject to termination or rescission by any such difference in facts.

4. Representations and Warranties. Releasor represents and warrants to Company that, in entering into this Release Agreement, it (i) is doing so freely and voluntarily upon the advice of counsel and business advisor of its own choosing (or declined to do so, free from coercion, duress or fraud); (ii) has read and fully understands the terms and scope of this Release Agreement; (iii) realizes that it is final and conclusive, and intends to be final and conclusive, as to the matters set forth in this Release Agreement; and (iv) has not assigned, transferred, or conveyed to any third party all or any part of or partial or contingent interest in any of the Claims which are called for to be released by this Release Agreement, that it is aware of no third party who contends or claims otherwise, and that it shall not purport to assign, transfer, or convey any such claim in the future.

5. Covenants Not to Sue. Releasor irrevocably covenants to refrain and cause each of its Constituents to refrain from asserting any Claim, or commencing, initiating or causing to be commenced, any proceeding of any kind against any Company Released Party, based upon any matter purported to be released pursuant to this Release Agreement.

6. Indemnity. Without in any way limiting any of the rights and remedies otherwise available to any Company Released Party, Releasor shall defend, indemnify and hold harmless each Company Released Party from and against all Claims whether or not involving third party Claims, arising directly or indirectly from or in connection with (i) the assertion by or on behalf of Releasor or its Constituents of any Claim or other matter purported to be released pursuant to this Release Agreement; (ii) the assertion by any third party of any Claim against any Company Released Party which Claim arises from, or in connection with, any Claim or other matter purported to be released pursuant to this Release Agreement; and (iii) any breach of representations, warranties or covenants by Releasor.

7. Miscellaneous.

7.1 This Release Agreement cannot be modified, altered or otherwise amended except by an agreement in writing signed by all of the parties hereto.

7.2 This Release Agreement, together with the agreements referenced in this Release Agreement, constitute the entire understanding between and among the parties with respect to the subject matter of this Release Agreement. This Release Agreement supersedes any prior negotiations and agreements, oral or written, with respect to its subject matter. No representations, warranties, agreements or covenants have been made with respect to this Release Agreement, and in executing this Release Agreement, none of the parties is relying upon any representation, warranty, agreement or covenant not set forth in this Release Agreement.

7.3 This Release Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

7.4 This Release Agreement shall be binding upon and inure to the benefit of the parties to this Release Agreement and their respective successors and permitted assigns.

7.5 All terms used in any one number or gender shall extend to mean and include any other number and gender as the facts, context, or sense of this Release Agreement may require. Neither this Release Agreement nor any uncertainty or ambiguity in this Release Agreement shall be construed or resolved against the drafter, whether under any rule of construction or otherwise. On the contrary, this Release Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the parties. If any provision of this Release Agreement is susceptible to two or more constructions, one of which would render the provision enforceable and the other or others of which would render the provision unenforceable, then the provision shall be given the meaning that renders it enforceable.

7.6 Any provision of this Release Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

7.7 Each of the parties acknowledges that it had the right and opportunity to seek independent legal counsel of its own choosing in connection with the execution of this Release Agreement, and each of the parties represents that it has either done so or that it has voluntarily declined to do so, free from coercion, duress or fraud.

7.8 This Release Agreement shall be governed by and construed in accordance with the internal laws of the State of Washington, without reference to conflict of law principles.

8. Dispute Resolution. Any dispute arising between a Releasor and Company shall be governed by the dispute resolution provisions contained in the most recently signed Transaction

Document, which are expressly incorporated herein by reference. By signing below, each Releasor acknowledges that it has read the dispute resolution provisions contained in the most recently signed Transaction Document and hereby agrees to be bound by them. Each Releasor and Company agree that the dispute resolution provisions of the most recently signed Transaction Document will govern this Release Agreement regardless of the earlier termination or expiration of such Transaction Document.

\_\_\_\_\_  
INITIALS

\_\_\_\_\_  
INITIALS

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have executed this Release Agreement as of the date set forth above.

**"Company":**

Gravity Franchising LLC

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

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

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

**"Releasor":**

**"Franchisee"**

\_\_\_\_\_

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

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

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

**"Affiliate"**

\_\_\_\_\_

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

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

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

**"Owner":**

\_\_\_\_\_

\_\_\_\_\_, an individual

**[Others:]**

\_\_\_\_\_

\_\_\_\_\_, an individual

**EXHIBIT I**

**Franchisee Information**

**List of Gravity Coffee Franchisees  
Operating as of  
April 30, 2021**

None

**List of Gravity Coffee Franchisees  
Who Signed a Franchise Agreement But the Drive-Thru Was Not Operating  
as of April 30, 2021**

None

**Certain Former Gravity Coffee Franchisees**

The following franchisees had a franchised business terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the fiscal year ended April 30, 2021:

None

**Gravity Coffee Franchisees  
With Whom We Have Not Communicated Within the last 10 Weeks**

None



**EXHIBIT J**

**Financial Statements**

# GRAVITY FRANCHISING LLC

## FINANCIAL STATEMENTS

August 31, 2021 and April 30, 2021

**GRAVITY FRANCHISING LLC**

**Financial Statements**

**August 31, 2021 and April 30, 2021**

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**INDEPENDENT AUDITORS' REPORT**

September 24, 2021

To the Member of  
Gravity Franchising LLC  
Bonney Lake, Washington

We have audited the accompanying financial statements of Gravity Franchising LLC (the Company), which comprise the balance sheets as of August 31, 2021 and April 30, 2021 and the related statements of operations, changes in member's equity (deficit), and cash flows for the four-month period ended August 31, 2021 and the year ended April 30, 2021, and the related notes to the financial statements.

