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**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

2017

FRANCHISE DISCLOSURE DOCUMENT

FRANCHISE DISCLOSURE DOCUMENT



COLE'S BACKYARD GRILL FRANCHISING, LLC

A Delaware Limited Liability Company

1311 North Plano Road, Suite 150
Richardson, Texas 75081
(972) 244-8900
www.colesbackyardgrill.com
info@bonpon.com

At COLE'S BACKYARD GRILL® guests are offered a limited menu of burgers, steaks, starters, sandwiches and custom crafted salads served in a fresh atmosphere with a culinary twist. Our menu features delicious, high-quality American fare including a made-to-order, fresh, Farm-to-Market Salad Bar.

The estimated total investment necessary to begin operation of a COLE'S BACKYARD GRILL® single-unit franchised business location ranges from \$236,600 to \$717,300. This includes the Initial Fee that must be paid to the franchisor or its affiliate. If you enter into a Development Agreement ("DA"), the Exclusive Territory Fee may range from \$40,000 to \$500,000 to develop 2 to 25 restaurants. The total investment necessary under a Development Agreement to open a single restaurant and have development rights for between 2 to 25 restaurants within an Exclusive Territory is \$273,600 to \$1,217,300.

Number of Restaurants You Commit to Develop in Accordance with a DA	Amount of Initial Franchise Fee Per Restaurant
1 st Unit	\$9,500 ¹
2 nd Unit	\$7,500
3 rd Unit	\$5,500
4 th Unit	\$3,500
5 th Unit +	\$2,500

This Disclosure Document summarizes certain provisions of your franchise agreement and other information in plain English. Read this Disclosure Document and all accompanying agreements carefully. You must receive this Disclosure Document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with

¹ If you qualify for one of the special programs disclosed in this Item 5, the \$9,500 Initial Franchise Fee for such franchisee's first unit developed in the Exclusive Territory will be reduced.

the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Franchise Administration at 1311 North Plano Road, Suite 150, Richardson, Texas 75081 and (972) 244-8900.

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

Information comparing franchisors is available. Call the state administrators listed in the State Agency Exhibit attached to this Disclosure Document or your public library for sources of information.

Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this Disclosure Document. If you learn that anything in this Disclosure Document is untrue, contact the Federal Trade Commission and the state agencies listed in Exhibit H attached to this Disclosure Document.

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 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: February 17, 2017

STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file notice with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT.

Call the state franchise administrator listed in Exhibit H for information about the franchisor, or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise:

1. THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY LITIGATION ONLY IN THE STATE OF TEXAS. OUT-OF-STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO SUE US IN TEXAS THAN IN YOUR OWN STATE.
2. THE FRANCHISE AGREEMENT STATES THAT TEXAS LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
3. UNDER THE TERMS OF THE FRANCHISE AGREEMENT YOUR SPOUSE MUST SIGN THE PERSONAL GUARANTY MAKING YOUR SPOUSE JOINTLY AND SEVERALLY LIABLE FOR ALL OBLIGATIONS OF THE FRANCHISE BUSINESS. THIS REQUIREMENT PLACES YOUR ASSETS AND YOUR SPOUSE'S ASSETS AT RISK.
4. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

We may use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of the franchise.

Effective Date: (THIS IS A MULTI-STATE DOCUMENT. PLEASE SEE ATTACHED FOR EFFECTIVE DATES)

EFFECTIVE DATES:

CA _____
HI _____
IL _____
IN _____
MD _____
MI _____
MN _____
NY _____
ND _____
RI _____
SD _____
VA _____
WA _____
WI _____

MICHIGAN SPECIFIC-NOTICE

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

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

- (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
- (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
- (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general. Any questions regarding this notice should be directed to the Attorney General's Department for the State of Michigan, Consumer Protection Division, Franchise Section, 525 W. Ottawa Street, Lansing, Michigan 48909, (517) 373-7117.

TABLE OF CONTENTS

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1.	FRANCHISOR, PARENTS AND AFFILIATES	1
2.	BUSINESS EXPERIENCE	5
3.	LITIGATION	6
4.	BANKRUPTCY	6
5.	INITIAL FEES	8
6.	OTHER FEES	11
7.	ESTIMATED INITIAL INVESTMENT	14
8.	RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES	19
9.	FRANCHISEE'S OBLIGATIONS	24
10.	FINANCING	25
11.	FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING	25
12.	TERRITORY	31
13.	TRADEMARKS	33
14.	PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION	34
15.	OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS	35
16.	RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL	35
17.	RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION	37
18.	PUBLIC FIGURES	42
19.	FINANCIAL PERFORMANCE REPRESENTATIONS	42
20.	OUTLETS AND FRANCHISEE INFORMATION	43
21.	FINANCIAL STATEMENTS	45
22.	CONTRACTS	45
23.	RECEIPTS	45

EXHIBITS

EXHIBIT A	FINANCIAL STATEMENTS
EXHIBIT B	DEVELOPMENT AGREEMENT
EXHIBIT C	FRANCHISE AGREEMENT WITH SCHEDULES A-B AND APPENDICES 1-10
EXHIBIT D	OPERATIONS AND GIFT CARD MANUAL TABLE OF CONTENTS
EXHIBIT E	LIST OF FRANCHISEES (ACTIVE, UNDER AGREEMENT – NOT OPENED, & CLOSED)
EXHIBIT F	FRANCHISEE QUESTIONNAIRE
EXHIBIT G	STATE AGENCIES
EXHIBIT H	STATEMENT OF PROSPECTIVE FRANCHISEE
EXHIBIT I	LIST OF AGENTS FOR SERVICE OF PROCESS
EXHIBIT J	STATE ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT
EXHIBIT K	RECEIPTS

ITEM 1

FRANCHISOR, PARENTS AND AFFILIATES

To simplify the language in this Disclosure Document, “we,” “us” or “our” means Cole’s Backyard Grill Franchising, LLC (“**CBGF**”), the franchisor. “You” means the person, individual, corporation, partnership or other entity that is interested in buying a franchise or an area to develop. If you are a corporation, partnership or other entity, our Franchise Agreement (“**FA**”) and Development Agreement (“**DA**”) will also apply to your owners, officers, directors, or other principals.

The Franchisor, Parents and Affiliates

Franchisor

The Franchisor is Cole’s Backyard Grill Franchising, LLC (“**CBGF**”), a Delaware limited liability company, referred to in this disclosure document as “we,” “us” or “our”. CBGF franchises domestically and internationally under COLE’S. We refer to the person interested in buying a franchise as “you” or “your”. If you are a corporation, partnership, limited liability company, or other entity, certain provisions of the Franchise and Development Agreements will apply to your owners. These will be addressed in this disclosure document where appropriate.

CBGF has its principal offices at 1311 North Plano Road, Suite 150, Richardson, Texas 75081. CBGF has franchised Cole’s Backyard Grill since 2015. We are not engaged in any other businesses and have never offered franchises in any other lines of business.

Parents

Our parent is Homestyle Dining LLC (“**HSD**”), a Delaware limited liability company, formed on October 22, 2009, which was formerly known as Metromedia Steakhouses Company, L.P., a Delaware limited partnership (“**MSC**”). HSD is headquartered at 1311 North Plano Road, Suite 150, Richardson, Texas 75081. HSD is co-owned by Metromedia Company, a Delaware general partnership formed on July 7, 1986, with its principal place of business at 810 7th Avenue, 29th Floor, NY, NY 10019, and JWK Enterprises LLC a Delaware limited liability company, formed on March 31, 2008 with the same address as Metromedia Company.

Affiliates

Ponderosa Franchising Company (“**PFC**”), a Delaware general partnership formed on August 9, 1994, is our affiliate. PFC offers franchises under the name, “PONDEROSA STEAKHOUSE” and operates family-focused restaurants that provide guests with a distinctive and fun dining experience. PFC maintains its principal place of business at 1311 North Plano Road, Suite 150, Richardson, Texas 75081.

Bonanza Restaurant Company, (“**BRC**”), a Delaware general partnership formed on August 9, 1994. BRC offers franchises under the name, “BONANZA STEAKHOUSE®” and “BONANZA STEAK & BBQ®”. At BONANZA STEAKHOUSE, guests have enjoyed both the superb quality of a buffet and a broad array of great tasting, high quality, affordably priced steak, chicken and seafood entrées. BONANZA STEAKHOUSE’S buffet features a large variety of all you can eat salads, soups, appetizers, vegetables, breads, hot main courses, and desserts. BRC instituted a re-image and

rebranding phase for the restaurants in 2015, as Bonanza Steak & BBQ. Bonanza Steak & BBQ now offers a full service steakhouse with a fresh farm-to-table salad bar, and a menu showcase of USDA flame-grilled steaks and house-smoked BBQ, with contemporized interpretations of traditional American classics. BRC maintains its principal place of business at 1311 North Plano Road, Suite 150, Richardson, Texas 75081.

Our affiliates do not offer franchises in any other line of business.

Agents For Service of Process

Our agents for service of process in states that require franchise registration are listed in **EXHIBIT I**.

Cole's Backyard Grill® Franchise Offer

At COLE'S BACKYARD GRILL® guests are offered a limited menu of burgers, steaks, starters, sandwiches and custom crafted salads served in a fresh atmosphere with a culinary twist. Our menu features delicious, high-quality American fare including a made-to-order, fresh, Farm-to-Market Salad Bar.

We sell franchises for Grills offering a limited menu and non-alcoholic beverages, with the option to serve beer and wine ("Cole's" or "Grill(s)"). If you desire to sell beer and wine in your Grill, then you will need to submit a written request to sell beer and wine in your Grill to CBGF. CBGF may or may not approve such request at its sole discretion. In the event CBGF approves any request to sell beer and wine in your Grill, you must obtain the appropriate liquor license or permit that will enable you to sell beer and wine before you commence the sale of beer and wine at your Grill. The Grills do business under the mark "Cole's Backyard Grill®".

HSD operated one Grill in Lindale, Texas which opened on May 20, 2014 (See Item 20) as Bo's Steak & Grill and converted to Cole's Backyard Grill on June 18, 2015. In December 2016 the Cole's in Lindale, Texas closed. Management intends to relocate the restaurant to the Dallas – Fort Worth area of Texas. The Franchise Agreement (**Exhibit "C"** to this disclosure document) gives you the right to establish and operate one Grill at a specified location within a protected area (See Item 12). Cole's Backyard Grills operate under the Cole's Marks in compliance with the Cole's System. The Marks include the "Cole's Backyard Grill®" trade names and service marks, trademarks, logos, emblems and other indicia of origin that we designate in writing for use by Grills operating under the Cole's operating system ("**System**") (collectively, the "**Marks**").

The System includes our methods and procedures for the establishment, management and operation of Cole's, including our confidential information, our Manuals, the Marks, and other business standards and policies. The distinguishing characteristics of the System include distinctive exterior and interior design, decor, and color scheme; furnishings; special recipes and menu items; uniform standards, specifications, policies and procedures for operations; quality and uniformity of the products and services offered; procedures for inventory, management and financial control; training and assistance; and advertising and promotional programs, all of which we may change, improve, further develop or otherwise modify.

The Franchise Agreement requires you to designate a "**Principal Owner**." Your Principal Owner is the main individual responsible for your business. Your Principal Owner must meet our qualifications and must be approved by us.

We require your current and future Owners, including your Principal Owner and spouse, to sign a Guaranty and Assumption Agreement (“**Guaranty**”), guaranteeing your performance and binding themselves individually to certain provisions of the Agreements, including the covenants against competition and disclosure of confidential information, restrictions on transfer and dispute resolution procedures. (See Item 15)

Cole’s Backyard Grill Development Agreement Offered

The person or entity signing the Development Agreement is the “**Developer**.” The Development Agreement also contains concepts like “**Owners**” and “**Principal Owner**” that are similar to those in the Franchise Agreement. The Principal Owner for all Cole’s you (and, if applicable, your affiliates, including sub-franchisees) operate must be the same person, and the Principal Owner under the Development Agreement and any Franchise Agreement signed under the Development Agreement must be the same person, except for approved sub-franchisees. The terms “**you**” and “**your**” also include the Developer under the Development Agreement, unless we have noted otherwise. Any reference to the “**Agreements**” means the Development Agreement and the Franchise Agreement, as applicable.

We offer qualified applicants the right to enter into a DA to develop one or more Grills within a specifically described geographic area (the “**Territory**”). The size of the Territory will vary depending upon local market conditions and the number of Grills to be developed. (See Item 12) The development Territory will be determined before executing the Development Agreement and will be described in **Exhibit “E”** to the Development Agreement.

Our Developers assist us in rendering certain services to franchisees, including making a training location in the Territory available to franchisees for training, overseeing the development of franchised restaurants and conducting regular visits to determine a franchisee’s compliance with our operation and system standards. The Developers also render services directly to us including regular reports on business activities, advertising for franchisees, and other duties that we may deem necessary, from time to time.

If you sign a Development Agreement, you must develop the number of Grills contemplated by the Development Agreement in the Territory according to a development schedule and must enter into a separate Franchise Agreement for each Grill you establish. The Franchise Agreement for the first Grill developed under the Development Agreement will be in the form of **Exhibit “C”** to this disclosure document and will be signed contemporaneously with the Development Agreement. For each additional Grill developed under the Development Agreement, you must sign the form of Franchise Agreement that we are then offering to new franchisees, except that the initial franchise fees will be as provided in the Development Agreement, and the royalty and advertising expenditure percentages will be the same as those in the Franchise Agreement at **Exhibit “C”** to this disclosure document. You are required to execute the then-current form of franchise agreement being offered, which could be materially different except as stated above.

Franchisee/Industry Contact Lead Referral Program

We may pay a referral fee to the first of our franchisees, and/or franchisees of any affiliated companies that introduce a new prospective franchisee to us, if we approve the new prospect and we and the prospect signs a Cole's Backyard Grill® Franchise Agreement within 180 days after the written referral is made and the prospect pays us the full initial franchise fee. The prospective franchisee must satisfy our liquid assets and total net worth requirement, which as of February 2, 2017 are \$250,000 in liquid cash and \$500,000 in total net worth. We pay this referral fee when the referred prospective franchisee's Franchise Agreement is fully signed and the initial franchise fee is fully paid.

Competition

The market for restaurant services is well-established and highly competitive. There is active price competition among restaurants, as well as competition for management personnel and for attractive commercial real estate sites suitable for Grills. You must expect to compete with other restaurants offering a wide variety of menu items and alcoholic and non-alcoholic beverages and other competing concepts. Competitors may be locally owned or large regional or national chains, most of which operate more restaurants and may have longer operating histories than our Grills. The restaurant business is also affected by changes in consumer taste, demographics, traffic patterns and economic conditions.

Industry Specific Regulation

Many of the laws, rules and regulations that apply to business generally, like the Americans with Disabilities Act, Federal Wage and Hour Laws, and the Occupation, Health and Safety Act, also apply to COLE'S. However, other laws, rules and regulations have particular applicability to COLE'S.

The U.S. Food and Drug Administration, the U.S. Department of Agriculture and state and local health departments administer and enforce laws and regulations that govern food preparation and service and sanitary conditions. State and local agencies inspect COLE'S to ensure that they comply with these laws and regulations. The federal Clean Air Act and various implementing state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide and particulate matters, including caps on omissions from commercial food preparation. Some areas have also adopted or are considering proposals that would regulate indoor air quality.

The performance of music at your restaurant is also regulated. Under the Copyright Law of the United States, you may be required to obtain a music license from Performing Rights Organizations such as BMI, SESAC, or ASCAP. You will also be required to pay all music licensing fees to such organizations.

If you desire to sell beer and wine in your COLE'S, then you will need to submit a written request to sell beer and wine in your COLE'S to CBGF. CBGF may or may not approve such request at its sole discretion. In the event CBGF approves any request to sell beer and wine in your COLE'S, you must obtain the appropriate liquor license or permit that will enable you to sell beer and wine before you commence the sale of beer and wine at your COLE'S. The difficulty and cost of obtaining an appropriate liquor license or permit that will enable you to sell beer and wine, and the procedures for securing the liquor license or permit, vary greatly from area to area. There is also wide variation in state and local laws and regulations that govern the sale of beer and wine. In addition, state dram shop laws give rise to potential liability for injuries that are directly or indirectly related to the sale and consumption of alcohol.

We do not assume any responsibility for advising you on these regulatory or legal matters. You should consider these laws and regulations when evaluating your purchase of a franchise and consult with your attorney.

ITEM 2 BUSINESS EXPERIENCE

The management team of CBGF also serves as the leadership for PFC and BRC.

Thomas Sacco: President and Chief Executive Officer

Mr. Sacco was named President and Chief Executive Officer in January 2013. From June 2012 to January 2013, Mr. Sacco served as Executive Vice President and Chief Operating Officer. From October 2011 to June 2012 Mr. Sacco served as Chief Operating Officer of Strong Electric in Austin, Texas. Mr. Sacco was Vice President of Operations for Davaco in Dallas, Texas from September 2007 to September 2011.

Brian Ripley: Executive Vice President and Chief Financial Officer

Mr. Ripley was named Executive Vice President and Chief Financial Officer in November 2013. From June 2002 to October 2013, Mr. Ripley served as President of CMR Partners, LLP and from December 2010 to October 2013 Mr. Ripley also served as President of CMR Associates, LLC, both of which were located in Indianapolis, Indiana.

Jill Gouge-Laird: Vice President – Marketing

Ms. Gouge-Laird was named Vice President – Marketing in October 2014. From March 2001 to June 2014, Ms. Gouge-Laird served as Director of Marketing at Buffet Partners/Furr's Buffets in Dallas, Texas.

Jason Head: Executive Vice President, General Counsel and Secretary

Mr. Head was named Executive Vice President, General Counsel and Secretary in December 2014. From January 2012 to December 2014 Mr. Head served as General Counsel to Christ for the Nations, Inc. in Dallas, TX. From May 2007 to January 2013 Mr. Head served as a private practice attorney located in Hampton Roads, Virginia.

Scott Fisher: Director of Culinary Development

Mr. Fisher was named Director of Culinary Development in September 2016. From November 2015 to September 2016, Mr. Fisher was Executive Chef for LSG Sky Chefs, DFW Flight Kitchen, DFW Airport. From November 2013 to September 2015, Mr. Fisher was Corporate Research and Development Chef at Dickey's Barbecue Pits in Dallas, Texas. From August 2006 to June 2013, Mr. Fisher was the Senior Research and Development Chef for Food Source LLP in McKinney, Texas.

Scott Sanborn: Franchise Business Consultant

Mr. Sanborn has been with affiliates of CBGF since October 1974 and has been a Franchise Business Consultant since September 2001. He has an office in Indianapolis, Indiana.

Dike Stoe: Franchise Business Consultant

Mr. Stoe has been with affiliates of CBGF since July 1987 and has been a Franchise Business Consultant since December 2001. He has an office in Lancaster, Pennsylvania.

Kelly Kuhn: Franchise Business Consultant

Ms. Kuhn has been with affiliates of CBGF since February 1983 and has been a Franchise Business Consultant since January 1999. She has an office in Hammond, Indiana.

Bob Lane: Franchise Business Consultant

Mr. Lane has been with affiliates of CBGF since August 1976 and has been a Franchise Business Consultant since September 2016. He has an office in Irwin, Pennsylvania.

**ITEM 3
LITIGATION**

CBGF and/or its affiliates have a total of one (1) litigation matter required to be disclosed.

Concluded Material Action:

Franchisor-initiated Royalty/Fee Collection Litigation:

Ponderosa Franchising Company v. Virender Datta, GV16007728-00 filed on June 16, 2016 in the General District Court of Fredericksburg, County, Virginia. PFC filed a suit against defendants, as PONDEROSA franchisee, for failure to pay royalties and other sums. The parties entered into a settlement agreement dated January 13, 2017 and dismissed their respective claims, to cover certain costs incurred by the defendants relating to the improper closing of his franchised location.

**ITEM 4
BANKRUPTCY**

HSD (then known as MSC), JOST Restaurant Financing, Inc., Pon Realty I, Inc. and Puerto Rico Ponderosa, Inc. (collectively, the "HSD Companies"), each of which is an affiliate of CBGF, filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code on October 22, 2008, *In Re: Metromedia Steakhouses Company, L.P., et al*, Case No. 08-12490 (MFW) (jointly administered), United States Bankruptcy Court for the District of Delaware (the "HSD Group Bankruptcy"). Neither CBGF, nor any of the franchisee-owned restaurants operating under the COLE'S brand, filed for bankruptcy as part of the HSD Group Bankruptcy. Following the bankruptcy filing, the HSD Companies continued to operate their businesses and manage their respective assets as debtors-in-possession under bankruptcy court supervision. On October 1, 2009, the bankruptcy court approved the HSD Companies' plan of reorganization (the "Plan"), which became effective on October 14, 2009.

Except as otherwise provided in the Plan, the bankruptcy court's confirmation order, or any contract, instrument, release or other agreement entered into, delivered, assumed or preserved under or in connection with the Plan, the Plan restructured the rights of the HSD Companies' creditors by providing for certain payments and other consideration to them and discharged their claims against each of the HSD Companies to the extent such claims arose prior to October 14, 2009. The principal place of business of each of the HSD Companies is 1311 North Plano Road, Suite 150, Richardson, Texas 75081.

The S&A Companies and certain of their affiliated companies² (collectively, the "Additional S&A Companies"), each of which was an affiliate of BRC and PFC, filed for bankruptcy under Chapter 7 of the United States Bankruptcy Code on July 29, 2008, *In Re: S&A Restaurant Corp., et al*, Case No. 08-41898 (BTR) (jointly administered), United States Bankruptcy Court, Eastern District of Texas, Sherman Division (the "S&A Group Bankruptcy"). The principal place of business of each of the S&A Companies and the Additional S&A Companies is the office of the Chapter 7 Trustee for the S&A Companies is 5401 North Central Expressway, Suite 218, Dallas, Texas 75205.

Other than as disclosed, no bankruptcy information is required to be disclosed in this Item.

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² Jolly Ox Club of Kansas, Inc., Steak and Ale of Texas, Inc., Bennigan's of Waldorf, Inc., Bennigan's Gift Card, Inc., Steak and Ale of Alabama, Inc., Steak and Ale of Virginia, Inc., Bennigan's of Las Vegas, Inc., Steak and Ale of Colorado, Inc., Bennigan's of Security, Inc., Steak and Ale of West Virginia, Inc., Steak and Ale of Columbia, Inc., Bennigan's of Laurel, Inc., Steak and Ale of Florida, Inc., Steak and Ale of Oklahoma City No. 1, Inc., Bennigan's of Roosevelt Field, Inc., Steak and Ale of Georgia, Inc., Steak and Ale of Maryland, Inc., Steak and Ale of Pennsylvania, Inc., Steak and Ale of Delaware, Inc., Steak and Ale of Illinois, Inc., Steak and Ale of Tennessee, Inc., Steak and Ale of Louisiana, Inc., Steak and Ale of Indiana, Inc., Steak and Ale of California, Inc., Steak and Ale of Massachusetts, Inc., Steak and Ale of New Mexico, Inc., Steak and Ale of Michigan, Inc., S & A of Montgomery County, Inc., Steak and Ale of Minnesota, Inc., Steak and Ale of Missouri, Inc., Steak and Ale of New Jersey, Inc., Steak and Ale of Little Rock, Inc., Steak and Ale of Ohio, Inc., 100 West Timonium Road, Inc., Bennigan's Club of Dallas-Shiloh, Inc., Bennigan's Club of Fort Worth, Inc., Bennigan's Club of Mesquite, Inc., Bennigan's Club of Tyler, Inc., Steak and Ale No. 108 Club, Steak and Ale Club of Mesquite, Inc., and Jamie's Inc.

ITEM 5 INITIAL FEES

Initial Franchise Fee

You pay CBGF an Initial Franchise Fee of \$29,500 when you sign the Franchise Agreement although CBGF will reduce the amount of this fee if you commit to open more than one COLE'S in accordance with a DA (as described below). The Initial Franchise Fee is a lump sum payment, fully earned upon receipt, and is not refundable, except as described below. CBGF may cancel the Franchise Agreement within 180 days if: (1) any financial, personal or other information provided by you is materially false, misleading, incomplete or inaccurate; (2) you fail to purchase or lease a suitable site for your COLE'S; or (3) you fail to apply for and obtain all required licenses for the operation of your COLE'S from the appropriate governmental agencies. Further, CBGF may cancel the Franchise Agreement if you or your managers fail to satisfactorily complete CBGF's training program at least thirty (30) days prior to the opening of your COLE'S.