**Management's Responsibility for the Financial Statements**

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

**Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Gravity Franchising LLC as of August 31, 2021 and April 30, 2021, and the results of its operations and cash flows for the four-month period ended August 31, 2021 and the year ended April 30, 2021, in accordance with accounting principles generally accepted in the United States of America.

*Sweeney Conrad, P.S.*

Sweeney Conrad, P.S.  
Kirkland, Washington

**Gravity Franchising LLC**  
**Balance Sheets**

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	August 31, 2021	April 30, 2021
<b>ASSETS</b>		
Current assets:		
Cash	\$ 208,605	\$ 555
Total current assets	<u>\$ 208,605</u>	<u>\$ 555</u>
<b>LIABILITIES AND STOCKHOLDER'S EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 23,658	\$ 40,256
Total current liabilities	<u>23,658</u>	<u>40,256</u>
Member's equity (deficit)	<u>184,947</u>	<u>(39,701)</u>
Total liabilities and member's equity	<u>\$ 208,605</u>	<u>\$ 555</u>

See accompanying notes to financial statements

## Gravity Franchising LLC

### Statements of Operations

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	Four-month period ended August 31, 2021	Year ended April 30, 2021
Income:		
Franchise fee income	\$ -	\$ -
Total income	-	-
Operating expenses:		
Professional fees	70,402	247,044
Advertising and promotion	3,950	52,962
Other	-	4,213
Total operating expenses	74,352	304,219
Net loss	\$ (74,352)	\$ (304,219)

See accompanying notes to financial statements

**Gravity Franchising LLC**  
**Statement of Changes in Member's Equity (Deficit)**

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Member's equity, April 30, 2020	\$ 105,292
Contributions	159,226
Net loss	<u>(304,219)</u>
Member's deficit, April 30, 2021	<u>\$ (39,701)</u>
Contributions	299,000
Net loss	<u>(74,352)</u>
Member's equity, August 31, 2021	<u>\$ 184,947</u>

See accompanying notes to financial statements

**Gravity Franchising LLC**  
**Statements of Cash Flows**

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	Four-month period ended August 31, 2021	Year ended April 30, 2021
<b>Operating activities:</b>		
Net loss	\$ (74,352)	\$ (304,219)
Changes in operating liabilities:		
Accounts payable	(16,598)	40,256
Net cash used in operating activities	(90,950)	(263,963)
<b>Financing activities:</b>		
Contributions	299,000	159,226
Net cash provided by financing activities	299,000	159,226
Net increase (decrease) in cash	208,050	(104,737)
Cash, beginning of year	555	105,292
Cash, end of year	\$ 208,605	\$ 555

See accompanying notes to financial statements



# GRAVITY FRANCHISING LLC

## Notes to Financial Statements

August 31, 2021 and 2020

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### NOTE 1 – SUMMARY OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES

#### Nature of operations

Gravity Franchising LLC (the Company) was incorporated under the laws of the State of Washington in 2018 as a limited liability company. The Company's planned principal operations are to offer franchise agreements for Gravity Drive Thrus (which may also operate under the name GC). Gravity Drive Thrus provide coffee, energy drinks, other full-flavored and diverse handcrafted beverages, certain food items and merchandise through the operation of a retail Gravity drive thru or café-drive thru.

#### Basis of accounting

The financial statements and accompanying notes are prepared in accordance with accounting principles generally accepted in the United States of America (GAAP).

#### Use of estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results may differ from those estimates.

#### Cash

The Company maintains cash in bank accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses on such accounts and believes it is not exposed to any significant risk on cash balances.

#### Income taxes

The Company is not a taxpaying entity for federal income tax purposes, and thus, no federal income tax expense or benefit has been recorded in the financial statements. Any tax liability or benefit associated with the Company's income or loss will flow directly to the member.

#### Advertising expense

The Company expenses all advertising costs when incurred. Total advertising expense amounted to approximately \$4,000 for the four-month period ended August 31, 2021 and \$53,000 for the year ended April 30, 2021.

## **NOTE 1 – SUMMARY OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES (continued)**

### **Subsequent events**

The date to which events occurring after August 31, 2021 have been evaluated for possible adjustment to the financial statements or disclosure therein is September 24, 2021, which is the date on which the financial statements were available to be issued.

## **NOTE 2 – RELATED PARTY TRANSACTIONS**

WCA Incorporated (WCA), a related party through common ownership, provides certain consulting services to the Company. Consulting expense incurred from WCA for the four-month period ended August 31, 2021 totaled \$52,000, and for the year ended April 30, 2021 totaled \$156,000. Consulting expense is included in professional fees on the statements of operations.

## **NOTE 3 – MEMBER'S EQUITY**

The Company is wholly owned by one individual.

**We put people first.**



# GRAVITY FRANCHISING LLC

FINANCIAL STATEMENTS

April 30, 2021 and 2020

# GRAVITY FRANCHISING LLC

## Financial Statements

April 30, 2021 and 2020

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**INDEPENDENT AUDITORS' REPORT**

September 24, 2021

To the Member of  
Gravity Franchising LLC  
Bonney Lake, Washington

We have audited the accompanying financial statements of Gravity Franchising LLC (the Company), which comprise the balance sheet as of April 30, 2021 and the related statements of operations, changes in member's equity (deficit), and cash flows for the year then ended, and the related notes to the financial statements.

**Management's Responsibility for the Financial Statements**

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

**Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Gravity Franchising LLC as of April 30, 2021, and the results of its operations and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

**Prior Period Financial Statement**

The balance sheet of Gravity Franchising LLC as of April 30, 2020, was audited by other auditors whose report dated May 7, 2020, expressed an unmodified opinion on that statement.

*Sweeney Conrad, P.S.*

Sweeney Conrad, P.S.  
Kirkland, Washington

# Gravity Franchising LLC

## Balance Sheets

	April 30,	
	2021	2020
<b>ASSETS</b>		
Current assets:		
Cash	\$ 555	\$ 105,292
Total current assets	\$ 555	\$ 105,292
<b>LIABILITIES AND STOCKHOLDER'S EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 40,256	\$ -
Total current liabilities	40,256	-
Member's equity (deficit)	(39,701)	105,292
Total liabilities and member's equity	\$ 555	\$ 105,292

See accompanying notes to financial statements

**Gravity Franchising LLC**  
**Statement of Operations**  
**Year ended April 30, 2021**

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Income:		
Franchise fee income	\$	-
Total income		-
Operating expenses:		
Professional fees		247,044
Advertising and promotion		52,962
Other		4,213
Total operating expenses		304,219
Net loss	\$	(304,219)

See accompanying notes to financial statements



**Gravity Franchising LLC**  
**Statement of Changes in Member's Equity (Deficit)**  
**Year ended April 30, 2021**

---

Member's equity, April 30, 2020	\$ 105,292
Contributions	159,226
Net loss	<u>(304,219)</u>
Member's deficit, April 30, 2021	<u>\$ (39,701)</u>

See accompanying notes to financial statements

**Gravity Franchising LLC**  
**Statement of Cash Flows**  
**Year ended April 30, 2021**

---

<b>Operating activities:</b>	
Net loss	\$ (304,219)
Changes in operating liabilities:	
Accounts payable	<u>40,256</u>
Net cash used in operating activities	<u>(263,963)</u>
<b>Financing activities:</b>	
Contributions	<u>159,226</u>
Net cash provided by financing activities	<u>159,226</u>
Net decrease in cash	(104,737)
Cash, beginning of year	<u>105,292</u>
Cash, end of year	<u>\$ 555</u>

See accompanying notes to financial statements

# GRAVITY FRANCHISING LLC

## Notes to Financial Statements

April 30, 2021 and 2020

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### NOTE 1 – SUMMARY OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES

#### Nature of operations

Gravity Franchising LLC (the Company) was incorporated under the laws of the State of Washington in 2018 as a limited liability company. The Company's planned principal operations are to offer franchise agreements for Gravity Drive Thrus (which may also operate under the name GC). Gravity Drive Thrus provide coffee, energy drinks, other full-flavored and diverse handcrafted beverages, certain food items and merchandise through the operation of a retail Gravity drive thru or café-drive thru.

#### Basis of accounting

The financial statements and accompanying notes are prepared in accordance with accounting principles generally accepted in the United States of America (GAAP).

#### Use of estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results may differ from those estimates.

#### Cash

The Company maintains cash in bank accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses on such accounts and believes it is not exposed to any significant risk on cash balances.

#### Income taxes

The Company is not a taxpaying entity for federal income tax purposes, and thus, no federal income tax expense or benefit has been recorded in the financial statements. Any tax liability or benefit associated with the Company's income or loss will flow directly to the member.

#### Advertising expense

The Company expenses all advertising costs when incurred. Total advertising expense amounted to approximately \$53,000 for the year ended April 30, 2021.

## **NOTE 1 – SUMMARY OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES (continued)**

### **Subsequent events**

The date to which events occurring after April 30, 2021 have been evaluated for possible adjustment to the financial statements or disclosure therein is September 24, 2021, which is the date on which the financial statements were available to be issued.

## **NOTE 2 – RELATED PARTY TRANSACTIONS**

WCA Incorporated (WCA), a related party through common ownership, provides certain consulting services to the Company. Consulting expense incurred from WCA for the year ended April 30, 2021 totaled \$156,000, and is included in professional fees on the statement of operations.

## **NOTE 3 – MEMBER'S EQUITY**

The Company is wholly owned by one individual.