If your Franchise Agreement is terminated by CBGF before you open your COLE'S, CBGF will refund your Initial Franchise Fee after deducting \$5,000. CBGF will retain this amount as payment for the administrative and out-of-pocket expenses incurred by CBGF for employee salaries, training costs, salespersons' commissions, attorneys' fees, accountants' fees, travel expenses and long distance telephone call costs. Otherwise, the Initial Franchise Fee is not refundable.

Special Programs

Pioneer Program: The initial franchise fee is reduced for the first 10 individuals or entities (the "Pioneers") that enter into a franchise agreement or agreements. Pioneers must pay an initial franchise fee of \$20,000, (the "Pioneer Program"). In addition, CBGF will reduce the standard royalty rate of 5% of Weekly Gross Sales to 3% of Weekly Gross Sales for the initial term of the agreement. The benefits of the Pioneer Program are not transferable. The Pioneer Program will entitle Developers to participate in up to two wholly owned franchised locations but will not apply to future units to be developed under the Development Agreement. The reduced amount of the Initial Franchise Fee and reduced royalty fees will be reflected in an Addendum to the Franchise Agreement.

Franchisees who are honorably discharged veterans of U.S. military service: New franchisees who are honorably discharged veterans of U.S. military service will be provided a discount in the amount of \$7,375 from the usual amount of the Initial Franchise Fee (\$29,500) for the purchase of their first COLE'S franchise. In addition, CBGF will reduce the standard royalty rate of 5% of Weekly Gross Sales to 4% of Weekly Gross Sales for the first year the COLE'S is open and operating. Veterans desiring to obtain the discount must provide CBGF with adequate documentation of honorable discharge and the franchisee for the COLE'S to be operated must be at least 51% owned by the veteran qualifying for the discount. The reduced amount of the Initial Franchise Fee and reduced royalty fees will be reflected in an Addendum to the Franchise Agreement. If the veteran acquires COLE'S multi-unit development rights, the discount will be applied to the first franchise purchased by the veteran to be established within the development area.

Franchisees who are women or members of an ethnic minority group: New franchisees who are women or are members of an ethnic minority group will be provided a discount in the amount of \$7,375 from the usual amount of the initial franchise fee (\$29,500). In addition, CBGF will reduce the standard royalty rate of 5% of Weekly Gross Sales to 4% of Weekly Gross Sales for the first year the COLE'S is open and operating. For purposes of our program, a "minority" means an individual who is a United

States citizen or a lawful permanent resident of the United States and who is a member of an ethnic minority group. The reduced amount of the Initial Franchise Fee and reduced royalty fees will be reflected in an Addendum to the Franchise Agreement. If the woman or a member of an ethnic minority group acquires COLE'S multi-unit development rights, the discount will be applied to the first franchise purchased by the woman or a member of an ethnic minority group to be established within the development area.

If a prospective franchisee qualifies for more than one of the special programs disclosed above, the prospective franchisee must select, and will only receive the benefit of one special program to apply to his or her franchise purchase transaction.

Development Agreement

If you enter into a DA with CBGF, then you will pay CBGF a non-refundable Exclusive Territory Fee. The amount of the Exclusive Territory Fee is calculated based upon the number of COLE'S that you must open in the Exclusive Territory. Under a DA the Exclusive Territory Fee may range from \$40,000 to \$500,000 (\$20,000 multiplied by 2 COLE'S = \$40,000 (low end); (\$20,000 multiplied by 25 COLE'S = \$500,000 (high end))), payable in a lump sum.

The Exclusive Territory Fee is due when you sign the DA. The number of COLE'S that must be opened in the Exclusive Territory will generally range from 2 to 25, depending upon the geographical area, size, population, availability of suitable sites and market potential of the Exclusive Territory.

You also pay CBGF a non-refundable, except as defined in the first paragraph of Item 5, Initial Franchise Fee for each COLE'S you develop in the Exclusive Territory as follows:

Number of COLE'S You Commit to Develop in Accordance with a DA	Amount of Initial Franchise Fee Per COLE'S
1 st Unit	\$9,500 ³
2 nd Unit	\$7,500
3 rd Unit	\$5,500
4 th Unit	\$3,500
5 th Unit +	\$2,500

For example, if you acquire rights to develop 25 COLE'S and do not qualify for one of the special programs disclosed in this Item 5, you must submit to us an amount of \$509,500 at the time you sign the DA (i.e., \$9,500 Initial Franchise Fee [for the first COLE'S] + \$500,000 Exclusive Territory Fee [\$20,000 x 25 COLE'S] = \$509,500). You must sign the Franchise Agreement for your first COLE'S when you sign the DA. You must also pay the applicable Initial Franchise Fee for future COLE'S at the time you sign the Franchise Agreement (in accordance with the terms of the DA) for each such restaurant. In this example, the Initial Franchise Fee for the remaining restaurants, which you will pay to us in full at the time you sign the Franchise Agreement for each such restaurant, is as follows: COLE'S 2 (\$7,500); COLE'S 3 (\$5,500); COLE'S 4 (\$3,500); COLE'S 5 (\$2,500); and future COLE'S (\$2,500).

³ If you qualify for one of the special programs disclosed in this Item 5, the \$9,500 Initial Franchise Fee for such franchisee's first unit developed in the Exclusive Territory will be reduced.

Developer In Good Standing (“DIGS”) Program: For existing developers in good standing, who are licensed with any affiliate of HSD, there will be no charge for the Development Fee and the developer would receive the privilege to develop Cole’s in their existing development area, as defined in their current agreement with the affiliate(s). Notwithstanding the foregoing, under the DIGS Program you will be responsible for paying us the then-current nonrefundable initial franchise fee as each franchise agreement is signed. Existing developers in good standing will be required to commit to a future development schedule, which shall be negotiated on a case-by-case basis. These modifications are evidenced by Addendum II to the Development Agreement.

The Standard Development fee is calculated consistently for all developers entering into Development Agreements under this offering, but the actual dollar amount paid will vary depending on the number of COLE’S you must develop. The Standard Development Fee, and the Reduced Royalty Program (“RRP”) Fee are not refundable.

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**ITEM 6
OTHER FEES**

TYPE OF FEE⁴	AMOUNT	DUE DATE	REMARKS
Royalty Fee	5% of Weekly Gross Sales ⁵	Within 10 days after the last day of each accounting week ⁶	“Gross Sales” includes the total sales from your COLE’S. It does not include sales, use, or gross receipts taxes. We require you to pay the royalty fee by electronic funds transfer. The 3% royalty results only from participating in our special programs.
Production Fee	½% of Weekly Gross Sales	Within 10 days after the last day of each accounting week ⁶	Deposited in the Production Fund controlled by CBGF
Designated Market Area (“DMA”) Advertising Contribution ⁷	Up to 2½% of Weekly Gross Sales	As determined by members of local advertising group	When there are 2 or more COLE’S in your DMA, you must become a member of, and contribute a percentage of your Gross Sales to a local advertising group which may be paid to an affiliate of CBGF
National Advertising Fee	Up to 2% of Gross Sales	Within 10 days after the last day of each accounting week	Payable only if established by CBGF. See Section 10 of the Franchise Agreement
Audit Fee ⁸	Amount incurred by CBGF to audit your restaurant	Within 15 days after receipt of an invoice	Payable only if upon CBGF’s audit, you understated your Gross Sales by more than 2%
Transfer Fee ⁹	\$5,000 payable in two installments: \$1,000 and \$4,000	Payable in two installments: (1) \$1,000 (non-refundable) upon receipt of notification from Franchisee and application from transferee concerning the proposed transfer; and (2) \$4,000 upon execution of the Transfer	Must obtain CBGF’s consent and meet the requirements outlined in Section 15 of the Franchise

TYPE OF FEE⁴	AMOUNT	DUE DATE	REMARKS
Renewal Fee ¹⁰	\$5,000	Upon signing new Renewal Addendum	Must obtain CBGF's consent and meet the requirements outlined in Section 16 of the Franchise Agreement.
Collection Costs	Amount incurred by CBGF to collect unpaid fees	On demand	May include attorneys' fees, cost of hiring collection agency, accounting fees, deposition costs, filing fees, and travel expenses
Insufficient Funds Fee	\$35 (or, if less, the maximum fee allowable by law)	On demand	Applies to payment of Royalty Fees, Production Fees, and Gift Card transactions and any other payment to CBGF or an affiliate
Interest Charges ¹¹	Lesser of 12% per annum or the maximum legal rate allowable under state law for amounts past due more than 30 days.	On demand	Applies to any past due obligation due to CBGF or any affiliate
Training ¹²	\$500 per additional manager trained	On demand	Payable to CBGF if training provided by CBGF and payable to Host Franchisee if training provided by Host Franchisee
Indemnity	Total amount of any judgment, settlement, penalty, cost or fee	Payable immediately upon occurrence	Agreements provide that you shall indemnify us and hold us harmless from and against all damages, losses, claims, expenses and costs
Attorneys' Fees	All attorneys' fees, court costs and related expenses if you are not the prevailing party in any legal action	Payable immediately upon occurrence	Payable in the event of any action at law or in equity to secure or protect rights under or to enforce or collect under the Franchise Agreement or Development Agreement
Gift Card Program Monthly Support Fee (Third Party)	You will be assessed a monthly support fee by a third party provider, which is currently \$15 per month.	On demand	Our Gift Card Processing Provider

TYPE OF FEE ⁴	AMOUNT	DUE DATE	REMARKS
Grand Re-Opening Advertising Fee	\$5,000	On demand	Advertising expense
Five Year Remodel Cost with Training Fees	\$25,000 - \$50,000	On demand	

⁴ Except as noted in the preceding table, all fees and expenses described in this Item 6 are uniformly imposed by and payable to CBGF. All fees are nonrefundable, except as defined in the first paragraph of Item 5. CBGF, at its discretion, has, from time-to-time under special unique circumstances (e.g., unanticipated adverse economic market conditions affecting the franchisee's unit and advertising and marketing tests in the franchisee's market), granted temporary modified payment of royalty fees due under the Franchise Agreement. You are required to pay your Royalty Fees and Production Fees by electronic funds transfer (sometimes referred to as an "ACH payment").

⁵ If you qualify for one of the special programs disclosed in Item 5, under the Minority or Veteran special programs your royalty will be reduced from 5% of Gross Sales to 4% of Gross Sales for the first 12 months the restaurant is open and operating. Under the Pioneer Program your royalty will be reduced to 3% of Gross Sales for the initial term of the Franchise Agreement. Upon renewal the royalty shall revert to 5% of Gross Sales.

⁶ "Week" or "Weekly" is defined in the Franchise Agreement as a period of 7 consecutive days from Tuesday through Monday, or as otherwise designated in writing periodically by CBGF.

⁷ A portion of your DMA Advertising Contribution, up to 2½% of your Weekly Gross Sales, will be applied to your required Local Advertising Expenditures. COLE'S in a DMA may include COLE'S operated by HSD. HSD has voting control over some local advertising groups. In these groups, the DMA Advertising Contributions range from 0% to 2½% of the members' Weekly Gross Sales.

⁸ We anticipate a cost for an audit of your books and records to be approximately \$2,000 to \$3,000 plus reasonable travel expenses.

⁹ Under certain conditions your fee may be less than \$5,000 (see Schedule B of the Franchise Agreement).

¹⁰ At the end of the term of your Franchise Agreement, you will have the option to renew the Franchise for the COLE'S for two (2) additional consecutive terms of five (5) years each. (see Schedule B of the Franchise Agreement). Under the Pioneer Program your royalty will be reduced to 3% of Gross Sales for the initial term of the Franchise Agreement. Upon renewal the royalty shall revert to 5% of Gross Sales.

¹¹ You will also be responsible for any reasonable costs incurred by us to collect the unpaid and past due obligation.

¹² Initial training costs are included in Initial Franchise Fee. In addition, CBGF or a Host Franchisee will provide training for: (a) any managers who do not participate in the initial training for a fee of \$500 for each manager to be trained; and (b) a transferee, the transferee's managers and/or any other applicable employees of transferee who were not previously trained for a fee of \$500 for each individual to be trained. You (or, if applicable, the transferee) must pay for all trainees' salaries, fringe benefits, travel costs, lodging, food, automobile rental, and other expenses while they attend the required training program. These costs will vary significantly depending on the distance they must travel for training as well as the cost of lodging and food for any given locale.

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ITEM 7
ESTIMATED INITIAL INVESTMENT
YOUR ESTIMATED INITIAL INVESTMENT

Key:

FA: Franchise Agreement

DA: Development Agreement

TYPE OF EXPENDITURE	AMOUNT ESTIMATED RANGE ¹³		METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
	LOW	HIGH			
Initial Franchise Fee ¹⁴	\$20,000	\$29,500	Lump Sum	Upon Execution of FA	CBGF
Exclusive Territory ¹⁵	\$40,000	\$500,000	Lump Sum	Upon Execution of DA	CBGF
COLE'S Lease Payments ¹⁶	\$0	\$19,100	As Billed	As Incurred	Landlord
Leasehold/Building Improvements ¹⁷	\$25,000	\$266,800	As Billed	Before Opening	Architects, Engineers, & Suppliers
Inventory to Begin Operating ¹⁸	\$8,000	\$25,000	As Billed	As Incurred	Suppliers
Architectural and Engineering ¹⁹	\$0	\$12,800	As Billed	As Incurred	Suppliers
Liquor License (Optional) ²⁰	\$0	\$14,800	As Billed	As Incurred	Liquor Authority & Liquor Licensing Service
Furniture, Fixtures, Equipment (FFE) ²¹	\$90,300	\$179,100	As Billed	As Incurred	Supplier or Leasing Company
POS System & Computer Hardware ²²	\$0	\$25,000	As Billed	As Incurred	Suppliers
Gift Card Terminal (Stand Alone terminal or POS Integration) ²³	\$0	\$1,100	As Billed	As Incurred	Third Party Hardware or POS Provider
Gift Card Costs – Cost of Cards ²⁴	\$100	\$200	Lump Sum	5 Weeks Before Opening	HSD

TYPE OF EXPENDITURE	AMOUNT ESTIMATED RANGE ¹³		METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
	LOW	HIGH			
Initial Funding of ACH (Automated Clearing House) account for Gift Card Program (includes POS System) ²⁵	\$500	\$600	Lump Sum	5 Weeks Before Opening	Your Local Bank
Grand Opening Advertising ²⁶	\$10,000	\$32,300	As Billed	Within 90 days of Opening	Local Advertising Supplier
Signage ²⁷	\$10,000	\$19,400	As Billed	Before Opening	Supplier
Promotional Expenses ²⁸	\$3,000	\$15,000	As Billed	As Incurred	Local Suppliers
Insurance (annually) ²⁹	\$24,700	\$30,000	Lump Sum or As Billed	As Incurred	Insurance Company
Professional Services	\$1,500	\$5,000	As Billed	As Incurred	Attorneys, Accountants, & Other Professionals
Training Expenses wages, travel and living expenses for you and/or your managers during training ³⁰	\$24,700	\$47,300	As Billed	During Training	Employees, Airlines, Rental Cars, Hotels, and Owner of Certified Training Grill
Business Licenses and Permits ³¹	\$100	\$3,000	As Billed	As Incurred	Governing bodies
Additional Funds – Initial Period of 3 Months ³²	\$18,700	\$31,300	As Billed	As Incurred	CBGF, Utilities, Suppliers, & Employees
TOTAL DOES NOT INCLUDE EXCLUSIVE TERRITORY FEE ³³	\$236,600	\$717,300			
TOTAL INCLUDES EXCLUSIVE TERRITORY FEE ³⁴	\$273,600	\$1,217,300			

¹³ For the Estimated Range of Costs, CBGF relied on its experience in the restaurant business, as discussed in Item 1 of this Disclosure Document. These are only estimates and your costs may vary depending on the size of your Cole's, economic and market conditions, competition, wage rates, sales levels attained, and other economic factors. You should carefully review these figures with your business advisor(s) before making any decision to purchase a Cole's franchise. Payments are not refundable unless otherwise noted. CBGF does not offer direct or indirect financing. The low estimate assumes that you qualify for the Pioneer Program.

¹⁴ The amount of your Initial Franchise Fee will vary depending upon whether you qualify for any special programs. The low estimate assumes that you will participate in the Pioneer Program and the high estimate assumes that you will pay the standard Initial Franchise Fee. The amount included in the chart is for your first Cole's. If you qualify for a Pioneer Program, the Initial

Franchise Fee will be reduced from \$29,500 to \$20,000 for your first Cole's franchise. In addition, if you commit to open more than one Cole's in accordance with a DA and you do not qualify for a Special Program, you will pay an Initial Franchise Fee as follows:

Number of COLE'S You Commit to Develop in Accordance with a DA	Amount of Initial Franchise Fee Per COLE'S
1 st Unit	\$9,500
2 nd Unit	\$7,500
3 rd Unit	\$5,500
4 th Unit	\$3,500
5 th Unit +	\$2,500

If you sign a DA, you will pay to us the sum of \$20,000 for each COLE'S you commit to develop (the "Exclusive Territory Fee"). The Exclusive Territory Fee is in addition to, and will not be credited toward, the Initial Franchise Fee for each COLE'S you develop.

¹⁵ An Exclusive Territory Fee is only due under a DA, which will require you to open and operate more than one COLE'S. The number of restaurants that must be opened in the Exclusive Territory under a DA will generally range from 2 to 25. The Exclusive Territory Fee is not the same for each DA. The Initial Franchise Fee for the first franchised unit developed under a DA is \$9,500 per unit, in addition to the Exclusive Territory Fee. The Initial Franchise Fee for each subsequent franchised unit developed under a DA is outlined in the table above in Footnote 14. For more information on the Exclusive Territory Fee please refer to the Development Summary of the DA attached as Exhibit B to this Disclosure Document.

¹⁶ If you do not already own suitable restaurant space, you must lease or purchase the land and a building for your COLE'S. This estimate is for the lease of retail space (e.g., free standing building). COLE'S are generally located in free standing buildings or in-line in shopping centers, and require approximately 2,500 to 3,500 square feet of floor space. The estimated monthly COLE'S Lease Payments, which may range from \$0 to \$6,367 for your COLE'S, do not include common area maintenance fees and real estate taxes (these costs are not included in the estimated COLE'S Lease Payments). The cost of leasing the proper facilities will vary depending on location, availability of utilities, and other factors. The low estimate assumes that (i) you own the space your Steakhouse will be operating from, or (ii) the Landlord has provided you with three months free rent and the COLE'S opens in three months. Both estimates are for a three-month period. The high estimate is for a 3,500 square foot restaurant at \$21.78 per foot base rent for three months, which assumes that you open your COLE'S within 3 months.

¹⁷ Real estate costs vary considerably according to the size of the building, fair market values in your area, your real estate interest (leasehold or ownership), location, and whether you or your landlord develops the location. You may also choose to remodel an existing building in which case costs may vary depending upon many factors such as the condition of the premises and whether or not that building was previously used as a restaurant. Your costs may also be higher, depending on the size of the site, code requirements and other factors.

Depending upon how your deal is structured, you may pay some or all of the actual cost of leasehold or building improvements. Factors which typically affect your initial investment include your cost to acquire the property, local real estate market values, terms under which other locations have been acquired, how the costs to renovate or develop the land, building and other site improvements are allocated between the parties, interest costs and the negotiations of the parties, among others. Acquisition terms are individually negotiated and may vary materially from one location or transaction to another. These ranges do not include unusual costs to bring utilities to the property for hookup or government imposed "impact fees."

The estimates outlined here are based on our experience. The high amount listed is based on the conversion of an existing local Mexican restaurant to a Cole's Backyard Grill.

¹⁸ Inventory to Begin Operating is the cost of consumable inventory items such as food and beverages, cleaning supplies, paper goods, and other items, which are necessary for opening your COLE'S. You must continually restock these items.

¹⁹ Architectural fees vary widely depending upon the nature of the building being converted. The estimates outlined here are based on our experience. The low amount is based on moving into a location that is in zero need for any architectural and engineering modifications. The high amount is based off prior fees paid, in our experience, where a set rate was applied (\$3.63 per square feet) and multiplied by the square footage of the building. In this table, 3,500 square feet is used.

²⁰ The estimate for the cost of your liquor license assumes that you are not in a region where only a limited number of licenses are available and you would be required to purchase the license, for the purposes of assignment, from a third party. The cost of licenses is not accurately able to be predicted because of wide variations in costs depending on factors like location, the availability of liquor licenses, the ability to move a license and the market value of liquor licenses. The estimate is derived from the fact that serving beer and wine is an option left to each franchisee's discretion, subject to the franchisor's consent. Please check your local jurisdictions on the availability of a liquor license. Liquor license insurance requirements differ from jurisdiction to jurisdiction. Please check with your state and local liquor authorities on the mandatory minimum liquor license

insurance requirements. The estimates outlined here are based on our experience in obtaining liquor licenses for our affiliates' restaurants.

²¹ These figures include estimates based on our experience. The low amount listed is based on the conversions of our existing restaurants. In this table for the high amount, the conversion was from a local Mexican restaurant to Cole's Backyard Grill.

²² These figures include estimates based on our experience. The low amount is based on the franchisee already owning the required POS system. This amount includes the initial cost of the Aloha computer hardware and software that we require you to use in the operation of your COLE'S. These figures include the cost of your point-of-sale system (\$10,000 to \$25,000 - this does not include cabling, installation and other implementation tools). (See Item 11).

²³ The Gift Card Program offers alternative hardware platforms for the Paytronix gift card software application for the purpose of transacting gift cards. The stand-alone VeriFone terminal models that are compatible with the Paytronix gift card software application is the VeriFone VX520. The cost of a VeriFone VX520 terminal is currently around \$403, plus \$100 for accessories per terminal. Your Cole's should have at least 2 gift card terminals. Alternatively, certain compatible POS systems including select versions of MICROS, Aloha, Positouch, Xpient, etc can be integrated with the Paytronix gift card software processing application.

²⁴ The cost of a 250-count box of Gift Cards (with presenters) will be billed at the prevailing cost which is currently \$100 plus applicable sales tax and shipping and are purchased from HSD. The low amount is based on a 250 count box of Gift Cards with presenters and the high amount is based on a 500-count box of Gift Cards with presenters. Payment for the cards is due at the time of the order. This estimate does not include transaction costs associated with selling and redeeming Gift Cards, which currently range from \$0.10 to \$0.13 per transaction. If you redeem Gift Cards via the Merchant IVR method, you will incur an additional \$0.25 per minute fee. (Merchant IVR is a method of redeeming over a touchtone phone using Interactive Voice Response technology.) Gift Card transaction costs are dependent on the type of hardware used to redeem Gift Cards and are lower if processing over IP instead of dial-up.

²⁵ To redirect funds when a Gift Card is sold by a corporate restaurant and redeemed at a franchised location (and *vice versa* or franchise to franchise), you must designate a bank account (the "**ACH Account**") so the appropriate funds may be electronically credited and/or debited periodically. You must initially fund your ACH Account with \$500 for each of your COLE'S. There is a one-time setup fee that may be charged to you by your local bank; we estimate the one-time set-up fee for the initial account will be approximately \$60 and regular on-going bank fees will cost approximately \$120 to \$1,200 annually (this is only an estimate and charges assessed by your local bank may vary). An Insufficient Funds Fee of \$35.00 (or if less, the maximum allowable by law) will be assessed for each dishonored ACH transaction in addition to any insufficient funds fee assessed by your banking institution.

²⁶ CBGF requires you to spend a minimum of \$10,000, for grand opening advertising within 90 days of the opening of your COLE'S. The estimates outlined here are based on our experiences. The high amount listed is based on the conversion of an existing local Mexican restaurant to a Cole's Backyard Grill.

²⁷ The high amount listed is based on the conversion of an existing restaurant to a COLE'S. In this model the conversion was from a local Mexican restaurant to a COLE'S.

²⁸ You must carry out a grand opening promotion for the COLE'S in compliance with our written specifications. We must approve all advertising items, methods and media. We provide on-site opening assistance at no additional charge.

²⁹ The cost of insurance varies depending on such factors as the location, anticipated payroll and sales revenue, materials used in construction and your prior loss experience. You are required to carry those types of insurance required in the Franchise Agreement. The low amount listed is based on the conversion of an existing local Mexican restaurant to a Cole's Backyard Grill.

Your actual cash requirement may change if your carrier allows you to pay the premium on an installment plan instead of billing you for a single upfront lump sum payment. A portion of the business interruption insurance shall be for the benefit of CBGF whereby the insurer will pay to CBGF the lost royalties upon the interruption of business. The royalty amount shall be paid each week the restaurant is closed at an amount equal to the average weekly royalty amount over the immediate twelve consecutive weeks prior to the restaurant closing.

All insurance policies required under your Franchise Agreement must be procured from insurance companies reasonably approved by us (generally, we will want your insurance company rated A-VIII or better by the then current edition of Best's Insurance Reports published by A.M. Best Co.). A Certificate of Insurance must be furnished to CBGF prior to the effective date of your Franchise Agreement and prior to each policy renewal period. The Certificate of Insurance must show by specific reference that the items of insurance listed in the chart below have been provided for and include clauses obligating the insurer to give CBGF at least thirty (30) days' prior written notice of cancellation or notice of a material change in coverage. All insurance, excluding Workers' Compensation, must name CBGF as additional insured. The insurance policies must include a provision for a 30-day notice of cancellation to CBGF.

Insurance sources are approved upon submission of a policy meeting our specifications. Coverage must be at least as comprehensive as the minimum requirements set forth in the chart below and in the Franchise Agreement (see Section 9 of the Franchise Agreement). You must consult your carrier representative to determine the level of coverage necessary for your franchised business. Higher exposures, as determined by your carrier, may require higher limits.

TYPE	MINIMUM AMOUNT
General Liability Insurance	\$1,000,000 (\$2,000,000 annual aggregate)
Liquor Liability Insurance (if applicable)*	\$1,000,000 (\$2,000,000 annual aggregate)
Automobile Insurance	\$1,000,000
All-Risk Property Insurance	Equal to replacement costs
Business Interruption Insurance	\$1,000,000 or actual loss sustained
Umbrella Liability	\$1,000,000
Workers' Compensation	Statutory
Employer's Liability	\$500,000
Employment Practices Liability	\$1,000,000
Insurance Required by Law	As required by state or federal law

*Liquor license insurance differs from jurisdiction to jurisdiction. Please check with your state and local liquor authorities on the mandatory minimum liquor license insurance requirements.

³⁰ You must pay for your employees' salaries, fringe benefits, travel costs, lodging, food, automobile rental, and other expenses while you and/or your managers attend the CBGF training program (3 persons for 7 weeks). These costs will vary significantly depending on the distance you and your managers must travel for training as well as the cost of lodging and food for any given locale.

³¹ This amount represents the estimated cost of health and various operating licenses required at the local, regional, or state level.

³² These figures include estimates based on our experience. In addition to the initial investments listed in the above chart, you will need additional funds to cover expenses before operations begin at your COLE'S and during the first 3 months after opening (the "Initial Period"). These additional expenditures assume the COLE'S will have on the low amount a 20% loss in first month, 10% loss in second month, and break even in third month. These additional expenditures assume your COLE'S will have on the high amount a 20% loss in the first month and breakeven in the second month.

These additional expenditures include local advertising expenditures (which range from 1 – 3 ½% of quarterly Gross Sales, which may be inclusive of a Local Advertising Co-op if you are required to participate in a Local Advertising Co-op in your market area), telephone directory listings, utilities, building permits and impact fees, taxes, hourly employee training, payroll, and other miscellaneous operating costs. Under the Copyright Law of the United States, you may be required to obtain a music license from Performing Rights Organizations such as BMI, SESAC, or ASCAP. You will also be required to pay all music licensing fees to such organizations. This is only an estimate and we cannot assure you that you will not incur additional expenses during the Initial Period. You should calculate your estimated expenses for the above items based on current market conditions in your area and consider whether additional cash reserves are needed. Your working capital requirements will depend on such factors as your business experience, your managerial skills, local economic conditions, and competition.

³³ The Total does not include the cost of purchasing real estate. These figures are estimates only and it is possible that you may have additional or greater expenses. You should base your estimated start-up expenses on the anticipated costs in your market and consider whether you will need additional cash reserves. We have relied on our experience in the restaurant industry to compile these estimates. You should review these estimates with your business advisor(s). The Total does not include the Exclusive Territory fee.

Except as stated in the preceding chart and accompanying footnotes, these amounts may increase based on changes in market conditions and future policy changes. Currently, we have no plans to increase payments over which we have control.

³⁴ The Total assumes that the first franchise fee is \$9,500 and the second franchise fee is \$7,500, as required under purchasing an Exclusive Territory for 2 franchises. This franchise fee total is \$17,000, which is \$3,000 less than the Initial Franchise fee low amount of \$20,000 for qualifying under the Pioneer Program.

The Total does not include the cost of purchasing real estate but does include the Exclusive Territory Fee. These figures are estimates only and it is possible that you may have additional or greater expenses. We have relied on our (and our predecessors') experience in the restaurant industry to compile these estimates. You should review these estimates with your business advisor(s).

We do not finance any part of the initial investment.

ITEM 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Required Purchase of Goods and Services

With the exception of certain Custom Materials (defined below) for which HSD, an affiliate of CBGF, is currently the only approved supplier, you are not required to purchase or lease any products, services, uniforms, supplies, furniture, fixtures, equipment, computer hardware and software or inventory from us or our affiliates. To ensure uniformity and compliance with our standards and specifications, we do require you to purchase these items from approved suppliers and distributors. No officer of CBGF owns a material interest in any of our approved suppliers, vendors or distributors.

Required and Approved Suppliers

You must purchase or lease products or services required for your COLE'S from suppliers approved by CBGF. CBGF will provide a written list of approved suppliers and distributors for food, food items, beverages, recipe ingredients, products, goods, premiums, novelty items, clothing, souvenirs, merchandise, supplies, sundries, uniforms, machinery, signs, furniture, fixtures and equipment. CBGF will notify you of any additions to or deletions from this list and will provide you with written standards and specifications for your COLE'S. Suppliers and distributors are selected based on their ability to satisfy supply chain requirements, reduce system costs while maintaining or improving quality, service, and brand identification. These requirements are necessary to ensure that you adhere to the uniformity requirements and quality standards associated with all COLE'S. We reserve the right, in our sole discretion, to designate and require you to use a single supplier or distributor for any services, products, equipment, supplies, or materials. Other than as disclosed in this Item 8, we do not receive or collect rebates, fees, or other compensation from designated or approved suppliers attributable to franchisee purchases. We will not provide material benefits, such as renewals or the granting of additional franchises, based upon your purchases from any suppliers.

Purchases According to Specifications

You must comply with all of our standards and specifications relating to the purchase of all food and beverage items, ingredients, supplies, materials, fixtures, furnishings, equipment, computer systems and other products used or offered for sale at the COLE'S. Among other things, the following must comply with our specifications:

Site Selection and Construction

We must approve the Site for your COLE'S. The Site must meet our criteria for demographic characteristics, traffic patterns, parking, character of neighborhood, competition from and proximity to other businesses, other COLE'S (and the location of the restaurants belonging to or franchised by our affiliates), and other commercial characteristics and the size, appearance and any other factors we consider appropriate. Our criteria and our evaluation of them may vary periodically and from location to location. We also must approve the lease or sublease for the Site of your COLE'S prior to you signing them. We have 15 days after we receive all required information to review and accept or not accept the proposed site and lease or contract of sale. You cannot place a COLE'S at a site we have not first accepted in writing. Our approval of the lease indicates only that it contains certain elements that

we deem mandatory, from time to time. Our review and approval of the lease is not a substitute for your own review of the complete lease.

We have the right to review your plans and must notify you of our objections within 15 days after we receive your plans. If we do not notify you of any objections within that time, you may use the plans. If we do object within the 15-day time period, you may not use the plans. Any objections we make will also include a reasonably detailed list of changes that you must make for the plans to be acceptable. We will notify you within 15 days after we receive your revised plans if they are acceptable. If we do not object to your revised plans within the 15-day period, you may use the revised plans. You agree to notify us of the scheduled date for completion of construction no later than forty-five (45) days prior to such date.

1. Your failure to obtain a site that we approve and open within the specified time period is a default under the Development and/or Franchise Agreement for which we may terminate.

2. When you identify a proposed site, you must submit to us in writing a description of the site, evidence that the site satisfies our site selection guidelines, a copy of the proposed lease (which incorporates a rider in substantially the form of **Exhibit "G"** to the Development Agreement) or contract of sale for the site, and any other information we may require. If we accept multiple sites, you must notify us within 5 days of our acceptance of the site that you intend to acquire for the COLE'S. Our acceptance of a site does not guarantee that a COLE'S will be profitable or successful at that site. (Development Agreement, Section VIII.B)

Promptly following our acceptance of the site, you must enter into a lease or contract of sale for the site. You must provide us with a copy of the signed lease or contract of sale within 10 days of signing it. (Development Agreement, Section VIII.B.)

You must obtain all zoning classifications, clearances and approvals relating to the site and all required permits, licenses, and certifications. (Operations Manual)

You must open the COLE'S and commence business within two hundred seventy (270) days after the execution of this Agreement, unless you obtain a written extension of such time period from us. (Operations Manual)

Advertising and Promotional Materials

You agree that any advertising, promotion and marketing you conduct will be completely clear and factual and not misleading and will conform to the highest standards of ethical marketing and the promotion policies that we prescribe periodically. Samples of all advertising, promotional and marketing materials that we have not prepared or previously approved must be submitted to us for approval before you use them. If you do not receive written disapproval within fifteen (15) days after our receipt of such materials, we will be deemed to have given the required approval, but we may withdraw our approval at any time. You may not use any advertising or promotional materials that we have disapproved.

Insurance

You must obtain and maintain insurance policies protecting you and us and various related parties against any demand or claim with respect to personal injury, death or property damage, or any loss, liability or expense related to or connected with the operation of the COLE'S. These policies must be

written by a responsible insurance carrier or carriers rated “A” or better and a financial size category of “VIII” or greater by the A.M. Best Company, Inc. and that are acceptable to us.
At a minimum, you must carry:

TYPE	MINIMUM AMOUNT
General Liability Insurance	\$1,000,000 (\$2,000,000 annual aggregate)
Liquor Liability Insurance (if applicable)*	\$1,000,000 (\$2,000,000 annual aggregate)
Automobile Insurance	\$1,000,000
All-Risk Property Insurance	Equal to replacement costs
Business Interruption Insurance	\$1,000,000 or actual loss sustained
Umbrella Liability	\$1,000,000
Workers' Compensation	Statutory
Employer's Liability	\$500,000
Employment Practices Liability	\$1,000,000
Insurance Required by Law	As required by state or federal law

*Liquor license insurance differs from jurisdiction to jurisdiction. Please check with your state and local liquor authorities on the mandatory minimum liquor license insurance requirements.

Revenue From Franchisee Purchases

HSD, an affiliate of CBGF, is the designated supplier of certain standardized marketing and training forms and custom materials (“**Custom Materials**”) such as Manager In Training kits, work schedules, comment cards, and POP stands necessary to operate your COLE’S. HSD is the only currently approved supplier of Custom Materials. In the year ending December 26, 2016, HSD’s revenues from the sale of the Custom Materials to franchisees (including PONDEROSA & BONANZA franchisees) was \$10,655. Purchases of the Custom Materials will represent less than 1% of your overall purchases in establishing and operating the business. We do not receive or collect rebates, fees, or other compensation from HSD attributable to franchisee purchases. We will not provide material benefits, such as renewals or the granting of additional franchises, based upon your purchases from HSD. This is exclusively a service CBGF offers for its franchisees, to lower the costs of acquiring these Custom Materials.

Negotiated Prices

CBGF and its affiliates receive rebates from our approved soft drink providers, Pepsi-Cola and Dr. Pepper which range between \$0.24 and \$0.79 per gallon and are based upon system wide purchases. For the year ended December 26, 2016, CBGF and its affiliates received approximately \$65,217 in rebates based upon franchisee purchases from approved beverage suppliers, which are Pepsi-Cola and Dr. Pepper. HSD contributed the amount that it receives from these suppliers to national marketing funds used to promote the respective supplier’s products periodically throughout the year.

Other than the rebates described above and any revenues received by HSD with respect to the sale of Custom Materials to franchisees (including PONDEROSA & BONANZA franchisees), CBGF and its

affiliates will not derive revenue or other material consideration based upon your purchases or leases from approved suppliers.

Material Benefits

CBGF will not provide material benefits, such as renewals or the granting of additional franchises, based upon your use of approved suppliers.

Approval of Alternative Suppliers

If you want to purchase products or services from a supplier or distributor not currently approved by CBGF, then you must, at your sole expense, send representative samples or specifications of that supplier's goods or services and certain information about the supplier to CBGF. As a condition to providing our consent, we must be allowed to inspect the supplier's or distributor's facilities and samples of its products. We estimate the cost to obtain and ship a sample item may range from \$100 to \$250 (this does not include the actual cost of the sample item). CBGF will determine whether the specified products or services comply with its established uniformity requirements, quality standards and specifications and whether the supplier's business reputation, delivery performance, credit rating and other relevant information are satisfactory. CBGF will advise you in writing, within 60 days of its receipt of the supplier sample or specifications, as to the supplier or distributor meeting its approval criteria. The 60-day approval period may be extended if the product must be tested at an independent laboratory. We also reserve the right, at our option, to re-inspect the facilities and products of any supplier or distributor and to revoke our consent if the supplier fails to continue to meet our approval criteria. CBGF's criteria standards for supplier and distributor approval are available to franchisees upon written request.

CBGF formulates its standards and specifications for certain goods and services to be purchased by its franchisees at its sole discretion. CBGF may modify its written standards and specifications at any time without prior notice and you must comply with any modifications. You will be responsible for ensuring that all goods and services selected by you will continue to conform to CBGF's standards and specifications.

Gift Card Program

To ensure guest satisfaction and to protect brand integrity, all domestic franchisees must participate in the Gift Card Program, unless we determine that such participation is not necessary or desirable for any reason. The Gift Card features the COLE'S BACKYARD GRILL, BONANZA STEAKHOUSE, BONANZA STEAK & BBQ, and PONDEROSA STEAKHOUSE brands, and will provide guests with the opportunity to use the Gift Card at any participating domestic restaurant concept branded under the names COLE'S BACKYARD GRILL, BONANZA STEAKHOUSE, BONANZA STEAK & BBQ, and PONDEROSA STEAKHOUSE. All domestic franchisees are required to sign the Loyalty and Gift Card Participation Agreement, attached as Appendix 5 to the Franchise Agreement which is Exhibit C to this Disclosure Document. In addition, you will also be required to execute the Seller's Addendum to the Loyalty and Gift Card Participation Agreement, which is also attached as Appendix 5. You must be approved by CBGF to participate as a "seller" in the Gift Card Program.

The Gift Card Program is the only gift card program approved for use within the COLE'S system. Paper gift certificates (including bankable drafts) are not permitted to be sold by any domestic COLE'S.

The cost of a 250-count box of Gift Cards (with presenters) will be billed by, and purchased from, HSD at the prevailing cost, which is currently \$100 plus applicable sales tax and shipping, as described in the Gift Card Manual. The Gift Card Program offers alternative hardware platforms for the Paytronix gift card software application for the purpose of transacting gift cards. The CBGF application of the Gift Card Program is fully integrated with select, industry POS platforms such as MICROS, Aloha, Positouch, Xpient, etc. If you do not use an integrated POS solution you must utilize a compatible stand-alone terminal to sell and redeem Gift Cards. The compatible stand-alone VeriFone terminal models that are compatible with the Paytronix gift card software application is the VeriFone VX520, which can be purchased from third party providers. The compatible terminal may also be used to process credit card transactions and can process over IP or dial-up (costs vary depending on IP/dial-up capability and supplier). Merchant IVR is also available in case of POS or VeriFone malfunction. For more information regarding the Gift Card Program and associated costs please refer to Items 5, 6, 7, and 11 of this Disclosure Document.

Cooperatives

CBGF does not offer any purchasing or distribution cooperatives, but we negotiate purchase arrangements with suppliers and distributors that may benefit you.

Changes to the standards and specifications for products and services are communicated to franchisees via email and added to the latest version of the Operations Manual.

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ITEM 9 FRANCHISEE'S OBLIGATIONS

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

Key:

FA: Franchise Agreement

DA: Development Agreement

Obligation		Section in Agreement	Disclosure Document Item
a.	Site selection and acquisition/lease	FA: Section 1.2, 1.4, 14.1(b), 15.2(g), 18(j); DA: Article 5.7 and Operations Manual	Item 11
b.	Pre-opening purchases/leases	FA: Sections 1.2, 12.2 and Operations Manual	Items 7 & 8
c.	Site development and other pre-opening requirements	FA: Section 1.2, 1.4, 15.2(e), 12.2, 17.3 and Operations Manual	Items 7 & 11
d.	Initial and ongoing training	FA: Section 7 and Operations Manual	Item 11
e.	Opening	FA: Sections 7, 12.2 and Operations Manual	Item 11
f.	Fees	FA: Section 2.2, 16.1(a), Schedule B; DA: Article 4 and Operations Manual	Items 5, 6 & 7
g.	Compliance with standards and policies/ Operating Manual	FA: Section 3; DA: Article 6 and Operations Manual	Items 8 & 11
h.	Trademarks and proprietary information	FA: Sections 5, 9 and Operations Manual	Items 13 & 14
i.	Restrictions on products/services offered	FA: Section 5 and Operations Manual	Item 16
j.	Warranty and customer service requirements	Operations Manual	Item 16
k.	Territorial development and sales quotas	DA: Article 4 and Operations Manual	Item 12
l.	Ongoing product/service purchases	FA: Section 5 and Operations Manual	Item 8
m.	Maintenance, appearance, and remodeling requirements	FA: Section 4 and Operations Manual	Items 7
n.	Insurance	FA: Section 12 and Operations Manual	Items 7 & 8
o.	Advertising	FA: Section 6 and Operations Manual	Items 6 & 11

Obligation		Section in Agreement	Disclosure Document Item
p.	Indemnification	FA: Section 12.5; DA: Article 11 and Operations Manual	Item 6
q.	Owner's participation/management/staffing	FA: Section 19; DA: Article 5.2 and Operations Manual	Items 11 & 15
r.	Records/reports	FA: Section 10 and Operations Manual	Item 6
s.	Inspection Audits	FA: Section 10.3 and Operations Manual	Items 6 & 11
t.	Transfer	FA: Section 14 and Schedule B; DA: Article 7 and Operations Manual	Item 17
u.	Renewal	FA: Section 18 and Operations Manual	Item 17
v.	Post-termination obligations	FA: Section 15; DA: Article 9 and Operations Manual	Item 17
w.	Non-competition covenants	FA: Section 16; DA: Article 10 and Operations Manual	Item 17
x.	Dispute resolution	DA: 13.13, 13.14 & 13.15 and Operations Manual	Item 17
y.	Other, Guarantee of Franchise Obligations	FA: Section 12; DA: Guaranty and Operations Manual	Item 17

ITEM 10 FINANCING

We do not offer direct or indirect financing. We do not guarantee your note, lease or other obligation. Boefly, a third party does offer services to connect franchisees with SBA approved lenders. Please see more at <http://www.boefly.com>.

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

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

Pre-Opening Assistance - before the opening of your COLE'S, we or our designee will:

(1) After signing your Franchise Agreement, CBGF may, at its discretion, schedule a Project Planning Day where we will provide assistance and/or consultation in developing effective timelines for completion of your project. Topics discussed may include: construction, inspection schedules, management and employee staffing and training. Any training and assistance we provide is oriented toward product information and operations, and is not intended to be exhaustive or inclusive of all training that employees may need. We do not provide legal advice or guidance or assistance on matters of security.

(2) You will be responsible for selecting the site for your COLE'S. CBGF will review the proposed site for the COLE'S (see Section 1.2 of the Franchise Agreement; Article 5.7 of the DA). If CBGF accepts the site, we will issue a notice of no objection. Although there is no specified time limit for CBGF to review the proposed site, CBGF will do so within a reasonable time frame, which typically will be within 30 days after the submission of the applicable site selection information by you. Some of the factors considered by CBGF when reviewing a proposed site include accessibility, visibility and potential traffic flows and various other factors. CBGF will also evaluate the site in light of CBGF's encroachment and dominant brand development and conversion policies, if any, that are then in effect. These policies may, among other things, consider the proximity and potential impact of a proposed site on existing and future units operating or to be operating under other business systems owned or controlled by CBGF and its affiliates, including CBGF. The review conducted by CBGF of the site is not a warranty, representation or guaranty by CBGF that a COLE'S opened at that site will be a financial success.

CBGF reserves the right to reject or disapprove you at any time within one hundred eighty (180) days after the date of the Franchise Agreement if you fail to purchase or lease a suitable site for the COLE'S that has been deemed acceptable by CBGF (See Section 1.4 of the Franchise Agreement). Your COLE'S location will be purchased or leased by you from independent third parties.

(3) CBGF will provide you with its then current prototype architectural plans and specifications for a COLE'S, reflecting CBGF's requirements for dimensions, interior design and layout, image, building materials, fixtures, equipment furniture, signs and décor (See Section 3.A of the Franchise Agreement). You are responsible for constructing, remodeling and decorating your COLE'S to comply with these plans and specifications.

Training

(1) Within 90 days prior to the opening of your restaurant, CBGF will provide a training program (the "Managers Training Program" or "COLE'S Training and Education Program" or "STEP") for up to 3 of the initial managers of your COLE'S at an approved training site designated by CBGF to educate and acquaint them with the business system and the operation of a COLE'S. The Managers Training Program will be conducted at a certified training restaurant ("Certified Training Restaurant") in your area or another site designated by CBGF. The program will cover base business operating procedures including: Shift Management, Human Resource Management, Food Production and Merchandising, Quality and Standards, Cost Controls, Safety and Security, Building Equipment and Maintenance, Cleanliness, Basic Administration, Crisis Management and other topics selected by CBGF representatives.

Training classes are not regularly scheduled, but are currently held as training needs dictate. The instructional materials are applicable to the subject being taught and consist of Manuals, video tapes, DVD'S, and on-the-job training. Each of the instructors at a Certified Training Restaurant is a general manager who has been certified to hold the position of Training General Manager and will have had a minimum of 2 years of field experience with either the franchisor, or an affiliate of franchisor, or an existing franchisee.

Training is provided to you and your initial managers at no additional cost to you. However, you must pay the salaries, fringe benefits, payroll taxes, unemployment compensation, workers' compensation insurance, travel expenses, lodging, food, automobile rental costs, and all other expenses for yourself and every one of your employees who attend training. You and/or your managers must satisfactorily

complete to CBGF's satisfaction the training program at least 30 days prior to the opening of your COLE'S and you must employ 3 STEP trained certified managers in your COLE'S at all times.

The following chart summarizes CBGF's current Managers Training Program:

TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location³⁴
Shift Management	1.5	130	DFW area of Texas
Human Resource Management	1.5	20	DFW area of Texas
Food Production and Merchandising	3	52	DFW area of Texas
Quality and Standards	1.5	6	DFW area of Texas
Cost Controls	1.5	7	DFW area of Texas
Safety and Security	1.5	7	DFW area of Texas
Building Equipment and Maintenance	1.5	13	DFW area of Texas
Cleanliness	1.5	5	DFW area of Texas
Basic Administration	0	9	DFW area of Texas
Crisis Management	1.5	0	DFW area of Texas
TOTAL:	15	249	

³⁴ The location of the Certified Training Restaurant will be in the state where a Certified Training Restaurant is located closest in reasonable proximity to the site of the proposed COLE'S. Currently our Certified Training Restaurant is located in Texas.

(2) The initial managers will be you and 2 managers, if you will be involved in the operation of your COLE'S, or 3 managers if you will not be involved in the operation of your COLE'S (see Section 7 of the Franchise Agreement). All training will be conducted under the direction of a representative designated by CBGF. If this is your first COLE'S, the initial 3 management trainees will complete the seven weeks of training at a Certified Training Restaurant. You and/or your managers must satisfactorily complete the training at least 30 days prior to opening of your COLE'S. You must at all times employ managers who have satisfactorily completed CBGF's training program (See Section 7 of the Franchise Agreement). Currently CBGF does not have any additional required training programs or refresher courses but CBGF does reserve the right to require these in the future.