**We put people first.**



**EXHIBIT K**

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**EXHIBIT L**

**State Administrators and Agents for Service of Process  
In Certain States**

**NAMES AND ADDRESSES OF STATE REGULATORY AUTHORITIES  
AND AGENTS FOR SERVICE OF PROCESS IN CERTAIN STATES**

STATE	STATE REGULATORY AUTHORITY	AGENT FOR SERVICE OF PROCESS
California	<p>Commissioner of Financial Protection and Innovation 320 West 4th Street, Suite 750 Los Angeles, CA 90013 (213) 576-7505 (866) 275-2677</p> <p>One Sansome Street, Suite 600 San Francisco, CA 94104 (415) 972-8559</p>	<p>Commissioner of Financial Protection and Innovation 320 West 4th Street, Suite 750 Los Angeles, CA 90013 (213) 576-7505 (866) 275-2677</p> <p>One Sansome Street, Suite 600 San Francisco, CA 94104 (415) 972-8559</p>
Connecticut	<p>Banking Commissioner 260 Constitution Plaza Hartford, CT 06103-1800 (860) 240-8230</p>	[Not Applicable]
Florida	<p>Dept of Agriculture &amp; Consumer Services Division of Consumer Services 2005 Apalachee Pkwy. Tallahassee, FL 32399-6500 (850) 410-3800</p>	[Not Applicable]
Hawaii	<p>Business Registration Division Department of Commerce &amp; Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722</p>	<p>Commissioner of Securities of the State of Hawaii, Department of Commerce &amp; Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street Room 203 Honolulu, HI 96813 (808) 586-2722</p>
Illinois	<p>Franchise Bureau Office of the Attorney General 500 South Second Street Springfield, IL 62706 (217) 782-4465</p>	<p>Franchise Bureau Office of the Attorney General 500 South Second Street Springfield, IL 62706 (217) 782-4465</p>
Indiana	<p>Indiana Secretary of State Securities Division, E-111 302 West Washington Street, Room E-111 Indianapolis, IN 46204 (317) 232-6681</p>	<p>Indiana Secretary of State 302 West Washington Street, Room E-111 Indianapolis, IN 46204 (317) 232-6681</p>

STATE	STATE REGULATORY AUTHORITY	AGENT FOR SERVICE OF PROCESS
Maryland	Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2021 (410) 576-6360	Maryland Securities Commissioner at the Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2021 (410) 576-6360
Michigan	Consumer Protection Division Michigan Department of Attorney General G. Mennen Williams Building, 1 <sup>st</sup> Floor 525 W. Ottawa Street Lansing, MI 48933 (517) 373-7117	Michigan Department of Consumer and Industry Services Corporations, Securities & Commercial Licensing Bureau P.O. Box 30018 Lansing, MI 48909 2501 Woodlake Circle Okemos, MI 48864 (517) 241-6470
Minnesota	Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, MN 55101-2198 (651) 539-1600	Minnesota Commissioner of Commerce 85 7th Place East, Suite 280 St. Paul, MN 55101-2198 (651) 539-1600
Nebraska	Staff Attorney Department of Banking and Finance Commerce Court 1230 "O" Street, Suite 400 Lincoln, NE 68508-1402 (402) 471-3445	[Not Applicable]
New York	NYS Department of Law Investor Protection Bureau 28 Liberty St., 21 <sup>st</sup> Floor New York, NY 10005 (212) 416-8285	Attention: New York Secretary of State New York Department of State One Commerce Plaza, 99 Washington Avenue, 6th Floor Albany, NY 12231-0001 (518) 473-2492
North Dakota	North Dakota Securities Department Fifth Floor 600 East Boulevard Avenue State Capitol, Fifth Floor, Department 414 Bismarck, ND 58505 (701) 328-4712	North Dakota Securities Commissioner State Capitol, Fifth Floor 600 East Boulevard Avenue Bismarck, ND 58505 (701) 328-4712
Oregon	Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, OR 97310 (503) 378-4387	[Not Applicable]



STATE	STATE REGULATORY AUTHORITY	AGENT FOR SERVICE OF PROCESS
Rhode Island	Department of Business Regulation in the Service of Process, Disclosure Document and State Administrators Sections Building 69, First Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, RI 02920 (401) 222-3048	Director Department of Business Regulation State of Rhode Island Securities Division 1511 Pontiac Avenue John O. Pastore Center Cranston, RI 02920 (401) 462-9588
South Dakota	Department of Labor and Regulation Division of Insurance Securities Regulation 124 S Euclid, Suite 104 Pierre SD 57501 (605) 773-3563	Director, Department of Labor and Regulation Division of Insurance Securities Regulation 124 S Euclid, Suite 104 Pierre, SD 57501 (605) 773-3563
Texas	Secretary of State Statutory Document Section 1019 Brazos Austin, Texas 78701 (512) 475-0775	[Not Applicable]
Utah	Division of Consumer Protection Utah Department of Commerce 160 East 300 South Salt Lake City, UT 84111 (801) 530-6601	[Not Applicable]
Virginia	State Corporation Commission Division of Securities and Retail Franchising Ninth Floor 1300 East Main Street Richmond, VA 23219 (804) 371-9051	Clerk, State Corporation Commission 1300 East Main Street, First Floor Richmond, VA 23219 (804) 371-9733
Washington	Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, WA 98501 (360) 902-8760	Director, Department of Financial Institutions Securities Division 150 Israel Road S.W. Tumwater, WA 98501 (360) 902-8760

STATE	STATE REGULATORY AUTHORITY	AGENT FOR SERVICE OF PROCESS
Wisconsin	Division of Securities Department of Financial Institutions 4822 Madison Yards Way, North Tower Madison, WI 53705 (608) 266-0448	Administrator, Division of Securities Department of Financial Institutions 4822 Madison Yards Way, North Tower Madison, WI 53705 (608) 266-2139
Federal Trade Commission	Bureau of Consumer Protection 600 Pennsylvania Avenue, NW Washington, D.C. 20580 (877)-382-4357	[Not Applicable]

If a state is not listed, we have not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed above in which we have appointed an agent for service of process.