(3) After you and your managers have satisfactorily completed CBGF's Managers Training Program, a field training team will provide opening assistance at no additional cost to you at your COLE'S for a period of not less than 7 days. The field training team will advise you on implementing

internal controls, opening procedures, training employees, purchasing foods, beverages, supplies, premiums and novelty items, implementing accounting programs, implementing the business system and evaluating initial business operations and marketing plans. You will not open and commence initial business operations until CBGF has given you written approval to open your COLE'S.

(4) CBGF will provide a copy of the Operations Manual (see Section 3 of the Franchise Agreement). The current Operations Manual for the COLE'S System contains 382 pages and consists of various components and modules including, but not limited to, Introduction, 9 pages; Human Resources and Employee Relations, 77 pages; Daily Operating Procedures, 51 pages; Building & Equipment Maintenance, 78 pages; Cost Control, 62 pages; Safety & Security, 65 pages; Marketing & Sales Building, 40 pages. Collectively these modules and components are referred to as the Operations Manual. A copy of the Table of Contents for the Operations Manual is attached as Exhibit E to this Disclosure Document. CBGF will provide a copy of the Gift Card Manual, as the Gift Card Program requires additional reconciliation procedures. A copy of the table of contents for the Gift Card Manual may also be found in Exhibit D to this Disclosure Document.

(5) CBGF will provide a list of the approved suppliers and distributors for the goods and services required by CBGF for use in your COLE'S (see Section 5 of the Franchise Agreement).

(6) CBGF will designate the telephone directory listings you must place for your COLE'S.

(7) CBGF will provide a written schedule and specifications of all foods, food items, beverages, premiums, novelty items, clothing, souvenirs, furniture, fixtures, supplies and equipment required for your COLE'S. You are responsible for arranging the delivery and necessary installation of each of these items.

You are required to open and commence operating your COLE'S within 12 months after CBGF signs your Franchise Agreement, or CBGF can terminate your Franchise Agreement. Factors which will affect your opening date include selecting your COLE'S location, your ability to obtain a lease, building permits, zoning and local ordinances, weather conditions, shortages, the delivery of your furniture, fixtures and equipment, acquiring inventory and supplies, obtaining financing (if applicable), hiring and training your employees, and completing CBGF's Managers Training Program.

Post-Opening Assistance – During the operation of the COLE'S we will:

(1) provide additional training if, during the term of the Franchise Agreement, you hire new managers who have not previously attended and satisfactorily completed CBGF's Managers Training Program. Your new managers must satisfactorily complete CBGF's Managers Training Program before managing your COLE'S. You must pay the salaries, fringe benefits, payroll taxes, unemployment compensation, workers' compensation insurance, travel expenses, lodging, food, automobile rental costs, and all other expenses for each of your managers that attend the Managers Training Program (see Section 7 of the Franchise Agreement). If the new manager training is provided at another franchisee's Certified Training Restaurant ("Host Franchisee") by a representative of the Host Franchisee, then you must pay a \$500 fee per manager-to-be trained to the Host Franchisee. If the new manager training is provided by CBGF, then you will pay the \$500 fee per manager-to-be trained to CBGF.

(2) make advertising and marketing recommendations. CBGF uses its in-house advertising department and outside agencies to produce advertising materials (see Section 6 of the Franchise Agreement).

- (3) review the advertising, promotion, marketing, public relations or telemarketing programs or campaigns conducted by you for your COLE'S. CBGF will endeavor to review your proposed advertising materials within fifteen (15) days from the date of actual receipt.
- (4) legally protect the Marks and the Business System (see Section 13 of the Franchise Agreement). CBGF retains the right to associate the marks, logos, and graphics of other business systems owned or controlled by CBGF and its affiliates, including BRC, with the Marks and Business System of CBGF.
- (5) furnish all supplements and modifications to the Operations Manual that may be published by CBGF (see Section 3 of the Franchise Agreement).
- (6) provide the names and addresses of newly approved vendors and suppliers for the products and services required by CBGF to be used in your COLE'S (see Section 5 of the Franchise Agreement).
- (7) periodically review your COLE'S and render written reports if deemed appropriate by CBGF.

Advertising

You must obtain CBGF's prior written approval before you can use your own advertising materials. You are required to spend at least 3 1/2% of your quarterly Gross Sales on approved advertising, marketing or public relations programs within your Designated Market Area ("DMA"), but you are allowed a credit of up to 2 1/2% if you are required to participate and make contributions to a Local DMA Advertising Co-op (see Section 6.3 of the Franchise Agreement).

If there are 2 or more COLE'S in your DMA, then you will, at the sole discretion of CBGF, be required to immediately execute such documentation as required by CBGF and participate in a Local DMA Advertising Co-op (the "Local DMA Co-op"). DMA means each television market exclusive of another based upon a preponderance of television viewing hours as defined by the A.C. Nielsen ratings service or other ratings service designated by CBGF. The administration of your Local DMA Co-op will be governed by the terms of your Franchise Agreement. Your Local DMA Co-op will conduct and administer approved media advertising, marketing and public relations on behalf of all of its members. Each COLE'S in the Local DMA Co-op that is in good standing will be given one vote and the Local DMA Co-op's expenditures will be determined by majority vote of its voting members. Each member will contribute up to 2 1/2% of the Weekly Gross Sales of its COLE'S to the Local DMA Co-op. This percentage can be increased only by the vote of at least 85% of the members of the Local DMA Co-op that are in good standing. The Local DMA Co-op must maintain financial records detailing its expenditures for approved media advertising, marketing and public relations in your DMA.

CBGF will control and administer the Production Fund (see Section 6.1 of the Franchise Agreement). CBGF does account for the funds received as to the Production Fund separately, but CBGF is not required to segregate contributions to the Production Fund from other funds of CBGF in a trust account or otherwise. As disclosed in Item 6 of this Disclosure Document, franchisees and Franchisor/affiliate-owned stores must contribute 1/2% of the Weekly Gross Sales of their COLE'S to the Production Fund. CBGF may use the Production Fund for market studies, research, menu development, menu testing, advertising and public relations studies or services, creative production and printing of advertising and marketing materials, advertising copy, internet and commercials, tracking costs, agency fees, administrative costs, which may include reimbursement for direct administrative and personnel costs associated with advertising and public relations, and any other costs associated with the development, marketing and testing of advertising, marketing and public relations materials, and for the purchase of

media placement, advertising time and public relations materials in national, regional or other advertising and public relations media in a manner determined by CBGF, in our sole discretion, to be in the best interest of the franchisees and the Business System. Outside suppliers and distributors may also contribute to the Production Fund. CBGF can receive payments from the Production Fund for providing materials and services and for the administrative costs incurred by the Production Fund.

We may choose to use various media such as TV, radio, print, internet, point of purchase, billboards and signs. The creation of media can be in-house or through the use of an outside advertising agency.

CBGF does not have to spend any amount on advertising in the area where your COLE'S will be located. The Production Fees in the Production Fund are not used for advertising that is principally for the solicitation of franchise sales. The Production Fees and the Advertising Production Fund may be utilized for advertising programs and materials that promote both the Business System and other business systems owned or controlled by BRC, PFC and CBGF. In this event, the costs of these programs and materials and of the Advertising Production Fund shall be apportioned among these systems, participants and/or operators in a manner determined by CBGF to be equitable in its reasonable business judgment. CBGF will apply the proceeds of the Production Fund in accordance with the strategic needs of the business, as determined by CBGF in its sole discretion. CBGF may spend in any fiscal year an amount greater or less than the aggregate contribution of all COLE'S to the Production Fund that year. Production Fees contributed, but not spent in the fiscal year in which they were paid are held for projects in the following fiscal year. Upon your request, CBGF will provide you with an unaudited accounting of how the Production Fees in the Production Fund were spent once each year, but CBGF can use the monies in the Production Fund as it deems appropriate, in its reasonable discretion. The following percentage breakdown describes the use of the Fund for CBGF's fiscal year ending December 26, 2016:

Category	Percent to Total
Agency Fees	11.1%
Broadcast Production (TV & Radio)	0.1%
Merchandising -- Creative, Photo shoots, Production, Shipping	62.1%
Ads R Us (in-house creative service)	0.0%
eClub support	9.5%
Research	3.7%
Internet Marketing	9.0%
Beverage Programs	2.4%
Misc Projects (Kids, Seniors, To Go)	2.1%
Total	100.0%

Computer System

CBGF requires that a point-of-sale ("POS") and back office system ("BOS") be purchased to help you manage transactional sales, gift card redemption data, financial information and processing of gift card transactions of your COLE'S. The cost to purchase a POS and BOS system ranges from \$10,000 to \$25,000. If you purchase a POS or BOS system, it will be your responsibility to obtain maintenance and support services for the POS and BOS system. CBGF does not provide maintenance to POS and

BOS systems. Your annual maintenance costs are estimated between 5% to 20% of the purchase price. CBGF requires you to use Aloha POS and Aloha BOS and CBGF shall have independent access to all information generated and stored in the POS systems. This information is exclusively the property of CBGF and your use is only permitted with your franchise agreement. You shall be required on a yearly basis to upgrade the POS and BOS system or purchase additional hardware or software necessary to maintain compatibility with the Gift Card Program and permit CBGF to access and retrieve electronically any information stored on electronic cash registers (or other computer hardware and software) thereby permitting CBGF to inspect and monitor information concerning your COLE'S.

ITEM 12 TERRITORY

Franchise Agreement ("FA")

Under the Franchise Agreement we grant you the right to operate a COLE'S at a specific location selected by you; provided, we have issued a notice of no objection. You will operate out of a single COLE'S within a "Protected Area." There are no circumstances that permit CBGF to modify your Protected Area other than CBGF's termination rights under the Franchise Agreement. Your Protected Area will be an area equal to a 1-mile radius from your COLE'S subject to any nontraditional development by CBGF. CBGF and its affiliates will not open another COLE'S or any other competitive business, as defined in Exhibit A to the Franchise Agreement, within your Protected Area, except for various forms of licensing and distribution of COLE'S services and products to be offered at special use or non-public locations, such as public and private schools, colleges, and other institutions, and at public auditoriums, sports arenas, concert halls and airports. Your Protected Area may not be altered or relocated during the term of the Franchise Agreement, except with CBGF's prior written approval. You are not restricted from soliciting or accepting orders outside your Protected Area. Similarly, other franchised and company-owned COLE'S are not restricted from soliciting or accepting orders inside your Protected Area. The continuation of your Protected Area is not dependent upon the achievement of a certain sales volume, market penetration or any other contingency. The Franchise Agreement does not grant any options, rights of first refusal or similar rights to you for the acquisition of additional franchises within your Protected Area or contiguous areas. 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.

You may relocate your COLE'S, with the written approval of CBGF, if: (1) the proposed new location is located within 3 miles of the COLE'S; (2) the proposed new location is not located within the exclusive or protected area of another franchisee, area franchisee, master franchisee or subfranchisor; (3) the Protected Area, as established in Section 1 of the Franchise Agreement, surrounding the proposed new location does not infringe upon the exclusive or protected area of another CBGF affiliate, franchisee, sub-franchisee, area franchisee, master franchisor or subfranchisor; (4) complies with CBGF's then-current encroachment and dominant brand development and conversion policies, which may consider the proximity of this location to company-owned and franchised restaurants operating under other business systems owned or controlled by CBGF or its affiliates, including CBGF and CBGF.

CBGF and its affiliates may sell products, including products or merchandise under CBGF's principal trademarks, including the COLE'S trademark or other trademarks different from the trademarks licensed under the Franchise Agreement, through channels of distribution such as the Internet, catalog sales, telemarketing or other direct marketing sales, to anyone, anywhere, including within your

Protected Area. Also, CBGF and its affiliates may own, operate, acquire, convert, develop, license and franchise other similar or competitive restaurant concepts and businesses under different trademarks at locations anywhere, including locations in or near your Protected Area (see Item 1 for a description of competing affiliate-owned or operated restaurants). CBGF is not required to pay any compensation for soliciting or accepting orders from inside the Protected Area. There are no restrictions on you from soliciting or accepting orders from consumers outside of the Protected Area, including whether you have the right to use other channels of distribution, such as the Internet, catalog sales, telemarketing or other direct marketing to make sales outside of the Protected Area. CBGF does not have plans to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those the franchisee will offer.

We and/or our affiliates may, as part of our strategic plan, acquire or be acquired by companies that operate businesses under the acquired name and/or service mark. In some instances, the acquired or acquiring companies will be in the same business as us. Those companies may have existing businesses operating in your Protected Area. In those circumstances where the territory of an acquired business overlaps Protected Area, Franchisor may, with the written agreement of both parties, alter the Protected Area. If mutual agreement as to the territory definition cannot be made, then we, or our affiliates may continue to operate the acquired business by the name and/or service marks under which it was identified before its acquisition. In either case, you will not be entitled to damages or other compensation relating to the change of the Protected Area or the impact from an acquired company.

Development Agreement ("DA")

If you enter into a DA, it will give you the right to establish an agreed upon number of restaurants in a specified "Exclusive Territory." We describe your Exclusive Territory by boundary streets, highways, county lines, designated market area or other recognizable demarcations and delineate it in an exhibit attached to the DA. There are no circumstances that permit CBGF to modify your Exclusive Territory other than CBGF's termination rights under the DA. CBGF will not operate or grant franchises for COLE'S within your Exclusive Territory during the term of the DA. You are not authorized to open COLE'S outside of your Exclusive Territory. You can accept orders outside your Exclusive Territory. Similarly, other COLE'S and restaurants operated by affiliates of CBGF are not restricted from accepting orders within your Exclusive Territory.

You must open COLE'S in your Exclusive Territory according to the Development Schedule contained in the DA. You will continue having an exclusive territory as long as your development schedule is followed and you stay in good standing with the DA. After the DA expires, you do not have any options, rights of first refusal or similar rights for the acquisition of additional franchises within the Exclusive Territory or contiguous areas. If you fail to meet your Development Schedule, CBGF has the right to terminate your DA and to exercise any or all of the remedies for your breach set forth in the DA. If your DA is terminated, you will no longer have the right to open or develop additional COLE'S in or outside of the Exclusive Territory; however, you may continue to operate your existing COLE'S.

CBGF and its affiliates may sell products, including products or merchandise under CBGF's principal trademarks, including the COLE'S BACKYARD GRILL trademarks or other trademarks different from the trademarks licensed under the Franchise Agreement and DA, through channels of distribution such as the Internet, catalog sales, telemarketing or other direct marketing sales, to anyone, anywhere, including within your Exclusive Territory. Also, CBGF and its affiliates may own, operate, acquire, convert, develop, license and franchise restaurant concepts and businesses under different trademarks, provided such restaurant concepts and businesses are not contemporary American fare, at locations

anywhere including locations in or near your Exclusive Territory (see Item 1 for a description of competing affiliate owned or operated restaurants).

There are no restrictions on CBGF from soliciting or accepting orders from consumers inside the Exclusive Territory. CBGF or an affiliate has used or reserves the right to use other channels of distribution, such as the Internet, catalog sales, telemarketing or other direct marketing sales to make sales within the Exclusive Territory using CBGF's principal trademarks or other trademarks different from the trademarks licensed under the Franchise Agreement and DA. CBGF is not required to pay any compensation for soliciting or accepting orders from inside the Exclusive Territory.

ITEM 13 TRADEMARKS

Under the Franchise Agreement, CBGF grants you a license to operate your COLE'S under the "COLE'S" mark and/or certain other marks and logos which appear in the chart below (the "**Marks**"), and to use our other current and future marks, including the marks of other business systems owned or controlled by CBGF and its affiliates. You may only use the Marks in the manner authorized in writing by CBGF and you must also follow CBGF's instructions for identifying yourself as a franchisee. You may not use any of the Marks as part of your corporate, trade name, fictitious name or any other name used to identify your business entity or sole proprietorship.

All required affidavits have been filed. There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator in any state or any court; no pending infringement, opposition or cancellation proceeding; and no pending federal or state court material litigation involving the Marks.

To the knowledge of CBGF, there are no infringing uses that could materially affect your use of the licensed Marks or other related rights in any state. You must provide CBGF with written notice of any claims made against or associated with the Marks. You may not communicate with anyone except us and our counsel regarding any infringement, challenge or claim. We will have sole discretion to take the action we deem appropriate in response to any infringement, challenge or claim, and the sole right to control exclusively any settlement, litigation or other proceeding arising out of any infringement, challenge or claim relating to any of the Marks. You must execute any and all instruments and documents, give the assistance, and do the acts and things that may, in the opinion of our counsel, be necessary or advisable in order to protect and maintain our interests in any litigation or proceeding or our interests in the Marks. We will reimburse you for the reasonable out-of-pocket expenses you incur and pay in complying with these requirements.

CBGF is obligated under the Franchise Agreement to protect your right to use the Marks and other related rights and to protect you against claims of infringement and unfair competition with respect to the Marks. We will indemnify you against and reimburse you for all damages for which you are held liable in any proceeding arising out of your use of any Mark, under and in compliance with the applicable agreement, and for all costs you reasonably incur in the defense of any claim of this type in which you are named as a party, if you have timely notified us of the claim, have given us sole control of the defense and settlement of any claim and have otherwise complied with the applicable agreement. If we defend the claim, we have no obligation to indemnify or reimburse you with respect to any fees or disbursements of any attorney that you retain.

However, if anyone establishes to CBGF's satisfaction that its rights are, for any legal reason, superior to any of the rights, then you must use the variances or other service marks, trademarks or trade names required by CBGF to avoid conflict with superior rights. Our sole liability and obligation in such event is to reimburse you for the direct out-of-pocket costs of complying with this obligation, which you must document to our satisfaction, including, by way of example, alterations in signage and replacement of marketing materials.

There are no agreements currently in effect which significantly limit the rights of CBGF to use or license the use of the Marks in any manner material to you.

The following principal Marks are registered on the Principal Register of the United States Patent and Trademark Office ("USPTO").

Marks	Registration Number	Registration Date
Cole's Backyard Grill	4,957,349	May 10, 2016
	4,961,552	May 17, 2016

ITEM 14

PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

CBGF does not own any patents. CBGF owns common law copyright interests and other rights in certain advertising copy and design, training videotapes, workbooks, the Operations Manual, and other written materials and items. CBGF has not applied to the United States Copyright Office to register these copyrights.

You must keep as confidential the Operations Manual, any supplements to the Operations Manual and any other Manuals or written materials used in your COLE'S. The Operations Manual contains information about the business system and CBGF's or its affiliates' secret recipes. CBGF considers this information a trade secret and extremely confidential. You must use all reasonable means to keep this information confidential and prevent any unauthorized copy, duplication, record or reproduction of this information. Your employees must sign confidentiality agreements, which will require them to keep confidential, both during and after their employment, all information designated by CBGF as confidential and proprietary.

You should immediately inform CBGF if you learn of any unauthorized use, infringement or challenge to the copyrighted materials, proprietary or confidential information. CBGF will take the action it deems appropriate, in its sole discretion. We may control any action we choose to bring. We need not

participate in your defense and/or indemnify you for damages or expenses in a proceeding involving a copyright. If anyone establishes to CBGF's satisfaction that its rights to these materials are superior, then you must modify or discontinue your use of these materials as required by CBGF.

If you or your owners develop any new concept, process or improvement in the operation or promotion of your COLE'S, you must promptly notify us and give us all necessary information about the new process or improvement, without compensation. You and your owners agree that any of these concepts, processes or improvements will become our property, and we may use or disclose them to other franchisees, as we determine appropriate.

ITEM 15

OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

You do not have to participate personally in the operation of your COLE'S. However, your COLE'S must be managed by managers who have satisfactorily completed CBGF's training program. Your managers do not have to own an equity interest in your COLE'S. Your managers and all other employees who will have access to the Operations Manual must sign confidentiality agreements requiring them to keep confidential, both during and after their employment, all information designated by CBGF as confidential and proprietary (see Item 14 and Schedule A to the Franchise Agreement).

If you are not a business entity, then each individual franchisee (including his or her spouse) must personally guarantee all obligations to CBGF under the Franchise Agreement. If the Franchisee is a business entity, then each shareholder, member, partner or other holder of interest of the business entity must personally guarantee all of the Franchisee's obligations to CBGF under the Franchise Agreement. You must also promise in writing that during the term of the Franchise Agreement, you will not participate in any competitive restaurant business and that for 12 months after the expiration or termination of the Franchise Agreement, you will not participate in any competitive restaurant business located within 3 miles of the COLE'S or any other COLE'S, or within any exclusive or protected area granted by CBGF; provided, however, that this Item 15 shall not prohibit you or the Personal Guarantors from owning, operating, or otherwise engaging in the above described activities with respect to any restaurants operated by or in connection with any agreement with CBGF or its affiliates. Your employees above manager-level must sign non-competition agreements (see Appendix 4 to the Franchise Agreement). Your managers and other employees do not have to sign non-competition agreements.

ITEM 16

RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You may only sell the products and services specified or approved by CBGF in writing. You must sell the products and services required by CBGF. We also reserve the right to inspect, at all reasonable times, the premises, the equipment and products to maintain the quality and standards of such products on the premises of the COLE'S. CBGF can change the products and services that you must offer. With the exception of alternative channels of distribution which we reserve to ourselves, there is no limitation on CBGF's right to change the products and services offered by COLE'S. With the exception of alternative channels of distribution which we reserve to ourselves you are not limited to whom you may sell your products and services as long as you do so from the location of the COLE'S and are in compliance with the standards we have determined for the franchise system.

You are prohibited from installing or placing on or about the COLE'S premises gambling equipment or vending devices of any nature whatsoever, regardless of whether such devices are used for profit unless you obtain the prior written consent from CBGF. You are prohibited from engaging in any activity that may be deemed by CBGF, in its sole determination, as directly or indirectly related to gambling activity unless you obtain prior written consent from CBGF which has the absolute right to withhold its consent without condition.

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

This table lists important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this Disclosure Document.

Key:

FA: Franchise Agreement

DA: Development Agreement

Provision		Section in Agreement	Summary
a.	Length of the franchise term	Schedule B of the FA 3.1 of the DA	FA: 15 years DA: Typically 2-10 years but may vary depending on Development Schedule.
b.	Renewal or extension of the term	Section 18, Schedule B of the FA Not applicable to DA	FA: 5-year renewal of the franchise with two additional consecutive 5 year terms.
c.	Requirements for franchisee to renew or extend	18 of the FA Not applicable to DA	FA: Give 180 days prior written notice; complied with all material terms and conditions of the Franchise Agreement; paid all monetary obligations owed to CBGF, its affiliates, and the Advertising Production Fund; agreed in writing to remodel. Modernize, and redecorate your COLE'S; have the right to continue to occupy the COLE'S premises; you and your managers have been retrained; sign then-current form of Franchise Agreement; pay a \$5,000 renewal fee; and you and your principals sign a general release of any claims against CBGF. The then-current form of Franchise Agreement may contain terms and conditions materially different from those in your previous franchise agreement, such as different fee requirements and territorial rights.
d.	Termination by franchisee	None	None
e.	Termination by franchisor without cause	None	None
f.	Termination by franchisor with cause	15 of the FA 4,7,8 of the DA	FA: If you breach the Franchise Agreement DA: If you breach the DA

	Provision	Section in Agreement	Summary
g.	"Cause" defined - curable defaults	15 of the FA 8.1 (A)-(N) of the DA	FA: You will have 30 days to cure if you: fail to open your COLE'S in compliance with the Franchise Agreement; violate any material provision of the Franchise Agreement; fail to conform to the System; fail to pay any uncontested fee to anyone; issue a check that is dishonored because of insufficient funds; fail to pay for leasehold improvements, furniture, fixtures, supplies, and equipment before commencing business; lose possession of the COLE'S premises; fail to comply with regulations of any government agency; you misuse the Marks; or if applicable, you fail to comply with the terms of your Development Agreement or your other franchise agreement(s). You will have 10 days to cure a failure to pay any fees due to CBGF or an affiliate. DA: You will have 30 days to cure if you: violate any material provision; fail to conform to the System; fail to pay any uncontested fee to anyone; issue a check which is dishonored for insufficient funds; wrongfully terminate a Franchise Agreement. You have 10 days to cure a failure to pay any fees due to CBGF.
h.	"Cause" defined – non-curable defaults	15 of the FA 8.4 (A)-(F) of the DA	FA: You are convicted of violating any law relating to your COLE'S or a felony; you are deemed insolvent; you make an assignment for the benefit of creditors; you abandon your COLE'S; you refuse to allow an audit by CBGF; you violate the Franchise Agreement on 3 or more separate occasions; your conduct materially impairs CBGF's Marks or Business System. DA: You are convicted of violating any law relating to your COLE'S (s) or are convicted of a felony; you are deemed insolvent; you make an assignment for the benefit of creditors; you abandon your Exclusive Territory; your conduct materially impairs CBGF's Marks or System; CBGF terminates your Franchise Agreement(s).