There may also be additional agents appointed in some of the states listed.

**EXHIBIT M**

**State Specific Addenda**

# **GRAVITY®**

## **STATE SPECIFIC ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT**

The following are state specific changes for certain franchise registration states and are applicable to you only if you are covered by the franchise law of the referenced state.

## CALIFORNIA

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

The California Franchise Investment Law requires a copy of all proposed agreements relating to the sale of the franchise be delivered together with the disclosure document.

Section 31125 of the California Corporation Code requires us to give you a disclosure document, in the form and containing the information as the Commissioner may by rule or order require, before we ask you to consider a proposed material modification of your franchise agreement.

Neither we, nor any person or franchise broker disclosed in Item 2 of the 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 these persons from membership in this association or exchange.

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.).

The Franchise Agreement and Area Development Agreement contain a covenant not to compete that extends beyond the termination of the franchise. This provision may not be enforceable under California law.

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

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer or non-renewal of a franchise. If the Franchise Agreement or Area Development Agreement contains a provision that is inconsistent with the law, the law will control.

The Franchise Agreement contains a liquidated damages clause, which, under Civil Code Sec. 1671, may not be enforceable

The Franchise Agreement requires application of the law of Washington. This provision may not be enforceable under California law.

The Franchise Agreement requires binding arbitration. The arbitration will occur in Seattle, Washington with the costs being born by the losing party. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

If we exercise our option under section 15.2 of the Franchise Agreement to purchase some or all of Franchisee's Assets, the purchase price for the Assets will be the lower of (1) fair market value or (2) the price paid minus depreciation using GAAP-compliant accelerated depreciation ("Net Book Value"), unless California Business and Professions Code Section 20022 requires us to pay Net Book Value.

No statement, questionnaire, or acknowledgment signed by a franchisee in connection with the commencement of the franchise relationship shall be construed as waiving any claims under any applicable state franchise law, including fraud in the inducement, or as disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

In the Franchise Agreement the following provisions are hereby deleted:

1. Recitals Acknowledgement (2) and (5) and (6);
2. In Section 18.8, the sentence: "No officer or employee or agent of Company has any authority to make any representation or promise not contained in this Agreement or in the Franchise Disclosure Document, and Franchisee agrees that it has executed this Agreement without reliance upon any such representation or promise.";
3. Section 20.2.1; and
4. Section 20.2.3

In the Area Development Agreement, if applicable, the following provisions are hereby deleted:

1. Recitals Acknowledgement (2), (5), and (6);
2. In Section 12.9, the sentence, "No officer or employee or agent of Company has any authority to make any representation or promise not included in this Agreement or the Franchise Disclosure Document delivered to Developer, and Developer agrees that it has executed this Agreement without reliance upon any such representation or promise."; and
3. Sections 14.2(a) and (c).

In the Franchise Agreement and, if applicable, the Area Development Agreement, Recital Acknowledgment (6) shall apply only to the extent it doesn't conflict with or waive franchisee's rights under any California law that provides for personal liability of officers, directors, employees and agents of the company.

The URL of our website is [www.gravitycoffee.com](http://www.gravitycoffee.com). OUR WEB SITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEB SITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT [www.dbo.ca.gov](http://www.dbo.ca.gov).

**The registration of this franchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

CALIFORNIA

HAWAII

ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

The following is added to the Cover Page:

THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED IN THIS DISCLOSURE DOCUMENT IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO YOU, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS BEFORE THE EXECUTION BY YOU, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS BEFORE THE PAYMENT OF ANY CONSIDERATION BY YOU, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT AND THE AREA DEVELOPMENT AGREEMENT. THE CONTRACTS OR AGREEMENTS SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH US AND YOU.



ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

## ILLINOIS

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

Illinois law governs the Franchise Agreement.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside the State of Illinois is void. However, arbitration may take place outside of Illinois.

Franchisees' rights upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

## KANSAS

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

Section 17.2.1 of the Franchise Agreement and Section 12.2(a) of the Area Development Agreement state that you will indemnify and hold us and Gravity Coffee Company LLC and all of their past, present and future owners, affiliates, officers, directors, employees, attorneys and designees, and each of them; harmless from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any person or entity or to any property arising out of or in connection you're your development, construction (including any latent or patent defects), maintenance or operation of the Premises and the Drive Thru. This provision may not be enforceable in Kansas unless separately negotiated and reasonable. By signing this Addendum, you hereby agree that you separately considered and had an opportunity to consult legal counsel concerning this indemnity, and that you consider it reasonable.

Section 16.2.3 of the Franchise Agreement requires that you name us and the affiliates we designate as additional named insureds on certain insurance policies. This provision may not be enforceable in Kansas unless separately negotiated and reasonable. By signing this Addendum, you hereby agree that you separately considered and had an opportunity to consult legal counsel concerning this insurance clause, and that you consider it reasonable.

FRANCHISOR:

GRAVITY FRANCHISING LLC

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

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

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

FRANCHISEE:

\_\_\_\_\_

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

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

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

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

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

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

## MARYLAND

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

Item 17 of the disclosure document and any provision in the Franchise Agreement and Area Development Agreement providing for termination upon your bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

Item 17 of the disclosure document and sections of the Franchise Agreement and Area Development Agreement requiring that you sign a general release as a condition of renewal, sale and assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

The Franchise Agreement and the Area Development Agreement are amended to state that all representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

Item 17 of the disclosure document and the Franchise Agreement and Area Development Agreement are revised to state that any claims under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

Item 17v of the disclosure document, Section 19.3 of the Franchise Agreement and Section 13.3 of the Area Development Agreement are amended to state that you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

The Acknowledgment and execution page attached is revised to state that "All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law."

Based upon our financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by you shall be deferred until we complete our pre-opening obligations to you under the Franchise Agreement. Items 5 and 7 of the disclosure document, Section 4.1 of the Franchise Agreement and Sections 6.1 and 6.2 of the Area Development Agreement are amended accordingly.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

MICHIGAN DISCLOSURE PAGE

**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.**

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

- (a) A prohibition on your right to join an association of franchisees.
- (b) A requirement that you assent to a release, assignment, novation, waiver, or estoppel that deprives you of rights and protections provided in this act. This shall not preclude you, after entering into a Franchise Agreement, from settling any and all claims.
- (c) A provision that permits us to terminate a franchise before the expiration of its term except for good cause. Good cause shall include your failure to comply with any lawful provision of the Franchise Agreement and to cure the failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure the failure.
- (d) A provision that permits us to refuse to renew your franchise without fairly compensating you by repurchase or other means for the fair market value at the time of expiration of your inventory, supplies, equipment, fixtures, and furnishings. Personalized materials that have no value to us and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applied only if: (i) the term of the franchise is less than 5 years and (ii) you are 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 after the expiration of the franchise or you do not receive at least 6 months advance notice of our intent not to renew the franchise.
- (e) A provision that permits us 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 you from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision that permits us to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent us 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 our then current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of us or our subfranchisor.



(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) You or your proposed transferee's failure to pay any sums owing to us or to cure any default in the Franchise Agreement existing at the time of the proposed transfer.

(h) A provision that requires you to resell to us items that are not uniquely identified with us. This subdivision does not prohibit a provision that grants to us 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 us the right to acquire the assets of a franchise for the market or appraised value of the assets if you have breached the lawful provisions of the Franchise Agreement and have failed to cure the breach in the manner provided in subdivision (c).

(i) A provision that permits us to directly or indirectly convey, assign, or otherwise transfer our obligations to fulfill contractual obligations to you unless provision has been made for providing the required contractual services.

**THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.**

Any questions regarding this notice should be directed to:

Michigan Department of Attorney General  
Consumer Protection Division  
Attn: Franchise Section  
525 W. Ottawa Street  
G. Mennen Williams Building, 1st Floor  
Lansing, Michigan 48933  
Telephone Number: (517) 373-7117

Any provision in the Franchise Agreement specifying that litigation between us and you is to take place outside of Michigan is amended to provide instead that litigation will be brought either in the forum designated in the Franchise Agreement or in the state or federal courts located in Detroit, Michigan, and the parties consent to the jurisdiction of those courts; provided, however, that we reserve the right to seek relief in any other jurisdiction as may be necessary or desirable to obtain declaratory, injunctive, or other relief to enforce the provisions and restrictions of the Franchise Agreement. This amendment will have no effect on the forum or venue of any arbitration proceeding between us and you.

## MINNESOTA

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

We will comply with Minnesota Statute 80C.14 subdivisions 3, 4, and 5, which require except in certain specific cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement; and that consent to the transfer will not be unreasonably withheld.

Minnesota Rule 2860.4400D prohibits us from requiring you to assent to a general release. The disclosure document, Franchise Agreement and Area Development Agreement are modified accordingly, to the extent required by Minnesota law.

Minn. Stat. Sec. 80C.21 and Minn. Rule Part 2860.4400J, may prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document, Franchise Agreement or Area Development Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

Provisions in the disclosure document, Franchise Agreement and Area Development Agreement limiting your right to file claims, that are inconsistent with Minnesota Statute Sec. 80C.17, Subd. 5, are amended to the minimum extent required by Minnesota law.

Any statements in the disclosure document, Franchise Agreement and Area Development Agreement stating that we are entitled to injunctive relief are amended to read "we may seek injunctive relief." A court will determine if a bond is required.

In accordance with Minnesota Rule 2860.4400J, to the extent required by law, the disclosure document, the Franchise Agreement and Area Development Agreement are modified so that we cannot require you to waive your rights to a jury trial or to waive rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or to consent to liquidated damages, termination penalties, or judgment notes; provided that this part shall not bar an exclusive arbitration clause.