	Provision	Section in Agreement	Summary
i.	Franchisee's obligations upon termination or nonrenewal	16 of the FA 9 of the DA	FA: You must cease representing yourself as a CBGF franchisee; cease using CBGF's Marks and System; immediately pay all monies owed to CBGF under the Franchise Agreement; immediately return all CBGF provided printed materials; alter the appearance of your COLE'S; transfer your telephone directory listing(s) to CBGF; cease using proprietary products and CBGF approved suppliers; and transfer your Domain Names, Websites and Search Engines to CBGF. DA: You must pay all monies owed to CBGF within 5 days of termination or expiration; continue to operate your COLE'S within the Exclusive Territory.
j.	Assignment of the Contract by franchisor	14.2 of the FA 7.1 of the DA	FA: No restriction on CBGF's right to assign the franchise agreement. DA: No restriction on CBGF's right to assign.
k.	Transfer by franchisee - defined	Section 14 & Schedule A of the FA 7.2, 7.3 of the DA	FA: An assignment, sale, or gift; includes assignment to owned or controlled corporation, assignment in the event of death or disability; sale of capital stock; or grant of mortgage, lien, or security interest. DA: Includes assignment to owned or controlled corporation and assignment in the event of death or disability.
l.	Franchisor approval of transfer by franchisee	14 of the FA 7.4 of the DA	FA: CBGF has the right to approve any transfer made by you but will not unreasonably withhold its consent. DA: CBGF has the right to approve any transfer made by you but will not unreasonably withhold its consent.

Provision		Section in Agreement	Summary
q.	Noncompetition covenants during the term of the franchise	14.1 of the FA 10.2 of the DA	FA: You may not participate in any restaurant business that competes with any COLE'S except for other agreements with CBGF or its affiliates, including BRC & CBGF. DA: You may not participate in any restaurant business that competes with any COLE'S except for other agreements with CBGF or its affiliates, including BRC & CBGF.
r.	Noncompetition covenants after the franchise is terminated or expires	16.2 of the FA 10.3 of the DA	FA: You may not participate in any restaurant business that competes with or that is operating at the premises formerly occupied by your COLE'S or that is within a 3-mile radius of any other COLE'S or within any exclusive or protected area granted by CBGF for a period of 12 months after the termination or expiration of your Franchise Agreement. DA: Except for your COLE'S you may not participate in any competitive restaurant business that is within the Exclusive Territory, within 1-mile radius of any COLE'S or within any exclusive area granted by CBGF for a period of 12 months after the termination or expiration of your DA.
s.	Modification of the agreement	22.7 of the FA 13.8 of the DA	FA and DA: Only by written agreement between you and CBGF
t.	Integration/merger clauses	22.2 FA 13.9 of the DA	FA: Only the terms of the franchise agreement are binding (subject to applicable state law). Any representations or promises made outside the disclosure document and franchise agreement may not be enforceable. DA: Only the terms of the DA are binding (subject to applicable state law). Any representations or promises made outside the disclosure document and DA may not be enforceable.
u.	Dispute resolution by arbitration or mediation	Section 22.10 of FA Section XIV(F) of DA	FA: Claims, controversies or disputes from or relating to the Franchise Agreement may be mediated, at the Franchisor's option. DA: Claims, controversies or disputes from or relating to the Development Agreement may be mediated, at the Franchisor's option.

Provision		Section in Agreement	Summary
v.	Choice of forum	22.8 & Schedule B of the FA 13.3 of the DA	Litigation must take place in the courts of the State of Texas, Collin County, Texas and the United States District Court for the Eastern District of Texas, Plano Division.
w.	Choice of law	Section 22.8 & Schedule B of the FA 16.1 of the DA	Texas law will govern (subject to applicable State law – see addendums in Exhibit K to this Disclosure Document).

ITEM 18 PUBLIC FIGURES

CBGF does not use any public figure to promote its franchise. No public figure is involved in the management of CBGF.

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 the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Cole's Backyard Grill, Attn: General Counsel, 1311 North Plano Road, Suite 150, Richardson, Texas 75081 and 972-244-8900, the Federal Trade Commission, and the appropriate state regulatory agencies.

ITEM 20
OUTLETS AND FRANCHISEE INFORMATION

TABLE NO. 1
SYSTEMWIDE OUTLET SUMMARY
FOR YEARS 2014, 2015, 2016³⁵

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2014	0	0	0
	2015	0	0	0
	2016	0	0	0
Company-Owned	2014	0	1	1
	2015	1	1	0
	2016	1	0	-1
Total Outlets	2014	0	1	1
	2015	1	1	0
	2016	1	0	-1

³⁵ Our sole location, operated by Homestyle Dining LLC and located in Lindale, Texas opened in May 2014, converted to Cole's on June 2015, closed in December 2016 and it is management's intention to relocate the restaurant to the Dallas Ft. Worth area.

TABLE NO. 2
TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS
(OTHER THAN THE FRANCHISOR)
FOR YEARS 2014, 2015, 2016

State	Year	Number of Transfers
All states	2014	0
	2015	0
	2016	0
Total	2014	0
	2015	0
	2016	0

TABLE NO. 3
STATUS OF FRANCHISED OUTLETS
FOR YEARS 2014, 2015, 2016

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
All States	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0
Totals	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0

TABLE NO. 4
STATUS OF COMPANY-OWNED OUTLETS
FOR YEARS 2014, 2015, 2016³⁶

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Texas	2014	0	1	0	0	0	1
	2015	1	0	0	0	0	1
	2016	1	0	0	1	0	0
Totals	2014	0	1	0	0	0	1
	2015	1	0	0	0	0	1
	2016	1	0	0	1	0	0

³⁶ Our sole location, operated by Homestyle Dining LLC and located in Lindale, Texas opened in May 2014, converted to Cole's on June 2015, closed in December 2016 and it is management's intention to relocate the restaurant to the Dallas Ft. Worth area.

TABLE NO. 5
PROJECTED NEW FRANCHISE OUTLETS
AS OF DECEMBER 26, 2016

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlet In The Next Fiscal Year	Projected New Company-Owned Outlet In the Next Fiscal Year
Michigan	0	1	0
Tennessee	0	1	0
Texas	0	0	1
Total	0	2	1

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

As of the effective date of this disclosure document we are not offering any existing franchised outlets to prospective franchisees, including those that either have been reacquired by us or are still being operated by current franchisees pending a transfer. If we begin to offer any such outlet, specific information about the outlet will be provided to you in a separate supplement to this disclosure document.

As of the effective date of this disclosure document there are no franchisee organizations sponsored or endorsed by us and no independent franchisee organizations have asked to be included in this disclosure document.

There is no trademark specific franchisee association that we sponsor or that has requested to be included in this Disclosure Document.

ITEM 21 FINANCIAL STATEMENTS

Attached as Exhibit A are the audited Balance Sheets for CBGF as of December 26, 2016 and December 28, 2015 and the related Statements of Income for years ended December 26, 2016, December 28, 2015 and the period from September 23, 2014 through December 29, 2014, the Statement of Partners' Capital for years ended December 26, 2016, December 28, 2015 and the period from September 23, 2014 through December 29, 2014 and Statements of Cash Flows for years ended December 26, 2016, December 28, 2015 and the period from September 23, 2014 through December 29, 2014.

ITEM 22 CONTRACTS

The Franchise Agreement, Gift Card Agreement and Special Programs Addendum are attached as Exhibit C to this Disclosure Document. The DA is attached as Exhibit B to this Disclosure Document.

A sample of the general release language is also attached as Exhibit C. State law may supersede the provisions in your Franchise Agreement and DA requiring you to execute a general release as a condition to renewal, assignment, sale, or transfer. See state specific addenda located in Exhibit J.

ITEM 23 RECEIPTS

The last page of this Disclosure Document contains detachable Receipts acknowledging your receipt of this Disclosure Document.

EXHIBIT B

DEVELOPMENT AGREEMENT



COLE'S
DEVELOPMENT AGREEMENT

Form dated: 11/2017
FDD dated: 11/17A

**COLE'S
DEVELOPMENT AGREEMENT**

TABLE OF CONTENTS

	<u>Page</u>
I. DEFINITIONS	1
II. GRANT OF DEVELOPMENT RIGHTS	3
III. FEES	3
IV. EXERCISE OF DEVELOPMENT RIGHTS.....	5
V. TERM	6
VI. OUR OBLIGATIONS	6
VII. YOUR REPRESENTATIONS, WARRANTIES AND COVENANTS	7
VIII. YOUR OBLIGATIONS	10
IX. DEFAULT AND TERMINATION; POST TERMINATION OBLIGATIONS.....	11
X. TRANSFER	14
XI. CONFIDENTIALITY AND NONCOMPETITION COVENANTS	17
XII. INDEPENDENT CONTRACTOR	19
XIII. INDEMNIFICATION	20
XIV. MISCELLANEOUS.....	20

EXHIBITS

Exhibit A	Owners' Guaranty and Assumption Agreement
Exhibit B	Confidentiality and Noncompetition Agreement
Exhibit C	Franchise Agreement
Exhibit D	Ownership and Management Information
Exhibit E	Description of Territory
Exhibit F	Development Schedule
Exhibit G	Lease Addendum Terms
Exhibit H	Marks

ADDENDA

Addendum 1	REDUCED ROYALTY PROGRAM ADDENDUM
Addendum 2	DEVELOPER IN GOOD STANDING PROGRAM ADDENDUM

**COLE'S
DEVELOPMENT AGREEMENT**

This Development Agreement (the "**Agreement**") is made and entered into this ____ day of _____, 20____, ("**Effective Date**") between Cole's Backyard Grill Franchising, LLC, a Delaware limited liability company ("**Franchisor**," "**we**," "**us**," or "**our**") and _____ ("**Developer**," "**you**," or "**your**").

RECITALS:

We have the right to use and license the use of a business system (the "**System**," as further defined below) for the establishment and operation of COLE'S, offering a wide variety of menu items and non-alcoholic beverages.

COLE'S operate under the System and are identified by "COLE'S" mark and/or certain other trade names, service marks, trademarks, logos, emblems and indicia of origin (the "**Marks**," as listed in Exhibit H).

We grant franchises to qualified franchisees to use the Marks and the System to establish and operate COLE'S under Franchise Agreements with us.

You wish to obtain certain development rights to establish COLE'S in the Territory (defined below) as a Developer under this Agreement with us.

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

I. DEFINITIONS

"**Affiliate**" or "**Affiliates**" of a named person means any person or entity that is controlled by, controlling or under common control with the named person.

"**Anti-Terrorism Laws**" means Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT Act, and all other present and future federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any Governmental Authority (including, without limitation, the United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts and acts of war.

"**Business Day**" means each day other than a Saturday, Sunday, U.S. holidays or any other day on which the Federal Reserve is not open for business in the United States.

"**Confidential Information**" means all proprietary and confidential information relating to the establishment and operation of COLE'S, including, without limitation: (i) our standards and specifications, including equipment, product, and supplier standards and specifications; (ii) site selection criteria; (iii) recipes; (iv) advertising and marketing plans and programs; (v) research, development and test programs for products, services and operations; (vi) the contents of our Manuals; (vii) knowledge of the operating and financial results of COLE'S other than your COLE'S; (viii) computer programs and systems, including electronic data files and passwords, and (ix) Improvements (as defined in Section XI.D.).

"**Control**" or "**Controlling Interest**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

"Development Fee Credit" means the pro rata portion of the development fee allocable to each COLE'S pursuant to Section III.A. of this Agreement.

"Development Schedule" means the schedule in **Exhibit "F"** to this Agreement which designates the number of COLE'S to be established and operated by you in the Territory upon the expiration of each designated Development Period.

"Development Period" means each discrete period set forth in the Development Schedule within which you must establish and have in operation the designated number of COLE'S.

"District Manager" means any person designated pursuant to Section VII.E.(2) of this Agreement.

"FESR" Future estimated standard royalties.

"Force Majeure" means acts of God, strikes, lockouts or other industrial disturbances, war, acts of terrorism, riot, epidemic, fire or other catastrophe or other forces beyond a party's control.

"Franchise Agreements" means franchise agreements for COLE'S.

"System" means our comprehensive methods and procedures for the establishment, management and operation of COLE'S, including the Confidential Information, our Manuals, the Marks and other business standards and policies, the distinguishing characteristics of which include, without limitation, distinctive exterior and interior design, decor, color scheme, and furnishings; special recipes and menu items; uniform standards, specifications, policies and procedures for operations; quality and uniformity of the products and services offered; procedures for inventory, management and financial control; training and assistance; and advertising and promotional programs, all of which we may change, improve, further develop or otherwise modify from time to time.

"Taxes" means any present or future taxes, levies, imposts, duties or other charges levied by a taxing authority.

"Manual" or **"Manuals"** has the meaning given to it in the Franchise Agreement.

"Owners" mean those persons and entities which, collectively and individually, hold an ownership interest in you and in any entity directly or indirectly controlling you.

"Training COLE'S" means the first COLE'S which is required to be opened in the Territory prior to opening any other COLE'S in the Territory. The Training COLE'S will be used as a training store for franchisees in your Territory.

"Principal Owner" means the Owner designated by you and approved by us as meeting our qualifications who is responsible for overseeing the day-to-day operation of your business.

"Reserved Area" means any enclosed shopping center, amusement parks, theme parks, sports stadiums and arenas, airports, train stations, hospitals, schools, hotels, office buildings, military bases and nature, including any interest or penalties thereon, imposed by any government or political subdivision of such government on or relating to the operation of the franchised business, the payment of monies, or the exercise of rights granted pursuant to this Agreement, except taxes imposed on or measured by our net income.

"Territory" means the geographic area described in **Exhibit "E"** to this Development Agreement, excluding any Reserved Area.

II. GRANT OF DEVELOPMENT RIGHTS

A. Grant of Development Rights. We hereby grant to you, and you accept, the right and obligation to develop COLE'S within the Territory, in accordance with the terms and conditions set forth in this Agreement. Further, we grant you the rights and you hereby agree to procure, qualify, train and assist third party franchisees to open and operate COLE'S in the Territory and you hereby accept for yourself, the privilege and obligation to develop the Territory as herein provided. You may exercise the development rights granted to you in this Agreement only in compliance with this Agreement.

B. Scope of Development Rights. You acknowledge and agree that this Agreement is not a franchise agreement and does not confer upon you a right or license to establish or operate any COLE'S or any right to use or interest in the Marks. This Agreement sets forth the terms and conditions which, if fully satisfied by you, will entitle you to obtain Franchise Agreements for the establishment and operation of COLE'S within the Territory. You further acknowledge and agree that the rights and duties set forth in this Agreement are personal to you and that we have granted such rights in reliance on your representations and warranties and those of your Owners, including your representation that you have entered this Agreement for the purpose and with the intention to fully comply with your development obligations hereunder.

C. Development of Training. You must enter into a Franchise Agreement contemporaneously with this Agreement to develop a Training COLE'S to be operated by you. You must continuously operate your Training COLE'S throughout the term of this Agreement.

D. Territorial Protection. Except as provided in Section II.E. and subject to your full compliance with this Agreement and any other agreement between you or your Affiliates and us or our Affiliates, neither we nor any of our Affiliates will establish, or authorize any person or entity other than you to establish, a COLE'S in the Territory during the term of this Agreement.

E. Our Retained Rights. The rights granted to you under this Agreement are nonexclusive, and we and our Affiliates have and retain all rights within and outside the Territory except those expressly granted to you. Accordingly, we, our Affiliates, and any other authorized person or entity will have the right, among others, (i) to operate, and license others to operate, COLE'S at any location outside the Territory and in any Reserved Area, including locations that are adjacent to or surrounded by the Territory; (ii) within and outside the Territory to develop and establish other business systems (including systems that distribute products or services similar to those offered at COLE'S) using other names or marks and to grant licenses to use those systems; (iii) to advertise and promote the System in the Territory; (iv) to conduct permitted catering activities within the Territory in response to a customer request; and (v) except for the restriction in Section II.C. against the establishment of another COLE'S in the Territory, to engage, directly or indirectly, at wholesale, retail or otherwise, in the production, distribution, license and sale of any and all food, beverages, or other services and products, under the Marks or under other names or marks, within and outside the Territory, through any other method of distribution, including, but not limited to, mail order catalogs and the Internet, regardless of the competitive impact on your operations in the Territory.

III. FEES

A. Development Fee. Upon the execution of this Agreement, you agree to pay us a development fee in the amount of _____ Dollars (\$_____), (the "Standard Development Fee"). The Standard Development Fee equals the total of one hundred percent (100%) of the initial franchise fee for the COLE'S to be developed under this Agreement, plus 50% of the future estimated standard royalty ("FESR") for the COLE'S to be developed in the Territory during the initial term of this Agreement. The FESR is calculated by multiplying the average of the historical Gross Revenues for the chain, measured over the prior full 36 months, by .80 and multiplying that result by 15 years. If the COLE'S chain has less than 36 months operating experience such actual time shall be used to calculate the FESR. The result is multiplied by five percent (5%). That total has been reduced to net present

value at an annual discount rate of (____%) resulting in the Standard Development fee stated above. The Standard Development Fee will be deemed fully earned and nonrefundable by us for administrative and other expenses incurred by us and for the development opportunities lost or deferred as a result of the rights granted to you in this Agreement.

Fee Splits for Third Party Franchisees in Your Territory

(1) **Initial Franchise and Transfer Fees.** In the event that we transfer, renew or sell a franchise to a franchisee in your Territory and you are not in default of this Agreement, we will attempt to collect all proceeds from the third party relating to such fees and shall, within 7 calendar days remit to you a Development Fee Credit of fifty percent (50%) of any amounts we actually collect, minus any amounts arising by virtue of our right to set off for any outstanding amounts you owe to us, (which right of set-off you grant hereby).

(2) **Royalties.** All royalties collected from third party franchisees in the Territory, which arise by virtue of a franchise license in your Territory shall be paid to us by the third party franchisee. If you are not in default, and subject to our right to set off, we will, within 7 calendar days, remit to you fifty percent (50%) of the amounts actually collected by us.

(3) **Deadline Extension Fee.** If you are diligently pursuing satisfaction of your Development Schedule but are going to miss a deadline you may request up to three (3) extensions. We are not required to extend the missed deadline and this is in our sole and independent discretion. Any such requests to extend must be made in writing, which is received by us and accompanied by payment of the appropriate deadline extension fee prior to the expiration of the Development Schedule. The deadline extension fee for the first three-month extension is \$2,500 and the deadline extension fee of the successive three-month period is an additional \$5,000. Should you be permitted to extend for a third three-month extension, the deadline extension fee is an additional \$10,000. No further extensions may be granted and there is no fee split of Extension Fees.

B. Past Due Amounts; Acceptance and Application of Payments.

(1) Any payment not actually received by us on or before the due date will be deemed overdue. All unpaid obligations under this Agreement will bear interest from the date due until paid at the lesser of twelve (12%) percent per annum or the maximum rate allowed by applicable law. No provision of this Agreement shall require the payment or permit the collection of interest in excess of the maximum rate allowed by applicable law. If for any reason interest in excess of the maximum rate allowed by applicable law shall be deemed charged, required or permitted, any such excess shall be applied as a payment to reduce any other amounts which may be due and owing hereunder, and if no such amounts are due and owing hereunder, then such excess shall be repaid to the party making the payment.

(2) Our acceptance of any payments due subsequent to the due date shall not be deemed to be a waiver by us of any preceding breach by you or your Owners of any terms, provisions, covenants or conditions of this Agreement.

(3) We will have the right to apply any payment we receive from you to any amounts you owe us or our Affiliates under this Agreement or any other agreement, even if you have designated the payment for another purpose or account. We may accept any check or payment in any amount from you without prejudice to our right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any check or payment or in any letter accompanying any check or payment or elsewhere shall constitute or be considered as an accord or satisfaction.

(4) You have no right to withhold any payments due us on account of our breach or alleged breach of this Agreement, and no right to offset any amount due us against any obligation that we may owe to you.

(5) Each payment to be made to us under this Agreement shall be made free and clear and without deduction for any Taxes.

IV. EXERCISE OF DEVELOPMENT RIGHTS

A. Exercise of Your Development Rights. You agree to exercise the development rights granted under this Agreement only by entering into (or, with our written consent, causing a majority-owned subsidiary of you to enter into) a separate Franchise Agreement with us for each COLE'S for which a development right is granted. The Franchise Agreement for the first COLE'S to be developed under this Agreement will be in the form of the Franchise Agreement attached as Exhibit "C" and will be executed contemporaneously with this Agreement. All subsequent COLE'S developed under this Agreement will be established and operated pursuant to the form of Franchise Agreement then being used by us for new franchisees of COLE'S under the System, except that the initial franchise fee will be determined as provided in Section III.A. above, and the royalty and advertising expenditure percentages will be the same as those set forth in the Franchise Agreement attached as Exhibit "C" to this Agreement. The form of the franchise agreement attached as Exhibit "C" and any future forms of franchise agreements referred to in this Section IV.A. will also be included in the term "Franchise Agreement" as used in this Agreement.

B. Compliance with Conditions. Before exercising any development right granted under this Agreement, you must apply to us for a franchise to operate a COLE'S within the Territory. If we, in our sole discretion, determine that you have met each of the following operational, financial, and legal conditions, then we will grant you a franchise for a COLE'S in the Territory:

(1) Operational Conditions. You are in compliance with the Development Schedule and this Agreement and you and your Affiliates are in compliance with any other agreement between you or them and us or our Affiliates. You are conducting the operation of your existing COLE'S, if any, and are capable of conducting the operation of the proposed COLE'S in compliance with this Agreement, the respective Franchise Agreements, and the standards, specifications, and procedures set forth in the Manuals.

(2) Financial Conditions. You and your Owners satisfy our then-current financial criteria for franchisees and owners of COLE'S. You and your Affiliates are not in default, and have not been in default during the twelve (12) months preceding your request for financial approval, of any monetary obligations owed to us or our Affiliates under any Franchise Agreement or other agreement between you or your Affiliates and us or our Affiliates. You acknowledge and agree that it is vital to our interest that each of our franchisees be financially sound to avoid failure of a COLE'S and that such failure would adversely affect our reputation and the reputation of the System.

(3) Legal Conditions. You have submitted to us, in a timely manner, all information and documents we have requested as a basis for the issuance of individual franchises or pursuant to any right granted to us by this Agreement or by any Franchise Agreement.

C. Development Schedule. Acknowledging that time is of the essence, you agree to exercise your development rights according to Sections IV.A. and B. and the Development Schedule. You may, subject to the terms and conditions of this Agreement and with our prior written consent, which may be withheld in our sole discretion, develop more than the total minimum number of COLE'S which you are required to develop during any Development Period. Any COLE'S in excess of the minimum number of COLE'S required to be developed will be applied to satisfy your development obligation during the next succeeding Development Period, if any. Notwithstanding the above, you shall not open or operate more

than the cumulative total number of COLE'S you are obligated to develop under the Development Schedule unless you pay an additional Initial Franchise Fee, per COLE'S based on the then-current initial fees charged to third party franchisees plus 50% of the FESR, which sum is reduced to present value at an agreed upon discount rate.

(1) If you cease to operate any COLE'S developed under this Agreement for any reason during the term of this Agreement, you must develop a replacement COLE'S within a reasonable time after you cease to operate the original COLE'S (not to exceed two hundred seventy (270) days). If you transfer your interest in a COLE'S in accordance with the terms of the applicable Franchise Agreement for the COLE'S during the term of this Agreement, the transferred COLE'S will continue to be counted in determining whether you have complied with the Development Schedule so long as it continues to be operated as a COLE'S. If the transferred COLE'S ceases to be operated as a COLE'S during the term of this Agreement, you must develop, or cause to be developed, a replacement COLE'S within a reasonable time thereafter (not to exceed two hundred seventy (270) days).

(2) Your failure to adhere to the Development Schedule (including any extensions approved by us in writing) or to any time period for the development of replacement COLE'S will constitute a material breach of this Agreement.