Pursuant to Minn. Stat. Sec. 80C.12, Subd. 1(g), to the extent required by law, the Franchise Agreement and Item 13 of the disclosure document are amended to state that we will protect your right to use the primary trademark, service mark, trade name, logotype or other commercial symbol

or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of our primary trade name.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

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

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

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

FRANCHISEE:

\_\_\_\_\_

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

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

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

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

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

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

NEW YORK

ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

1. The following information is added to the cover page of the Franchise Disclosure Document:

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

- A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.
- B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.
- C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.
- D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise,

securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to 2 a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the "Summary" sections of Item 17(c), titled "**Requirements for franchisee to renew or extend**," and Item 17(m), entitled "**Conditions for franchisor approval of transfer**":

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

4. The following language replaces the "Summary" section of Item 17(d), titled "**Termination by franchisee**":

You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the "Summary" sections of Item 17(v), titled "**Choice of forum**", and Item 17(w), titled "**Choice of law**":

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the Franchise Disclosure Document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

## NORTH DAKOTA

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

Sections of the disclosure document, Franchise Agreement and Area Development Agreement requiring you to consent to the jurisdiction of courts outside of North Dakota or providing for resolution of disputes to be outside North Dakota may not be enforceable under North Dakota law, and are amended accordingly to the minimum extent required by law.

Sections of the Franchise Agreement and Area Development Agreement requiring you to arbitrate or mediate disputes may require you to consent to a waiver of trial by jury. A waiver of trial by jury may not be enforceable under North Dakota law and any such provisions are amended accordingly to the minimum extent required by law.

Sections of the disclosure document, Franchise Agreement and Area Development Agreement relating to choice of law, may not be enforceable under North Dakota law, and are amended accordingly to the minimum extent required by law.

Sections of the disclosure document, Franchise Agreement and Area Development Agreement requiring you to sign a general release upon renewal of the Agreement may not be enforceable North Dakota law, and are amended accordingly to the minimum extent required by law.

Sections of the disclosure document, Franchise Agreement and Area Development Agreement requiring you to consent to termination or liquidated damages may not be enforceable under North Dakota law. The disclosure document, Franchise Agreement and Area Development Agreement are revised to state that the prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees.

If the Franchise Agreement or Area Development Agreement contain any provision that allows us to recover liquidated damages or termination payments, and if that provision is held unenforceable by an arbitrator or court of competent jurisdiction or if we waive that provision, then we are permitted instead to recover contractual damages caused by any breach of contract or default by you.

Sections of the Franchise Agreement and Area Development Agreement requiring you to consent to a waiver of exemplary and punitive damages may not be enforceable under North Dakota law, and any such provisions are amended accordingly to the minimum extent required by law.

Covenants restricting competition contrary to Section 9-08-06 of the North Dakota Century Code, without further disclosing that those covenants may be subject to the statute, have been determined to be unfair, unjust, or inequitable in North Dakota. Sections of the disclosure document, Franchise Agreement and Area Development Agreement containing covenants restricting competition to which you must agree may not be enforceable under North Dakota law, and are amended accordingly to the minimum extent required by law.

Items 5 and 7 of the disclosure document, Section 4.1 of the Franchise Agreement and Sections 6.1 and 6.2 of the Area Development Agreement are amended to provide that initial franchise fees are paid when our pre-opening obligations to you are complete and you are ready to commence business.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_



RHODE ISLAND

ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act." The disclosure document and Franchise Agreement are amended accordingly to the extent required by law.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

SOUTH DAKOTA

ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

Items 5 and 7 of the disclosure document, Section 4.1 of the Franchise Agreement and Sections 6.1 and 6.2 of the Area Development Agreement are amended to provide that initial franchise fees are paid when our pre-opening obligations to you are complete and you are ready to commence business.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

SOUTH DAKOTA

VIRGINIA

ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

The following statements are added to Item 17.h. of the disclosure document:

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for us to cancel your franchise without reasonable cause. If any ground for default or termination stated in the Franchise Agreement or Area Development 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.

The following Risk Factor is added to the State Cover Page *Special Risks to Consider About This Franchise*:

**"Estimated Initial Investment.** The franchisee will be required to make an estimated initial investment ranging from \$410,000 to \$1,586,510. This amount exceeds the franchisor's stockholder's equity as of April 30, 2020, which is \$105,292.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

## WASHINGTON

### ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

The following modifications are to the Gravity Franchising LLC Franchise Disclosure Document and may supersede certain portions of the Franchise Agreement dated \_\_\_\_\_, 20\_\_ and the Area Development Agreement dated \_\_\_\_\_, 20\_\_.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectible to the extent that they reflect our reasonable estimated or actual costs in effecting a transfer, to the extent required by Washington law.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

The state of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal of your franchise.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

The Franchise Agreement contains a liquidated damages provision, which may not be enforceable in Washington.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

WISCONSIN

ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT

With respect to franchise agreements governed by Wisconsin law, the following shall supersede any inconsistent provision:

The Wisconsin Fair Dealership Law applies to most franchise agreements in the state and prohibits termination, cancellation, nonrenewal or substantial change in the competitive circumstances of a dealership agreement without good cause. The Law further provides that 90 days' prior written notice of the proposed termination, etc. must be given to the dealer. The dealer has 60 days to cure the deficiency and if the deficiency is so cured the notice is void. The disclosure document and Franchise Agreement are hereby modified to state that the Wisconsin Fair Dealership Law, to the extent applicable, supersedes any provisions in the Franchise Agreement that are inconsistent with that Law. Wis. Stats. Ch. 135, The Wisconsin Fair Dealership Law, SEC 32.06(3), Wis. Adm. Code.