V. TERM

This term of this Agreement will begin on the Effective Date and, unless sooner terminated, will expire ten (10) years from the Effective Date. After the term provided for herein, you shall have an option to extend the exclusiveness of this contract for two periods of five (5) years, under the same terms and conditions set forth in the original term of this Agreement, including the development of additional COLE'S on a schedule similar that we agree to, except that stores developed in excess of the original Development Schedule will be credited to the initial time periods in the renewal development schedule. The renewal shall be effective only if (i) you notify us of in writing of such extension not less than six (6) months nor more than nine (9) months before the end of the initial term or the first renewal term, as applicable; (ii) you are not then in default of this Agreement or any franchise agreement, and; (iii) you pay us a renewal fee equal to the number of COLE'S in the Territory times \$1,500. In addition, you agree to pay us the then current initial franchise fee multiplied by the number of COLE'S specified in the renewal development schedule. In addition, you agree to pay 50% of the FESR for the COLE'S in your Territory, including those to be developed as part of a new development schedule. This total is reduced to present value, which is added to the other charges to determine the renewal fee.

VI. OUR OBLIGATIONS

We agree to provide the following services or cause them to be provided to you:

A. Site Selection Guidelines and Assistance. Assistance in your selection of sites for your COLE'S, by providing to you: (i) our written site selection guidelines and such site selection assistance as we deem advisable, and (ii) such on-site evaluation as we may deem necessary.

B. Training. Training for your Principal Owner and any District Manager in accordance with Section VIII.A. of this Agreement. With our prior written consent and subject to our then-current certification procedures, but in no event until you have developed your first (1st) COLE'S pursuant to this Agreement, we may authorize you to implement a training program for the employees of the COLE'S developed pursuant to this Agreement in accordance with our then-current standards.

C. Manual. Access to or the loan of one (1) set of Manual(s) for each COLE'S to be developed under this Agreement.

VII. YOUR REPRESENTATIONS, WARRANTIES AND COVENANTS

A. Your Investigation of this Franchise.

(1) You acknowledge (i) having received a complete copy of this Agreement and all related exhibits and our franchise disclosure document within the time period required by applicable federal and state laws and (ii) that you have read this Agreement and our franchise disclosure document and that you understand the terms of this Agreement and accept them as being reasonably necessary for us to maintain the uniformity of COLE'S and to protect the goodwill of the Marks and the integrity of the System. You further acknowledge that you are relying solely on us, and not on any affiliated entities or parent companies related to us, with regard to our financial and other obligations under this Agreement, and no employee or other person speaking on behalf of, or otherwise representing, us have made any statement or promise to the effect that our affiliated entities or parent companies guarantee our performance or financially back us.

(2) You have conducted an independent investigation of the business contemplated by this Agreement and recognize that an investment in a COLE'S involves business risks; that your success is largely dependent on your own abilities and efforts; and that the nature of COLE'S may change over time. You have not received or relied on any guaranty or assurance, express or implied, as to the revenues, profits or success of the business contemplated by this Agreement.

(3) You understand and agree that we may operate and change the System and our business in any manner that is not expressly and specifically prohibited by this Agreement.

(4) Whenever we have expressly reserved in this Agreement, or are deemed to have, a right and/or discretion to take or withhold an action, or to grant or decline to grant you a right to take or withhold an action, then except as otherwise expressly and specifically provided in this Agreement, we may make our decision or exercise our right and/or discretion on the basis of our judgment of what is in our best interests, including, without limitation, our judgment of what is in the best interests of our franchise network at the time our decision is made or our right or discretion is exercised, without regard to whether: (i) other reasonable alternative decisions or actions could have been made by us; (ii) our decision or the action we take promotes our financial or other individual interest; (iii) our decision or the action we take applies differently to you and one or more other franchisees or our company-owned operations; or (iv) our decision or the exercise of our right or discretion is adverse to your interests. In the absence of an applicable statute, we will have no liability to you for any such decision or action. We and you intend that the exercise of our right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, we and you agree that such covenant shall not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement grants us the right to make decisions, take actions and/or refrain from taking actions not inconsistent with your rights and obligations hereunder.

B. Your Organization. If you are a corporation, partnership, limited liability company or other legal entity:

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

(2) You are duly qualified and authorized to do business in each jurisdiction in which your business activities or the nature of the properties you own require such qualification;

(3) Your corporate charter or written partnership or limited liability company agreement, as applicable, will at all times provide that your activities are confined exclusively to the operation of COLE'S.

You warrant and represent that neither you nor any of your Affiliates or Owners own, operate or have any financial or beneficial interest in any business that is the same as or similar to a COLE'S;

(4) The execution of this Agreement and the performance of the transactions contemplated by this Agreement are within your corporate power, or if you are a partnership or a limited liability company, are permitted under your written partnership or limited liability company agreement and have been duly authorized; and

(5) You have provided to us prior to the execution of this Agreement, and will from time to time during the term of this Agreement at our request provide to us, copies of your articles of incorporation and bylaws or, as applicable, your written partnership or limited liability company agreement, other governing documents, any amendments to them, resolutions authorizing your entry into and performance of this Agreement, and any certificates, buy-sell agreements or other documents restricting the sale or transfer of your stock or other ownership interests and any other documents that we may reasonably request.

C. Your Owners.

(1) If you are a corporation, partnership, limited liability company or other legal entity, the ownership interests in you are accurately and completely described in Exhibit "D". You agree to maintain at all times a current list of all your Owners and to make your list of Owners available to us upon request.

(2) If you are a corporation, you agree to maintain stop-transfer instructions against the transfer on your records of any of your equity securities and to conspicuously endorse each stock certificate with a statement, in a form satisfactory to us, that it is held subject to all restrictions imposed upon assignments by this Agreement. If you are a partnership or limited liability company, your written partnership or limited liability company agreement shall provide that ownership of an interest in the partnership or limited liability company is held subject to all restrictions imposed upon assignments by this Agreement.

(3) You agree to cause each of your Owners to execute the Guaranty and Assumption Agreement attached as Exhibit "A" to this Agreement, jointly and severally guarantying your performance under this Agreement and otherwise binding themselves to the terms of this Agreement as stated therein.

D. Your Financial Covenants.

(1) You have provided to us your most recent financial statements. These financial statements present fairly your financial position at the dates indicated therein and the results of your operations and cash flow for the years then ended. Each of the financial statements are certified as true and correct and have been prepared in conformity with generally accepted accounting principles and, except as expressly described in the applicable notes, applied on a consistent basis. There are no material liabilities, adverse claims, commitments or obligations of any nature, whether accrued, unliquidated, absolute, contingent or otherwise, which are not reflected as liabilities on the financial statements.

(2) At our request, you agree to provide us with any and all loan or other documents regarding the financing of your operations under this Agreement.

(3) You agree to maintain at all times during the term of this Agreement sufficient working capital to fulfill your obligations under this Agreement.

E. Your Management.

(1) You agree to designate upon the execution of this Agreement, and to retain at all times during the term of this Agreement, an individual to serve as your Principal Owner. The Principal Owner must meet our qualifications and must be approved by us. The Principal Owner for all COLE'S operated by you and, if applicable, your Affiliates, must be the same person, and the Principal Owner under this Agreement and under all Franchise Agreements executed pursuant to this Agreement must be the same person. Unless we approve the appointment of a District Manager, your Principal Owner must devote full time and best efforts to the supervision of the COLE'S operated by you and your Affiliates, and, without our written consent, shall not engage in any other business except a business franchised by one or more of our affiliates. If we approve the appointment of a District Manager, your Principal Owner need not devote full time and attention to the operation of the COLE'S business conducted by you and your Affiliates, but the appointment of a District Manager will not relieve your Principal Owner of his or her supervisory responsibilities. Your Principal Owner and any District Manager whom we approve must be empowered with full authority to act for you.

(2) You may, with our written consent, designate a District Manager who meets our qualifications to supervise the operation of your COLE'S; provided, that the District Manager for all COLE'S operated by you and, if applicable, your Affiliates must be the same person, and the District Manager under this Agreement and any Franchise Agreements executed pursuant to this Agreement must be the same person. If appointed, your District Manager must devote full time and best efforts to the supervision of the COLE'S operated by you and your Affiliates and, without our written consent, shall not engage in any other business. You and your Principal Owner shall remain fully responsible for your District Manager's performance.

(3) The names of your Principal Owner and District Manager shall be listed in Exhibit "D" to this Agreement and you agree to keep such information current at all times during the term of this Agreement. You must promptly notify us in writing if your Principal Owner or any District Manager cannot continue or no longer qualifies to serve in that capacity. You must take corrective action within thirty (30) days after any such notice. During such thirty (30) day period, you must provide for interim management of your operations in accordance with this Agreement. Any failure to comply with this Section VII.E. will be a material breach of this Agreement.

F. Legal Compliance. In addition to complying with your obligations under this Agreement, you agree to comply with all applicable federal, state and local laws, rules, regulations, ordinances and orders. Such laws, rules, regulations, ordinances and orders vary from jurisdiction to jurisdiction and may be amended or implemented or interpreted in a different manner from time to time. It is your sole responsibility to apprise yourself of the existence and requirements of all such laws, rules, regulations, ordinances and orders, and to adhere to them at all times during the term of this Agreement. Without limiting the foregoing, you certify that neither you nor any of your Owners, employees or anyone associated with you is listed in connection with any Anti-Terrorism Law and you agree not to hire or have any dealings with a person so listed. You further certify that you have no knowledge or information that, if generally known, would result in you, your Owners, employees, or anyone associated with you being so listed. You agree to comply with and/or assist us to the fullest extent possible in our efforts to comply with the Anti-Terrorism Laws and, in connection with such compliance, you represent and warrant that none of your property or interests are subject to being "blocked" under any of the Anti-Terrorism Laws and that you and your Owners are not otherwise in violation of any of the Anti-Terrorism Laws.

G. Powers of Attorney. You hereby appoint us as your true and lawful attorney-in-fact, with full power and authority to obtain any and all returns and reports related to the business operated pursuant to this Agreement that you file with any local, state or federal taxing authority. Such powers of attorney shall survive the expiration or termination of this Agreement, and you agree to execute such forms and documents as we deem necessary to appoint us its true and lawful attorney-in-fact with full power and authority for the foregoing purposes.

H. Continuing Obligations. You and you Owners make the foregoing representations, warranties and covenants understanding that such representations, warranties and covenants are continuing obligations. You agree to cooperate with us to verify your and your Owners' continuing compliance with such representations, warranties and covenants. Any failure to comply with these representations, warranties and covenants will constitute a material event of default under this Agreement.

VIII. YOUR OBLIGATIONS

A. Training. Your Principal Owner and any District Manager shall successfully complete our management training program within a reasonable period of time after the execution of this Agreement. Any successor or replacement Principal Owner or District Manager shall successfully complete our management training program within a reasonable time after such persons are designated. Such persons, and any of your other personnel whom we may require, shall attend and complete any additional training that we may from time to time require. Training will be conducted at locations we designate.

(1) Initial management training for your Principal Owner and District Manager is provided at no additional charge; however, we reserve the right to charge a reasonable fee for training successor or replacement personnel and for any additional training programs. You are responsible for any and all expenses incurred in connection with any initial or additional training, including, without limitation, the costs of travel, lodging, and meals incurred by you, your Principal Owner or District Manager.

(2) If your Principal Owner or District Manager fails, in our sole judgment, to satisfactorily complete our management training program, and you fail to cure such default within ninety (90) days following written notice from us, we may terminate this Agreement.

B. Site Selection. You assume all cost, liability, expense and responsibility for selecting, obtaining and developing a site within the Territory for each COLE'S to be developed pursuant to this Agreement. If the site is for a third party franchisee in your Territory you agree to prepare and complete the site selection materials for each site by assisting the franchisee.

(1) Before acquiring a site for a COLE'S, you agree to submit to us, in the form we specify, a description of the site, evidence satisfactory to us that the site satisfies our site selection guidelines, and such other information and materials as we may reasonably require, including, but not limited to, copies of a proposed lease (which incorporates a rider in substantially the form attached to the franchise agreement for your Training Store.

(2) We shall have fifteen (15) days after receiving your site information to accept or not accept, in our sole discretion, a proposed site as the location for the COLE'S. No site may be used for a COLE'S unless we have first accepted it in writing, and you shall not make any binding commitment with respect to a site for a COLE'S unless the site is first accepted in writing by us. If we accept multiple sites for a COLE'S, you agree to notify us in writing within five (5) days of the date of such acceptance of the site that you intend to acquire. You acknowledge that our acceptance of a prospective site and the rendering of assistance in the selection of a site does not constitute a representation, promise, warranty or guarantee, express or implied, by us that the COLE'S operated at that site will be profitable or otherwise successful.

(3) Promptly following our acceptance of the site for each COLE'S that you will operate, you must acquire the site by purchase or lease, at your expense. You agree to furnish to us a copy of the executed lease or contract of sale within ten (10) days after execution. After a site for a COLE'S is accepted by us and acquired by you, the address of the site shall be entered on Exhibit "C" to the Franchise Agreement as the Franchise Location of the COLE'S.

C. Internet. You agree to install and maintain all hardware and software needed to access the Internet at the bit speed we require from time to time. You further agree that you will not establish any website or other listing on the Internet except as provided herein.

(1) Without our prior written approval, which we may give or withhold in our sole discretion, you may not develop, create, generate, own, or otherwise use any computer and/or electronic media (including but not limited to the Internet, bulletin boards and news groups) in connection with the COLE'S. If we grant our approval for your use of an Internet website, you acknowledge that the form, content and appearance of any Internet website you use must comply with the System standards and must be approved by us in writing before being used. Accordingly, you agree that you have no authority to, and you will not, establish any website that creates any association with the Marks or the System, or post any advertisements or material on the Internet that depict or display the Marks or suggest an association with the System, without our express prior written consent. Without limitation of the foregoing, if we require, any Internet website created by or for you must contain a hypertext link to our Internet website in the form we require, and no other hypertext links to third party Internet websites unless previously approved in writing by us. Notwithstanding our approval of a website, we reserve the right to revoke our approval at any time that the website fails to continue to meet our standards, and you agree that upon such revocation, you will immediately discontinue use of the website.

(2) You agree that you have no authority to, and you will not, register any domain name in any class or category that uses or creates any association with the Marks (including any abbreviation, acronym, phonetic variation or visual variation of the Marks) or the System without our express prior written consent. You must obtain our written approval for your domain name prior to use. Your domain name must be registered in our name and licensed to you by us. On termination or expiration of this Agreement, the license of the domain name to you will automatically terminate and you agree to undertake all such actions that we require to disassociate yourself with the domain name.

(3) We may establish an Internet website that provides information about the System and the products and services offered by COLE'S. If we establish an Internet website, we will have sole discretion and control over the website, including timing, design, contents and continuation. We may include at the website interior pages containing information about our franchise network of COLE'S and may require you to prepare all or a portion of the pages for your COLE'S, at your expense, using a template that we provide, with all such information subject to our approval prior to posting. We may use advertising fund monies (as described in the Franchise Agreement) to establish and maintain the website.

(4) We also have the sole right (but no obligation) to develop an Intranet through which we and our developers and franchisees can communicate by e-mail or similar electronic means. If we develop an Intranet, you agree to participate in strict compliance with our standards, protocols and restrictions, including, without limitation, standards, protocols and restrictions relating to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements. We may, in our sole discretion, charge a reasonable fee for Intranet usage, which you agree to pay in accordance with our invoice.

Franchisee Support in the Territory. At your expense, you shall be responsible for ongoing franchisee support in the Territory to the same extent specified as the duties of the franchisor in the individual franchise agreements offered by us. The level of marketing support required by you shall be reasonably determined by us from time to time as communicated to you in writing.

IX. DEFAULT AND TERMINATION; POST TERMINATION OBLIGATIONS

A. Termination Without Notice or Cure. You will be deemed to be in material default and all rights granted under this Agreement will automatically terminate without notice to you if you become insolvent or make a general assignment for the benefit of creditors or file a voluntary petition under any section or chapter of federal bankruptcy laws or under any similar law or statute of the United States or any

state or admit in writing your inability to pay our debts when due; you are adjudicated bankrupt or insolvent in proceedings filed against you under any section or chapter of federal bankruptcy law or any similar law or statute of the United States or any state; a bill in equity or other proceeding for the appointment of a receiver or other custodian for your business or assets is filed and consented to by you, or if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; proceedings for a composition with creditors under any state or federal law are instituted by or against you; a final judgment against you remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); you are dissolved; execution is levied against your business or property; suit to foreclose any lien or mortgage against the premises or equipment of any business operated hereunder or under any Franchise Agreement is instituted and not dismissed within thirty (30) days; or the real or personal property of any business operated under this Agreement or any Franchise Agreement is sold after levy by any sheriff, marshal or constable.

B. Termination on Notice. You will be deemed to be in material default and we may, at our option, terminate this Agreement and all rights granted hereunder, without affording you any opportunity to cure the default, effective immediately upon written notice to you, upon the occurrence of any of the following events of default:

(1) If you fail to comply with the Development Schedule, or otherwise fail to satisfy your obligations set forth in Article IV.;

(2) If you or any of your Owners is convicted of, or enters a plea of nolo contendere to, a felony, a crime involving moral turpitude or any other crime or offense that we believe is reasonably likely to have an adverse effect on the System, the Marks, the goodwill associated therewith or our interests therein;

(3) If you or any of your Owners breach in any material respect any of the representations, warranties and covenants in Article VII. or if you make any material misstatement or omission in an application for this Agreement or in any other information provided to us;

(4) If you or any of your Owners transfers or attempts to transfer any rights or obligations under this Agreement, or any interest in you or the business contemplated hereby contrary to the terms of this Agreement, or if a transfer upon death or permanent disability is not effected within the time period and in the manner prescribed by Section X.E.;

(5) If, contrary to the terms of Section XI.A., you disclose or divulge any Confidential Information;

(6) If you or any of your Owners repeatedly commit an event of default under this Agreement, whether or not such defaults are of the same or different nature and whether or not such defaults have been cured after notice;

(7) If your assets, property or interests are 'blocked' under any law, ordinance or regulation relating to terrorist activities or if you are otherwise in violation of any such law, ordinance or regulation; or

(8) If you or any of your Affiliates are in default under any Franchise Agreement and fail to cure such default within the applicable cure period, if any, contained in the Franchise Agreement.

C. Termination After Notice and Opportunity to Cure. Except as provided in Sections IX.A. and IX.B. of this Agreement, upon any default which is capable of being cured, we may, at our option, terminate this Agreement and all rights granted under this Agreement, by giving you written notice stating the nature of the default and the applicable cure period (defined below). You may avoid termination by

curing the default to our satisfaction within the time period set forth below or such longer period as applicable law may require ("cure period"). If a default is not cured within the cure period, your rights under this Agreement shall terminate without further notice to you effective immediately upon the expiration of the cure period. Defaults which are susceptible of cure hereunder may include, but are not limited to, the following:

(1) If you or any of your Affiliates fail, refuse or neglect promptly to pay when due any monies owed to us or any of our Affiliates when due and fail to cure such default within five (5) days following notice from us.

(2) If you fail to obtain the execution of the confidentiality and related covenants required under Section XI.E. within ten (10) days following our request that you do so and fail to cure such default within thirty (30) days following notice from us.

(3) If you make any unauthorized use of the Marks or otherwise materially impair the goodwill associated therewith or with the System or our rights therein and fail to cure such default within twenty-four (24) hours following notice from us.

(4) If you or any of your Owners fail to comply with the restrictions against competition set forth in Section XI.B. of this Agreement and fail to cure such default within ten (10) days following notice from us

(5) If you fail to comply with any other term or condition imposed by this Agreement and fails to cure within thirty (30) days following notice from us.

(6) You fail to support the franchisees in your Territory or otherwise fail to comply with your obligations as a Developer, as set forth in the Manual(s).

D. Additional Remedies.

(1) If you are in default under Section IX.B. or IX.C., we may, in our sole discretion, elect to exercise any one or more of the following remedies in lieu of terminating this Agreement: (i) terminate or modify any territorial protections granted to you in Article II., (ii) reduce the size of the Territory, or (iii) reduce the number of COLE'S which you may establish pursuant to the Development Schedule.

(a) If we elect to exercise one or more of the additional remedies set forth above, you agree to continue to develop COLE'S in accordance with your rights and obligations under this Agreement, as modified. To the extent such rights are modified pursuant to this Section IX.D., you acknowledge that we will be entitled to establish, and to license others to establish, COLE'S in some or all of the Territory, except as otherwise provided under any Franchise Agreement which is then in effect between us and you.

(b) our exercise of any of our remedies under this section IX.D. shall not constitute a waiver by us to exercise our option to terminate this agreement at any time with respect to a subsequent event of default of a similar or different nature.

(c) if we have given you notice that you are in default, then we may (but are not obligated to) assume interim management of the business conducted pursuant to this agreement during the pendency of any cure period or in lieu of immediately terminating this agreement. If we elect to assume interim management of the business (i) our election will not relieve you of your obligations under this agreement; (ii) we will not be liable for any debts, losses, costs or expenses incurred in the operation of the business during any such interim management period; (iii) we will have the right to charge a reasonable fee

for our management services; and (iv) you agree to, and hereby do, indemnify and hold us harmless against any and all claims, demands, judgments, fines, losses, liabilities, costs, amounts paid in settlement and reasonable expenses (including, but not limited to attorneys' fees) incurred in connection with our interim management of the business, other than those arising solely from our gross negligence or willful misconduct.

E. Effect of default on franchise agreements; remedies non-exclusive.

(1) no default under this agreement will constitute a default under any franchise agreement, unless the default is also a default under the terms of the franchise agreement.

(2) no right or remedy herein conferred upon or reserved to us is exclusive of any other right or remedy provided or permitted by law or in equity.

F. Post-Termination Obligations. Upon the termination or expiration of this Agreement, you will have no right to establish or operate any COLE'S for which a Franchise Agreement has not been executed by us and delivered to you at the time of termination or expiration (but may complete development of and/or operate COLE'S under then-existing Franchise Agreements), and we may develop, or authorize others to develop, COLE'S in the Territory. Further, you will no longer have the ability to supervise and support third party COLE'S franchisees in the Territory and shall no longer be entitled to receive any fee splits or other revenue derived from franchisees in the Territory, including yourself. Notwithstanding the foregoing, you will be entitled to continue to operate under existing franchise agreement terms wherein you operate the location and pay the standard royalty.

Upon the expiration or termination of this Agreement:

(1) You and your Owners will comply with the restrictions on confidential information contained in Section XI.A. and the covenants against competition contained in Section XI.B. Any other person required to execute similar covenants pursuant to Article XI., shall also comply with such covenants.

(2) You and your Owners will promptly pay all amounts owing to us and our Affiliates. Such amounts shall include all damages, costs and expenses, including reasonable attorneys' fees, incurred by us as a result of any default by you, which obligation shall give rise to and remain, until paid in full, a lien in favor of us against any and all of your assets until such obligations are paid in full.

(3) You and your Owners will pay to us all damages, costs and expenses, including reasonable attorneys' fees and costs, incurred by us in exercising any remedy available to us for any violation of this Agreement and subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of Section IX.E.

X. TRANSFER

A. By Us. We will have the right to transfer or assign this Agreement and all or any part of our rights or obligations herein to any person or legal entity without your consent, and upon such transfer or assignment, the transferee or assignee will be solely responsible for all our obligations arising hereunder subsequent to the transfer or assignment. Without limitation of the foregoing, we may sell our assets to a third party; may offer our securities privately or publicly; may merge with or acquire other corporations, or may be acquired by another corporation; may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring.

B. By You and Your Owners. You acknowledge that the rights and duties set forth in this Agreement are personal to you, and that we have granted such rights in reliance on your business skill, financial capacity and personal character and that of your Owners. Accordingly, neither you nor any of

your Owner, nor any of your or their permitted successors or assigns, shall sell, assign, transfer, convey, give away, pledge, mortgage or otherwise dispose of or encumber any direct or indirect interest in this Agreement (including, without limitation, any or all of your rights or obligations hereunder), the business operated under this Agreement, or in you without our prior written consent. Any purported assignment or transfer, by operation of law or otherwise, made in violation of this Agreement will be null and void and will constitute a material breach of this Agreement.

(1) If you wish to transfer all or part of your interest in this Agreement or in the business operated hereunder, or if you or an Owner wish to transfer any interest in you, the transferor shall apply to us for our consent. We will not unreasonably withhold our consent but we will not consent to a transfer of this Agreement except in conjunction with a transfer, according to their terms, of all Franchise Agreements for COLE'S located in the Territory to which we and you or your Affiliates are parties. The proposed transferee and its direct and indirect owners must be individuals of good character and otherwise meet our then applicable standards for COLE'S developers. In addition, we may, in our sole discretion, require any or all of the following as conditions of our approval to any such transfer:

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

(b) You and your Affiliates shall not be in default of any provision of this Agreement, any amendment hereof or successor hereto, or any Franchise Agreement or other agreement between you or any of your Affiliates and us or any of our Affiliates; and you and they shall have substantially and timely complied with all the terms and conditions of such agreements during the terms thereof;

(c) The transferor and your Owners (if applicable) shall have executed a general release, in a form satisfactory to us, of any and all claims, against us, our Affiliates, and the officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of each of them, in their corporate and individual capacities, including, without limitation, claims arising under this Agreement, any Franchise Agreement and any other agreement between you and us or any of our Affiliates or under federal, state or local laws, rules, regulations and orders;

(d) The transferee shall enter into a written agreement, satisfactory to us, assuming full, unconditional, joint and several, liability for and agreeing to perform from the date of the transfer, all of your obligations, covenants and agreements in this Agreement;

(e) The transferee shall execute the standard form development agreement then being offered to new System developers or a revised form of this Agreement, as we deem appropriate, and such other ancillary agreements as we may require, which agreements shall supersede this Agreement in all respects and the terms of which agreements may differ from the terms of this Agreement, and if the transferee is a corporation, partnership, or limited liability company, such of the transferee's owners as we may designate shall guarantee the performance thereof;

(f) The transferee shall demonstrate to our satisfaction that the transferee meets the criteria considered by us for developers of COLE'S, including, but not limited to, our standards for education, managerial and business experience, good moral character, business reputation and credit rating, aptitude and ability to conduct the business contemplated hereunder, financial resources and capital for operation of the business, and other relevant criteria;

(g) The transferor shall remain liable for all of its obligations to us incurred prior to the effective date of the transfer and shall execute any and all instruments reasonably requested by us to evidence such liability;

(h) You shall pay us a transfer fee in an amount equal to \$2,500 times the number of COLE'S listed in your Development Schedule; and

(i) You shall have completed development of at least one-half (1/2) of the number of COLE'S contemplated by the Development Schedule.

(2) If the transfer relates to the grant of a security interest in any of your assets, we may require the secured party to agree that, in the event of any default by you under any documents related to the security interest, we shall have the right and option (but no obligation) to be substituted as obligor to the secured party and to cure any default by you.

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

C. Transfer for Convenience of Ownership. If the proposed transfer is to a corporation or other entity formed solely for the convenience of ownership, our consent may be conditioned upon any of the requirements in Section X.B.(1), except that the requirements in Sections X.B.(1)(c), (e), and (f) shall not apply and the fee provided for in Section X.B.(1)(h) shall be limited to our reasonable out-of-pocket costs and expenses (including legal and accounting fees and costs). In any transfer for the convenience of ownership, you shall be the owner of all the voting stock of or ownership interests in the new entity, and if you are more than one individual, each individual shall have the same proportionate ownership interest in the new entity as he or she had in you before the transfer.

D. Right of First Refusal. If you or an Owner wishes to transfer any interest in this Agreement, the business operated under this Agreement, or in you pursuant to any bona fide offer received from a third party to purchase such interest, then the proposed seller shall promptly notify us in writing of each such offer, and shall provide such information and documentation relating to the offer as we may require. We shall have the right and option, exercisable within thirty (30) days after receipt of such written notification and copies of all required documentation describing the terms of such offer, to send written notice to the seller that we intend to purchase the seller's interest on the same terms and conditions offered by the third party. If we elect to purchase the seller's interest, closing shall occur on or before sixty (60) days from the later of the date of our notice to seller of our election to purchase and the date we receive all necessary permits and approvals, or any other date agreed by the parties in writing. If the third party offer provides for payment of consideration other than cash, we may elect to purchase seller's interest for the reasonable cash equivalent. If the parties cannot agree within a reasonable time on the reasonable cash equivalent, then that amount shall be determined by two (2) appraisers. Each party shall select one (1) appraiser and the average of the appraisers' determinations shall be binding. Each party shall bear its own legal and other costs and shall share the appraisal fees equally. If we exercise our right of first refusal, we will have the right to set off all appraisal fees and other amounts due from you to us or any of our Affiliates. Any material change in the terms of any offer prior to closing shall constitute a new offer subject to the same right of first refusal by us as in the case of an initial offer. Our failure to exercise the option afforded by this Section X.D. shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Article X. relating to a proposed transfer. Failure to comply with this Section X.D. shall constitute a material event of default under this Agreement.

E. Death or Permanent Disability. You agree to promptly notify us of any death or claim of permanent disability subject to this Section X.E. Any transfer upon death or permanent disability shall be

subject to the following conditions, as well as to the conditions described in Section X.B. for any inter vivos transfer.

(1) Upon your death (if you are a natural person) or the death of any Owner who is a natural person (the "**Deceased**"), the executor, administrator or other personal representative of the Deceased shall transfer such interest to a third party approved by us within six (6) months after the date of death. If no personal representative is designated or appointed or no probate proceedings are instituted with respect to the estate of the Deceased, then the distributee of such interest must be approved by us. If the distributee is not approved by us, then the distributee shall transfer such interest to a third party approved by us within six (6) months after the death of the Deceased.

(2) Upon your permanent disability (if you are a natural person) or the permanent disability of any Owner who is a natural person, we may, in our sole discretion, require such interest to be transferred to a third party in accordance with the conditions described in this Article X. within six (6) months after notice to you. "Permanent disability" shall mean any physical, emotional or mental injury, illness or incapacity which would prevent a person from performing the obligations set forth in this Agreement or in the guaranty made part of this Agreement for at least ninety (90) consecutive days and from which condition recovery within ninety (90) days from the date of determination of disability is unlikely. Permanent disability shall be determined by a licensed practicing physician selected by you and approved by us, for examination of the person; or if the person refuses to submit to an examination, then such person automatically shall be deemed permanently disabled as of the date of such refusal for the purpose of this Section X.E. We will pay the reasonable and customary costs of any examination required by this Section X.E.(2).

F. Securities Offerings. Interests in you shall not be offered to the public by private or public offering without our prior written consent, which we will not unreasonably withhold. As a condition of our consent, we may, in our sole discretion, require that immediately after such offering your Owners retain a Controlling Interest in you. You agree to give us written notice at least thirty (30) days before the commencement of any offering and to submit all offering materials to us for review before they are filed with any governmental agency or distributed for use. Our review of the offering materials shall be limited solely to the subject of the relationship between you and us. No offering shall imply that we are participating in an underwriting, issuance or offering of securities. We may require the offering materials to contain a written statement prescribed by us concerning the relationship of you and us. You, your Owners and the other participants in the offering must fully indemnify us, our Affiliates, our and their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees, past and present, in connection with the offering. For each proposed offering, you shall reimburse us for our reasonable costs and expenses (including, without limitation, legal and accounting fees and costs) associated with reviewing the offering materials.

G. No Waiver. Our consent to a transfer of any interest described in this Article X. will not constitute a waiver of any claims which we may have against the transferring party, nor will it be deemed a waiver of our right to demand exact compliance with any of the terms of this Agreement by the transferee.

XI. CONFIDENTIALITY AND NONCOMPETITION COVENANTS

A. Nondisclosure of Confidential Information. We will disclose to you those parts of our Confidential Information we deem necessary or advisable from time to time for the establishment and operation of COLE'S. You agree that you and your Owners will not acquire any interest in the Confidential Information, other than the right to use the Confidential Information disclosed to you in operating the business contemplated by this Agreement during the term of this Agreement, and that the use or duplication of any Confidential Information in any other business would constitute an unfair method of competition. You agree to disclose the Confidential Information to your Owners and employees only to the extent reasonably necessary for the operation of the business contemplated by this Agreement. Our Confidential Information is proprietary, includes trade secrets owned by us and our Affiliates and is disclosed to you

solely on the condition that you agree, and you do hereby agree, that you: (i) will not use the Confidential Information in any other business or capacity; (ii) will maintain the confidentiality of the Confidential Information during and after the term of this Agreement; (iii) will not make unauthorized copies of any portion of the Confidential Information; and (iv) will adopt and implement all reasonable procedures that we prescribe from time to time to prevent the unauthorized use or disclosure of the Confidential Information, including, without limitation, restrictions on disclosure of the Confidential Information to of your personnel and others. These covenants shall survive the expiration, termination or transfer of this Agreement or any interest herein and shall be perpetually binding upon you and each of the Owners.

B. Noncompetition Covenants. You and your Owners specifically acknowledge that, pursuant to this Agreement, you and they will receive access to valuable training and Confidential Information which are beyond your and their present skills and experience, including, without limitation, information regarding operational, sales, promotional and marketing methods and techniques of the System. You and your Owners further acknowledge that such specialized training and Confidential Information provide a competitive advantage, and that gaining access to them is a primary reason for entering into this Agreement. Accordingly, you and your Owners agree as follows:

(1) With respect to you, during the term of this Agreement (or with respect to each of the Owners, for so long as such person satisfies the definition of "Owner" under this Agreement), except as otherwise approved in writing by us, neither you nor any of your Owners shall, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, legal entity or association:

(a) Directly or indirectly divert, or attempt to divert, any business or customer of COLE'S to any competitor, or do or perform any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(b) Except with respect to COLE'S operated under valid agreements with us, own, maintain, operate, engage in, or have any financial or beneficial interest in, advise, assist or make loans to, any business that is the same as or similar to a COLE'S and which is located within the United States, its territories or commonwealths, or any other country, province, state or geographic area in which we or our Affiliates have used, sought registration of or registered the Marks or similar marks or operate or license others to operate a business under the Marks or similar marks.

(2) With respect to you, for a continuous uninterrupted period commencing upon the expiration, termination, or transfer of all of your interest in, this Agreement (or, with respect to each of the Owners, commencing upon the earlier of (i) the expiration or termination of, or transfer of all of your interest in, this Agreement or (ii) the time such individual or entity ceases to satisfy the definition of "Owner" under this Agreement) and continuing for two (2) years thereafter, except as otherwise approved in writing by us, neither you, nor any of your Owners shall, directly or indirectly, for themselves, or through, on behalf of, or in conjunction with any other person, legal entity or association:

(a) Directly or indirectly divert, or attempt to divert, any business or customer of COLE'S to any competitor, or do or perform any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(b) Except with respect to COLE'S operated under valid agreements with us, own, maintain, operate, engage in, or have any financial or beneficial interest in, advise, assist or make loans to, any business that is the same as or similar to a COLE'S which is, or is intended to be, located (i) within the Territory, or (ii) within a five (5) mile radius of any COLE'S then in existence or under construction.

(3) You agree that each of the foregoing covenants contain reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or our other business interests. Each covenant shall be construed as

independent of any other covenant or provision of this Agreement. If all, or any portion of a covenant in this Section XI.B. is held unreasonable or unenforceable by a court having valid jurisdiction in an unappealed final decision to which we are a party, you and your Owners expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section XI.B.

(a) You and your Owners acknowledge that we will have the right, in our sole discretion, to reduce the scope of any covenant set forth in this Section XI.B. without your or their consent, effective immediately upon notice to you; and you and your Owners agree to promptly comply with any covenant as modified.

(b) You and your Owners expressly agree that the existence of any claims you or they may have against us, whether arising under this Agreement or otherwise, shall not constitute a defense to the enforcement by us of the covenants.

C. Improvements. If you, your employees, or Owners develop any new concept, process or improvement in the operation or promotion of a COLE'S (an "**Improvement**"), you agree to promptly notify us and provide us with all necessary related information, without compensation. Any such Improvement shall become our sole property and we shall be the sole owner of all related patents, patent applications, and other intellectual property rights. You and your Owners hereby assign to us any rights you or they may have or acquire in the Improvements, including the right to modify the Improvement, and waive and/or release all rights of restraint and moral rights therein and thereto. You and your Owners agree to assist us in obtaining and enforcing the intellectual property rights to any such Improvement in any and all countries and further agree to execute and provide us with all necessary documentation for obtaining and enforcing such rights. You and your Owners hereby irrevocably designate and appoint us as your and their agent and attorney-in-fact to execute and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property right related to any such Improvement. In the event that the foregoing provisions of this Section XI.C. are found to be invalid or otherwise unenforceable, you and your Owners hereby grant to us a worldwide, perpetual, non-exclusive, fully-paid license to use and sublicense the use of the Improvement to the extent such use or sublicense would, absent this Agreement, directly or indirectly infringe your or their rights therein.

D. Injunctive Relief. You and your Owners acknowledge that any failure to comply with the requirements of this Article XI. shall constitute a material event of default under this Agreement and further acknowledge that such a violation would result in irreparable injury to us for which no adequate remedy at law may be available. You and your Owners accordingly consent to the issuance of an injunction prohibiting any conduct by you or them in violation of the terms of this Article XI., without the requirement that we post a bond. You and your Owners agree to pay all court costs and reasonable attorneys' fees and costs that we incur in connection with the enforcement of this Article XI., including all costs and expenses for obtaining specific performance, or an injunction against the violation, of the requirements of this Article, or any part of it.

E. Execution of Covenants by Your Owners and Management. You agree to require and obtain the execution of covenants similar to those set forth in Sections XI.A. and B. from all District Managers and, at our request, other of your personnel. These covenants must be substantially in the form set forth in **Exhibit "B"**; however, we reserve the right, in our sole discretion, to decrease the scope of the noncompetition covenant set forth in Exhibit "B" or eliminate such noncompetition covenant altogether for any person that is required to execute such agreement.

XII. INDEPENDENT CONTRACTOR

You agree that the relationship created by this Agreement is not a fiduciary, special, or any other similar relationship, but rather is an arm's-length business relationship, and we owe you no duties except as expressly provided in this Agreement. You are an independent contractor, and nothing in this Agreement

is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, joint employer or servant of the other for any purpose. During the term of this Agreement, you agree to hold yourself out to the public as an independent contractor conducting the operations authorized by this Agreement pursuant to the rights granted by us. Nothing in this Agreement authorizes you or any of your Owners to make any contract, agreement, warranty or representation on our behalf, or to incur any debt or other obligation in our name, and we will in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action, or for any act or omission of you or any of your Owners or any claim or judgment arising therefrom.

XIII. INDEMNIFICATION

You agree to indemnify, defend and hold harmless us, our Affiliates, and our and their respective shareholders, directors, officers, employees, agents, successors and assignees (the "Indemnified Parties") against, and to reimburse any one or more of the Indemnified Parties for, any and all claims, and liabilities directly or indirectly arising out of the operation of the business authorized by this Agreement or your breach of this Agreement, without limitation and without regard to the cause or causes thereof or the negligence (whether such negligence be sole, joint or concurrent, or active or passive) or strict liability of us or any other party or parties in connection therewith. Notwithstanding the foregoing, this indemnity shall not apply to any liability arising from our gross negligence or willful misconduct, except to the extent that joint liability is involved, in which event the indemnification provided herein shall extend to any finding of comparative or contributory negligence attributable to you, your Owners, officers, directors, employees, independent contractors or Affiliates. For purposes of this indemnification, "claims" includes all obligations, damages (actual, consequential, exemplary or other) and costs reasonably incurred in the defense of any claim against any of the Indemnified Parties, including, without limitation, accountants', arbitrators', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other expenses of litigation, arbitration or alternative dispute resolution and travel and living expenses. We have the right to defend any such claim against us. This indemnity will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. Under no circumstances will we or any other Indemnified Party be required to seek recovery from any insurer or other third party, or otherwise to mitigate our, their or your losses and expenses, in order to maintain and recover fully a claim against you. You agree that a failure to pursue such recovery or mitigate a loss will in no way reduce or alter the amounts we or another Indemnified Party may recover from you. The terms of this Article XIII., shall survive the termination, expiration or transfer of this Agreement or any interest herein.

XIV. MISCELLANEOUS

A. Notices. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered or mailed by expedited delivery service or certified or registered mail, return receipt requested, first-class postage prepaid, or sent by facsimile or electronic mail to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to us:

Cole's Backyard Grill Franchising, LLC
1311 North Plano Road, Suite 150
Richardson, Texas 75081
Attention: President
Telephone: (972) 244-8900
Facsimile: (972) 244-8954

Notices to you and
your Owners:

Attention: _____
Facsimile: _____

Any notice shall be deemed to have been given at the time of personal delivery or, in the case of expedited delivery service, on the next Business Day, or, in the case of or registered or certified mail, three (3) Business Days after the date and time of mailing, or, in the case of facsimile or electronic mail, upon transmission (provided confirmation is sent by expedited delivery service or registered or certified mail).

B. No Waiver. No delay, waiver, omission or forbearance on our part to exercise any right, option, duty or power arising out of any breach or default by you or your Owners under this Agreement shall constitute a waiver by us to enforce any such right, option, duty or power against you or your Owners, or as to a subsequent breach or default by you or your Owners.

C. Approval or Consent. Whenever this Agreement requires our prior approval or consent, you must make a timely written request to us, and such approval or consent shall be obtained in writing. No waiver, approval, consent, advice or suggestion given to you, and no neglect, delay or denial of any request therefor, shall constitute a warranty or guaranty by us, nor do we assume any liability or obligation to you or any third party as a result thereof.

D. Force Majeure. Upon the occurrence of an event of Force Majeure, the party affected thereby shall give prompt notice thereof to the other party, together with a description of the event, the duration for which the party expects its ability to comply with the provisions of the Agreement to be affected, and a plan for resuming operation under the Agreement, which the party shall promptly undertake and maintain with due diligence. An affected party shall be liable for failure to give timely notice only to the extent of damage actually caused. If an event of Force Majeure shall occur, then you must continue to pay to us any and all amounts that you have duly become obligated to pay in accordance with the terms of this Agreement prior to the occurrence of such event and the Indemnitees shall continue to be indemnified and held harmless by you in accordance with Article XIII. Except as provided in the immediately preceding sentence, neither party shall be held liable for a failure to comply with any terms and conditions of this Agreement when such failure is caused by an event of Force Majeure.

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

F. MEDIATION. BOTH PARTIES ACKNOWLEDGE THAT DISPUTES MAY ARISE THAT ARE UNABLE TO BE RESOLVED. TO FACILITATE A RESOLUTION, IF THE FRANCHISOR SO CHOOSES, AT ITS SOLE DISCRETION, YOU AGREE TO SUBMIT ANY CLAIM, CONTROVERSY OR DISPUTE BETWEEN US, TO MEDIATION BEFORE BRINGING SUCH CLAIM, CONTROVERSY OR DISPUTE IN A COURT OR BEFORE ANY OTHER TRIBUNAL.

G. LITIGATION. WITH RESPECT TO ANY CONTROVERSIES, DISPUTES OR CLAIMS WHICH ARE NOT FINALLY RESOLVED THROUGH MEDIATION AS PROVIDED IN SECTION XIV.F. ABOVE, THE PARTIES IRREVOCABLY SUBMIT THEMSELVES TO THE JURISDICTION OF THE STATE COURTS OF COLLIN COUNTY, TEXAS AND THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AND HEREBY WAIVE ALL QUESTIONS OF PERSONAL JURISDICTION FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. YOU AND WE AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON THEM IN ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW. YOU AND WE FURTHER AGREE THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE COLLIN COUNTY, TEXAS.

H. GOVERNING LAW. EXCEPT TO THE EXTENT GOVERNED BY THE UNITED STATES TRADEMARK ACT OF 1946 (LANHAM ACT, 15 U.S.C. SECTIONS 1051 ET SEQ.) OR OTHER FEDERAL LAW, THIS AGREEMENT, THE FRANCHISE AND ALL CLAIMS ARISING FROM THE RELATIONSHIP BETWEEN US AND YOU WILL BE GOVERNED BY AND INTERPRETED AND CONSTRUED UNDER TEXAS LAW (EXCEPT FOR TEXAS CONFLICT OF LAW RULES).

I. PARTIES' ACKNOWLEDGMENTS. YOU AND WE ACKNOWLEDGE THAT THE AGREEMENTS REGARDING APPLICABLE STATE LAW AND FORUM SET FORTH ABOVE PROVIDE EACH OF US WITH THE MUTUAL BENEFIT OF UNIFORM INTERPRETATION OF THIS AGREEMENT, AND ANY DISPUTE ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT. YOU AND WE FURTHER ACKNOWLEDGE THE RECEIPT AND SUFFICIENCY OF MUTUAL CONSIDERATION FOR SUCH BENEFIT.

J. WAIVER OF PUNITIVE DAMAGES. EXCEPT WITH RESPECT TO YOUR OBLIGATION TO INDEMNIFY US PURSUANT TO ARTICLE XIII. AND CLAIMS WE BRING AGAINST YOU FOR YOUR UNAUTHORIZED USE OF THE MARKS OR UNAUTHORIZED USE OR DISCLOSURE OF ANY CONFIDENTIAL INFORMATION, WE AND YOU AND YOUR OWNERS WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN YOU AND US, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.

K. LIMITATIONS OF CLAIM. EXCEPT FOR CLAIMS WE BRING WITH REGARD TO YOUR OBLIGATIONS TO INDEMNIFY US PURSUANT TO ARTICLE XIII., ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP BETWEEN YOU AND US PURSUANT TO THIS AGREEMENT WILL BE BARRED UNLESS AN ACTION IS COMMENCED WITHIN ONE (1) YEAR FROM THE DATE ON WHICH THE ACT OR EVENT GIVING RISE TO THE CLAIM OCCURRED, OR ONE (1) YEAR FROM THE DATE ON WHICH YOU OR WE KNEW OR SHOULD HAVE KNOWN, IN THE EXERCISE OF REASONABLE DILIGENCE, OF THE FACTS GIVING RISE TO SUCH CLAIMS, WHICHEVER OCCURS FIRST.

L. JURY WAIVER. YOU AND WE HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL IN ANY ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE RELATIONSHIP CREATED BY THIS AGREEMENT, OR ANY OTHER AGREEMENTS BETWEEN YOU AND US OR YOUR AND OUR RESPECTIVE AFFILIATES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL

ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS WRITTEN CONSENT TO A TRIAL BY THE COURT.

M. Costs And Attorneys' Fees. If we incur expenses in connection with your failure to pay when due amounts owed to us, or to submit when due any reports, information or supporting records, or otherwise to comply with this Agreement, you agree to reimburse us for any of the costs and expenses which we incur, including, without limitation, accounting, attorneys', arbitrators' and related fees.

N. Binding Effect. This Agreement is binding upon us and you and your and our respective executors, administrators, heirs, beneficiaries, assigns and successors in interest.

O. Modification of Agreement. Except for those changes permitted to be made unilaterally by us hereunder, no amendment, change or variance from this Agreement shall be binding on either you or us unless mutually agreed to and executed by our and your authorized officers or agents in writing.

P. Consents And Approvals. Except where this Agreement expressly obligates us reasonably to approve or not unreasonably to withhold our approval of any of your actions or requests, we have the absolute right to refuse any request you make or to withhold our approval of any of your proposed or effected actions that require our approval.

Q. Owners. If two or more persons are at any time the "Franchisee" under this Agreement, whether as partners or joint venturers, their obligations and liabilities to us will be joint and several.

R. Counterpart Execution. This Agreement may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument.

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

T. Survival. Any obligation of you or the Owners that contemplates performance of such obligation after termination or expiration of this Agreement or the transfer of any interest in you, shall be deemed to survive such termination, expiration or transfer. Without limitation of the foregoing, the provisions of Sections XIV.F., G. and H. will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination.

U. Gender. All references herein to the masculine, neuter or singular shall be construed to include the masculine, feminine, neuter or plural, where applicable.

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

liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination or the exercise of such rights under this Agreement.

W. No Third Party Beneficiary. Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than you, us, our officers, directors and personnel and such of your and our respective successors and assigns as may be contemplated (and, as to you, authorized by Article X.), any rights or remedies under or as a result of this Agreement.

X. Further Assurances. You and we agree to promptly execute and deliver such further documents and take such further action as may be necessary in order to effectively carry out the intent and purposes of this Agreement.