ACKNOWLEDGMENT:

It is agreed that any applicable part of the foregoing state law addendum supersedes any inconsistent portion of the Franchise Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Area Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and of the franchise disclosure document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect.

FRANCHISOR:

GRAVITY FRANCHISING LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_



**EXHIBIT N**

**State Effective Dates**

### **State Effective Dates**

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

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

<b>State</b>	<b>Effective Date</b>
California	Pending
Hawaii	Pending
Illinois	Pending
Indiana	Pending
Maryland	Pending
Michigan	September 29, 2021
Minnesota	Pending
New York	Pending
North Dakota	Pending
Rhode Island	Pending
South Dakota	Pending
Virginia	Pending
Washington	Pending
Wisconsin	Pending

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

**EXHIBIT O**

**Receipts**

# GRAVITY®

## **Receipt** **(Your Copy)**

This disclosure document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Gravity Franchising LLC offers you a franchise, Gravity Franchising LLC must provide this disclosure document to you at least 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.

New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the signing of any agreement or the payment of any consideration. Iowa requires that we give you this disclosure document at the earlier of the first personal meeting or 14 days before the signing of any agreement or the payment of any consideration. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Gravity Franchising LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington D.C. 20580 and to the relevant state agency listed in Exhibit L. Gravity Franchising LLC authorizes the respective state agencies identified on Exhibit L to receive service of process of it in the particular state.

The franchisor is Gravity Franchising LLC, with a principal business address at 1155 Valentine Ave SE, Pacific, WA 98047. Its telephone is (253) 447-8740.

Issuance Date: September 24, 2021

Our employed franchise sellers for this offering are Maximo Ansola, Mark Miller, Erika Christiansen, Michael Spence, Zoey Haver, and Mariah O'Neil, and their business address and phone number is 1155 Valentine Ave SE, Pacific, WA 98047; telephone: (253) 447-8740. Other franchise sellers for this offering are Kristan Henderson and Charles Jones of FranDevCo, LLC, 107 Parr Drive, Huntersville, NC 28078; telephone: (704) 703-9500.

I received a disclosure document with an issuance date of September 24, 2021 that included the following Exhibits:

- |           |  |
|-----------|--|
| Exhibit A | Franchise Agreement, with attached Exhibits          |
| Exhibit B | Area Development Agreement, with attached Exhibits   |
| Exhibit C | Franchise Continuing Guaranty                        |
| Exhibit D | Area Development Continuing Guaranty                 |
| Exhibit E | Form of Non-Disclosure and Non-Competition Agreement |

Exhibit F	Franchise Application and Confidentiality Agreement
Exhibit G	Franchisee Closing Questionnaire
Exhibit H	Sample General Release
Exhibit I	Franchisee Information
Exhibit J	Financial Statements of Gravity Franchising LLC
Exhibit K	Table of Contents of Manual
Exhibit L	State Administrators and Agents for Service of Process
Exhibit M	State Specific Addenda to Franchise Disclosure Document, Franchise Agreement, and Area Development Agreement
Exhibit N	State Effective Dates
Exhibit O	Receipt of Disclosure Document

DATE DISCLOSURE DOCUMENT RECEIVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

\_\_\_\_\_  
NAME & TITLE (Please print)

\_\_\_\_\_  
NAME & TITLE (Please print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

Please sign and date this Receipt (with the date that you received the disclosure document), and if you received it electronically via email, also:

1. Open the attached disclosure document, to verify that you can download it; then immediately Reply to All, with a cc to the email address listed on the state cover page of this disclosure document, stating that you received and downloaded this disclosure document; AND:

2. Also print, sign, and date a copy of the Receipt (with the date that you received this disclosure), and return via mail or fax to us at the address or fax number on the state cover page of this disclosure document.

Attach additional signatures or use additional receipts if necessary. All owners, or two authorized officers or managers, of an entity franchisee must review all documents and sign individually and on behalf of any legal entity.

**RETAIN THIS COPY FOR YOUR RECORDS**

# GRAVITY®

## Receipt (Our Copy)

This disclosure document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Gravity Franchising LLC offers you a franchise, Gravity Franchising LLC must provide this disclosure document to you at least 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.

New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the signing of any agreement or the payment of any consideration. Iowa requires that we give you this disclosure document at the earlier of the first personal meeting or 14 days before the signing of any agreement or the payment of any consideration. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

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DATE DISCLOSURE DOCUMENT RECEIVED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

\_\_\_\_\_  
NAME & TITLE (Please print)

\_\_\_\_\_  
NAME & TITLE (Please print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

Please sign and date this Receipt (with the date that you received the disclosure document), and if you received it electronically via email, also:

1. Open the attached disclosure document, to verify that you can download it; then immediately Reply to All, with a cc to the email address listed on the state cover page of this disclosure document, stating that you received and downloaded this disclosure document; AND:

2. Also print, sign, and date a copy of the Receipt (with the date that you received this disclosure), and return via mail or fax to us at the address or fax number on the state cover page of this disclosure document.

Attach additional signatures or use additional receipts if necessary. All owners, or two authorized officers or managers, of an entity franchisee must review all documents and sign individually and on behalf of any legal entity.

**RETURN THIS COPY TO US**