Y. Agreement Effective Upon Execution by Us. This Agreement shall not become effective until signed by one of our authorized representatives.

Z. Entire Agreement. The preambles, attachments and exhibits to this Agreement and your application for this Agreement are a part of this Agreement which, together with the Manuals, constitutes our and your entire agreement, and there are no other oral or written understandings or agreements between us and you relating to the subject matter of this Agreement; provided, however, that nothing in this or any related agreement shall disclaim or require you to waive reliance on any representation that we made in the most recent franchise disclosure document (including its exhibits and amendments) that we delivered to you or your representative, subject to any agreed-upon changes to the contract terms and conditions described in that franchise disclosure document and reflected in this Agreement (including any riders or addenda signed at the time as this Agreement).

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized representative as of the date indicated below.

FRANCHISOR:

Cole's Backyard Grill Franchising, LLC,
a Delaware limited liability company

By: _____,
President

DEVELOPER:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
TO DEVELOPMENT AGREEMENT

OWNERS' GUARANTY AND ASSUMPTION AGREEMENT

This Guaranty and Assumption Agreement (the "**Guaranty**") is given this _____ day of 20__, by the undersigned in connection with the Development Agreement dated _____, 20__ between Cole's Backyard Grill Franchising, LLC ("**Franchisor**") and _____ ("**Developer**").

In consideration of, and as an inducement to, the execution of the Development Agreement by Franchisor, each of the undersigned and any other parties who sign counterparts of this Guaranty (each, a "**Guarantor**" and collectively, the "**Guarantors**") hereby personally and unconditionally guarantees to Franchisor and its successors and assigns, that Developer (and, if permitted, its Affiliates) will punctually perform all obligations of Developer and pay all amounts due under the Development Agreement and under all Franchise Agreements entered into pursuant to the Development Agreement (collectively, the "**Agreements**"), including, without limitation, amounts due for development fees, royalties, marketing and advertising fund contributions and purchases of equipment, materials, and supplies.

Each Guarantor waives:

- (i) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; and
- (ii) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; and
- (iii) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; and
- (iv) any right he or she may have to require that an action be brought against Developer or any other person as a condition of liability; and
- (v) all rights to payments and claims for reimbursement or subrogation which he or she may have against Developer arising as a result of his or her execution of and performance under this Guaranty (including by way of counterparts); and
- (vi) any and all other notices and legal or equitable defenses to which he or she may be entitled.

Each Guarantor consents and agrees that:

- (i) his or her direct and immediate liability under this Guaranty will be joint and several not only with Developer, but also among the Guarantors; and
- (ii) he or she will render any payment or performance required under the Agreements upon demand if Developer (or, if permitted, its Affiliates) fails or refuses punctually to do so; and
- (iii) such liability will not be contingent or conditioned upon pursuit by Franchisor of any remedies against Developer or any other person; and
- (iv) such liability will not be diminished, relieved or otherwise affected by any subsequent rider or amendment to the Agreements or by any extension of time, credit or other indulgence that Franchisor may from time to time grant to Developer or to any other person, including, without limitation, the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable throughout the term of the Agreements and for so long thereafter as there are any monies or obligations owing by Developer (or, if permitted, its Affiliates) to Franchisor under the Agreements; and
- (v) Developer's written acknowledgment, accepted in writing by Franchisor, or the judgment of any court or arbitration panel of competent jurisdiction establishing the amount due from Developer will be conclusive and binding on the undersigned as Guarantors.

Each Guarantor also makes all of the covenants, representations, warranties and agreements of your Owners set forth in the Development Agreement and is obligated to perform thereunder, including, without limitation, under Articles VII., X., XI., and XIII. and Sections XIV.F. through M (which include, among other things, the mediation of disputes at Franchisor's sole discretion and WAIVERS OF JURY TRIAL RIGHTS AND PUNITIVE DAMAGES).

If Franchisor is required to enforce this Guaranty in an administrative, judicial or arbitration proceeding, and prevails in such proceeding, Franchisor will be entitled to reimbursement of its costs and expenses, including, but not limited to, legal and accounting fees and costs, administrative, arbitrators' and expert witness fees, costs of investigation and proof of facts, court costs, other expenses of an administrative, judicial or arbitration proceeding and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. If Franchisor is required to engage legal counsel in connection with any failure by the undersigned to comply with this Guaranty, the Guarantors will reimburse Franchisor for any of the above-listed costs and expenses incurred by it.

IN WITNESS WHEREOF, each Guarantor has hereunto affixed his signature on the same day and year as the Development Agreement was executed.

GUARANTORS

Name: _____

Name: _____

Name: _____

Name: _____

**EXHIBIT B
TO DEVELOPMENT AGREEMENT**

**CONFIDENTIALITY AND
NONCOMPETITION AGREEMENT**

This Agreement is made and entered into this ____ day of _____, 20__, between Cole's Backyard Grill Franchising, LLC, a Delaware limited liability company ("**Franchisor**," "**we**," "**us**," or "**our**"), _____ ("**Developer**") and _____ ("**Covenantor**" or "**you**") in connection with a Development Agreement between us and Developer dated _____, 20__ ("**Development Agreement**"). Initially capitalized terms used, but not defined in this Agreement, have the meanings given to them in the Development Agreement.

RECITALS

We have the right to use and license the use of a System for the establishment and operation of COLE'S (defined as COLE'S restaurants).

The System is identified by certain Marks including, the marks "COLE'S" and includes certain Confidential Information which provides economic advantages to us and licensed users of the System.

We have granted Developer the limited right to develop COLE'S restaurants pursuant to the Development Agreement.

You are employed by or associated with Franchisee and it will be necessary for you to have access to some or all of the Confidential Information.

We and Developer have agreed on the importance of restricting the use, access and dissemination of the Confidential Information, and Developer therefore has agreed to obtain from you a written agreement protecting the Confidential Information and further protecting the System against unfair competition.

You acknowledge that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by you herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

Confidentiality Agreement

1. You shall, at all times, maintain the confidentiality of the Confidential Information and shall use such Confidential Information only in the course of your employment by or association with Developer in connection with the development of COLE'S under the Development Agreement.

2. You shall not at any time make copies of any documents or compilations containing some or all of the Confidential Information without our express written permission.

3. You shall not at any time disclose or permit the disclosure of the Confidential Information except to Developer's other authorized employees and only to the limited extent necessary to train or assist such other employees in the operation of the COLE'S.

4. You shall surrender any material containing some or all of the Confidential Information to Developer or us, upon request, or upon termination of your employment by or association with Developer.

5. You shall not at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the System.

6. You acknowledge that all Manual(s) are loaned by us to Developer for limited purposes only and remain our property. You agree that no Manual(s) may be reproduced, in whole or in part, without our written consent.

Covenants Not to Compete

In order to protect the goodwill of the System, and in consideration for the disclosure of the Confidential Information to you, you agree that, during the term of your association with or employment by Franchisee, and for a period of one (1) year following the earlier of (i) the termination thereof, or (ii) the termination, expiration or transfer of Developer's interest in the Development Agreement, you will not, without our prior written consent or as permitted under other valid Development or Franchise Agreements for COLE'S between you and us:

a. Directly or indirectly divert, or attempt to divert any business opportunity or customer of COLE'S to any competitor; and

b. Directly or indirectly, for yourself or through, on behalf of, or in conjunction with any other person, persons, partnership, corporation, limited liability company, or other association or entity, own, maintain, operate, engage in or have any financial or beneficial interest in, advise, assist or make loans to, any business which is the same as or similar to a COLE'S and which is, or is intended to be, located (i) within the Territory, or (ii) within a 5-mile radius of any COLE'S then in existence or under construction.

Developer's Undertaking

You agree to make all commercially reasonable efforts to ensure that you act as required by this Agreement.

Miscellaneous

1. You agree that:

a. Each of the covenants herein contain reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill of the System or our other business interests.

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

c. In the event of a breach of this Agreement, we and the franchisees would be irreparably injured and without an adequate remedy at law and, therefore, upon any such breach or attempted breach of any provision hereof, you agree that we shall be entitled, in addition to any other remedies which we have at law or in equity, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

2. You agree to pay all expenses (including court costs and reasonable attorneys' fees and costs) incurred by us in enforcing this Agreement.

3. Any failure by us to object to or take action with respect to any breach of any provision of this Agreement by you shall not operate or be construed as a waiver of or consent to that breach of any subsequent breach by you.

4. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REFERENCE TO TEXAS CONFLICT OF LAW PRINCIPLES. YOU HEREBY IRREVOCABLY SUBMIT YOURSELF TO THE JURISDICTION OF THE STATE AND FEDERAL DISTRICT COURTS LOCATED IN THE STATE, COUNTY OR JUDICIAL DISTRICT IN WHICH OUR PRINCIPAL PLACE OF BUSINESS IS LOCATED. YOU HEREBY WAIVE ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. YOU HEREBY AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON YOU IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW. YOU FURTHER AGREE THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE THE COUNTY OR JUDICIAL DISTRICT IN WHICH OUR PRINCIPAL PLACE OF BUSINESS IS LOCATED; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, WE OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.**

5. This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

6. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered or mailed by expedited delivery service or certified or registered mail, return receipt requested, first-class postage prepaid, or sent by facsimile or electronic mail to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other parties.

If directed to Franchisor, the notice shall be addressed to:

Cole's Backyard Grill Franchising, LLC
1311 North Plano Road, Suite 150
Richardson, Texas 75081
Attention: President
Telephone: (972) 244-8900
Facsimile: (972) 244-8954

If directed to Developer, the notice shall be addressed to:

Attention: _____
Facsimile: (____) _____

If directed to Covenantor, the notice shall be addressed to:

Attention: _____
Facsimile: () _____

Any notice shall be deemed to have been given at the time of personal delivery or, in the case of expedited delivery service on the next Business Day, or, in the case of or registered or certified mail, three (3) Business Days after the date and time of mailing, or, in the case of facsimile or electronic mail, upon transmission (provided confirmation is sent by expedited delivery service or registered or certified mail).

7. Our rights and remedies under this Agreement are fully assignable and transferable and shall inure to the benefit of our Affiliates, successors and assigns. Your obligations and those of the Franchisee may not be assigned without our prior written consent.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

FRANCHISOR:

Cole's Backyard Grill Franchising, LLC,
a Delaware limited liability company

By: _____, President

DEVELOPER:

By: _____

Name: _____

Title: _____

Date: _____

COVENANTOR:

By: _____

Name: _____

Title: _____

Date: _____

**EXHIBIT C
TO DEVELOPMENT AGREEMENT**

**FRANCHISE AGREEMENT
SEE ATTACHED AS EXHIBIT C TO THE FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT D
TO DEVELOPMENT AGREEMENT**

OWNERSHIP AND MANAGEMENT INFORMATION

1. The following is a list of all shareholders, partners, members or other investors owning a direct or indirect interest in you, and a description of the nature of their interest:

NAME	OWNERSHIP INTEREST IN YOU	NATURE OF INTEREST

2. Your Principal Owner is: _____

3. Your District Manager is: _____

**EXHIBIT E
TO DEVELOPMENT AGREEMENT**

DESCRIPTION OF TERRITORY

TERRITORY: [Insert description of Territory and attach map]

**EXHIBIT F
TO DEVELOPMENT AGREEMENT**

DEVELOPMENT SCHEDULE

Development Period	Expiration Date of Development Period	Cumulative Total Number of COLE'S Located in the Territory Which You Must Have Open and in Operation
1		*
2		
3		
4		
5		

*Denotes a Training Store

**EXHIBIT G
TO DEVELOPMENT AGREEMENT**

LEASE ADDENDUM TERMS

(a) Landlord acknowledges that Tenant is a franchisee of Cole's Backyard Grill Franchising, LLC, a Delaware limited liability company ("we," "us," or "our"), and that the COLE'S located at the Premises is operated under the COLE'S franchise system, pursuant to a franchise agreement ("Franchise Agreement") between Tenant and us. Landlord consents to Tenant's use at the Premises of such marks and signs, © items, color schemes and related components of the COLE'S system as we may prescribe for the Grill. During the term of the Franchise Agreement, the Premises may be used only for the operation of the COLE'S.

(b) Landlord agrees to furnish to us copies of any and all letters and notices sent to Tenant pertaining to the Lease and the Premises at the same time that such letters and notices are sent to Tenant. Without limiting the foregoing, in the event of any default by Tenant, Landlord shall give us written notice of such default. If Tenant has failed to cure such default at the expiration of the applicable cure period, Landlord shall give us further written notice of such failure ("**Franchisor Notice**"). Following our receipt of the Franchisor Notice, we shall have the right (but not the obligation) to cure Tenant's default before Landlord shall exercise any of Landlord's remedies arising as a consequence of Tenant's default. Any such cure shall be effected within fifteen (15) days following our receipt of the Franchisor Notice. Any cure by us shall not be deemed to be an election to assume the terms, covenants, obligations and conditions of the Lease.

(c) If we cure Tenant's default, or if we notify Landlord that the Franchise Agreement has been terminated (which termination shall constitute a non-curable default pursuant to the Lease upon Landlord's receipt of our notice thereof), Landlord agrees, upon our written request, to assign to us any and all rights that Landlord may have under the Lease to remove and evict Tenant from the Premises and shall cooperate with us in order to pursue such action to a conclusion.

(d) If we cure Tenant's default or notify Landlord of the termination of the Franchise Agreement, we shall have the right and option, upon written notice to Landlord, to do the following:

1. Undertake to perform the terms, covenants, obligations and conditions of the Lease on behalf of the Tenant (notwithstanding any removal or eviction of Tenant) for a period not to exceed six (6) months from the first (1st) date of any cure by us; or
2. At any time within or at the conclusion of such six (6) month period, assume the terms, covenants, obligations and conditions of the Lease for the remainder of the term, together with any applicable renewal options. In such event, Landlord and we shall enter into an agreement to document such assumption. We are not a party to the Lease and shall have no liability under the Lease unless and until said Lease is assigned to, and assumed by, us as herein provided.

(e) If, during the six (6) month period set forth in section (d)(1) above or at any time after the assignment contemplated in section (d)(2), we shall notify Landlord that the franchise for the COLE'S is being granted to another COLE'S franchisee, Landlord shall permit the assignment of the Lease to said franchisee without the payment of any fee or other cost requirement, provided that said franchisee meets Landlord's reasonable financial qualifications. Landlord shall not unreasonably withhold consent to such assignment. Thereafter, we shall be released from any and all further liabilities under the Lease. The parties agree to execute any commercially reasonable documents in furtherance of this section.

(f) Tenant will not assign the Lease or renew or extend the term thereof without the prior written consent of us, nor shall Landlord and Tenant amend or otherwise modify the Lease in any manner that could materially affect any of the foregoing requirements without our prior written consent.

(g) We shall have the right to enter the Premises to make any modification or alteration necessary to protect the COLE'S system and marks or to cure any default under the Franchise Agreement or under the Lease, without being guilty of trespass or any other crime or tort. Landlord shall not be responsible for any expenses or damages arising from any such action by us. Tenant hereby releases, acquits and discharges us and Landlord, and our and Landlord's respective subsidiaries, Affiliates, successors and assigns and the officers, directors, shareholders, partners, employees, agents and representatives of each of them, from any and all claims, demands, accounts, actions and causes of action, known or unknown, vested or contingent, which any of them may have, ever had, now has, or may hereafter have by reason of any event, transaction or circumstance arising out of or relating to the exercise of our rights pursuant to the Addendum.

(h) All notices sent pursuant to this Addendum shall be sent in the manner set forth in the Lease, and delivery of such notices shall be effective as of the times provided for in the Lease. For purposes of notice under the Lease, our mailing address shall be 1311 North Plano Road, Suite 150 Richardson, Texas 75081 Attention: President, which address may be changed by written notice to Landlord in the manner provided in the Lease.

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**EXHIBIT H
MARKS**

Marks	Registration Number	Registration Date
Cole's Backyard Grill	4,957,349	May 10, 2016
	4,961,552	May 17, 2016

ADDENDUM 1
REDUCED ROYALTY PROGRAM ADDENDUM
TO THE
COLE'S DEVELOPMENT AGREEMENT
BETWEEN
COLE'S BACKYARD GRILL FRANCHISING, LLC
AND

THIS ADDENDUM TO COLE'S DEVELOPMENT AGREEMENT dated this _____ day of _____, 201__ (this "**Addendum**"), is made and entered into between Cole's Backyard Grill Franchising, LLC, a Delaware limited liability company ("**we**" "**our**" or "**us**"), and _____, a _____ ("**you**" or "**Developer**") to amend and revise certain provisions of the COLE'S Development Agreement (the "**DA**") between us and you dated this same date.

- A. We have implemented special programs for Developers who wish to pay in increased initial development fee in order to reduce payments of future royalties for the initial term of the Development Agreement (the "**RRP Program**"); and,
- B. Developer desires to participate in the RRP Program by and through this Addendum to the DA signed of even date hereof.

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants set forth hereinafter, the parties, intending to be legally bound, hereby agree as follows:

- 1. Section III (A), III (B) (1) and III (B) (2) of the DA are replaced in their entirety by the following:

- A. "Development Fee". Upon the execution of this Agreement, you agree to pay us a development fee in the amount of _____ Dollars (\$_____), (the "**RRP Development Fee**"), The RRP Development Fee includes 100% of the initial franchise fee for each COLE'S to be developed in the Territory. In addition, you will prepay 100% of the future estimated standard royalties ("**FESR**") for all COLE'S in the Territory, as determine by their scheduled opening dates. The FESR is calculated by multiplying the average of the historical Gross Revenues for the chain for the past 36 full months, by .80. In the event the chain has less than 36 months of operating experience, such shorter period will be used for the calculation. The total of the FESR has been reduced to net present value at an annual discount rate of ____% to arrive at the RRP Development Fee set forth above. The RRP Development Fee will be deemed fully earned and nonrefundable by us for administrative and other expenses incurred by us and for the development opportunities lost or deferred as a result of the rights granted to you in this Agreement.

- B. Fee Splits for Franchisees in Your Territory.

(1) Initial Franchise and Transfer Fees. In the event that we transfer, renew or sell a franchise to a franchisee in your Territory and you are not in default of this Agreement, we will attempt to collect all proceeds from the franchisee relating to such fees and shall, within 7 calendar days remit to you eighty percent (80%) of any amounts we actually collect, minus any amounts arising by virtue of our right to set off for any outstanding amounts you owe to us, (which right of set-off you grant hereby).

(2) Royalties. All royalties collected from franchisees in the Territory, which arise by virtue of a franchise license in your Territory shall be paid to us by the third party franchisee. If you are not in default, and subject to our right to set off, we will, within 7 calendar days, remit to you eighty percent (80%) of the amounts actually collected by us.”

2. Section V of the DA is replaced in its entirety by the following:

“If you desire to renew, you have two renewal options.

- A. You may renew by complying with the obligations currently set forth in Article V of the DA. If renewing under the standard renewal, the fee splits based upon the RRP will revert to the standard fee splits for the balance of the renewal term.
- B. If you elect to continue having the benefit of the RRP then Article V of the DA would be replaced, at the time of renewal, by the following:

This term of this Agreement will begin on the Effective Date and, unless sooner terminated, will expire fifteen (15) years from the Effective Date. After the term provided for herein, you shall have an option to extend the exclusiveness of this contract for two periods of five (5) years, under the same terms and conditions set forth in the original term of this Agreement, including the development of additional COLE’S on a schedule similar that we agree to, except that stores developed in excess of the original Development Schedule will be credited to the initial time periods in the renewal development schedule. The renewal shall be effective only if (i) you notify us of in writing of such extension twelve (12) months before the expiration date of this Agreement; (ii) you are not then in default of this Agreement or any franchise agreement, and; (iii) you pay us a renewal fee which is calculated by multiplying the number of new COLE’S to be developed during the renewal term by the then-current initial franchise fee and adding this result to the total derived by multiplying five percent (5%) of the future estimated standard royalties “FESR”) for each existing COLE’S in the Territory plus each COLE’S to be opened, measured from their scheduled opening date. The FESR is calculated by multiplying the average of the historical Gross Revenues for the chain for the past 36 full months, by .80. This result is reduced to present value at an annual discount rate of ____%. The RRP Renewal Fee will be deemed fully earned and nonrefundable by us for administrative and other expenses incurred by us and for the development opportunities lost or deferred as a result of the rights granted to you in this Agreement.”

3. Entire Agreement. As used in this Addendum, the expression the “DA” means the body of the Development Agreement, this Addendum, and all exhibits, schedules, addenda, amendments, and other attachments to the DA. This Addendum constitutes the entire agreement between the parties with regard to the subject matter contained herein and therein, and supersedes all prior or contemporaneous oral or written agreements, conditions, or representations between the parties.

4. Counterpart Execution. The Development Agreement and this Addendum may be executed in multiple counterparts, each one of which shall be deemed an original, but all of which shall be considered together as one and the same instrument. Signatures need not appear on the same counterpart, and a signature on any such counterpart shall have the same effect as if the signatures on each such counterpart were all on the same document.

5. Continuation of Agreement. Except as modified, amended, clarified, or superseded in this Addendum, the Development Agreement shall continue in full force and effect as to all provisions therein. The terms set forth in this Addendum shall prevail in the event of any conflicts between the Development Agreement and this Addendum.

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

FRANCHISOR:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____

Name: _____

Title: _____

FRANCHISEE:

By: _____

Name: _____

Title: _____

ADDENDUM 2
DEVELOPER IN GOOD STANDING PROGRAM ADDENDUM
TO THE
COLE'S DEVELOPMENT AGREEMENT
BETWEEN
COLE'S BACKYARD GRILL FRANCHISING, LLC
AND

THIS ADDENDUM TO COLE'S DEVELOPMENT AGREEMENT dated this _____ day _____ of _____, 201__ (this "**Addendum**"), is made and entered into between Cole's Backyard Grill Franchising, LLC, a Delaware limited liability company ("**we**" "**our**" or "**us**"), and _____, a _____ ("**you**" or "**Developer**") to amend and revise certain provisions of the COLE'S Development Agreement (the "**DA**") between us and you dated this same date.

- A. We have developed a special program for Developers who are in good standing with either of a franchisor affiliates ("**DIGS Program**"). For those who qualify, we will modify the Development Agreement in accordance with the Addendum, as described below; and,
- B. Developer desires to participate in the DIGS Program by and through this Addendum to the DA signed of even date hereof.

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants set forth hereinafter, the parties, intending to be legally bound, hereby agree as follow:

- 1. Section II (C), Development of a Training COLE'S, is deleted and Developer shall have no obligation to operate a COLE'S in the Territory.
- 2. Section III (A) of the DA is replaced in its entirety by the following:
 - A. Development Fee. Upon the execution of this Agreement, you are not required to pay a development fee (the "Development Fee").
- 3. Article X of the Development Agreement Transfers, is modified by the addition of Subsection H as follows: In the event of a transfer, other than by death or for convenience, the royalty shall revert from 3% of Gross Sales to 5% of Gross Sales on franchised COLE'S operated by Developer, on the effective date of the transfer. The future fee splits will be changed so that we retain 2.5% of Gross Sales.
- 4. Entire Agreement. As used in this Addendum, the expression the "DA" means the body of the Development Agreement, this Addendum, and all exhibits, schedules, addenda, amendments, and other attachments to the DA. This Addendum constitutes the entire agreement between the parties with regard to the subject matter contained herein and therein, and supersedes all prior or contemporaneous oral or written agreements, conditions, or representations between the parties.

5. Counterpart Execution. The Development Agreement and this Addendum may be executed in multiple counterparts, each one of which shall be deemed an original, but all of which shall be considered together as one and the same instrument. Signatures need not appear on the same counterpart, and a signature on any such counterpart shall have the same effect as if the signatures on each such counterpart were all on the same document.
6. Continuation of Agreement. Except as modified, amended, clarified, or superseded in this Addendum, the Development Agreement shall continue in full force and effect as to all provisions therein. The terms set forth in this Addendum shall prevail in the event of any conflicts between the Development Agreement and this Addendum.

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

FRANCHISOR:

FRANCHISEE:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT C
FRANCHISE AGREEMENT
WITH SCHEDULES A-B AND APPENDICES 1-10

AGREEMENT dated _____ day of _____, 20____ (the “Effective Date”).

BETWEEN: The **FRANCHISOR** referred to in Schedule B (“Franchisor”)

AND: The **FRANCHISEE** referred to in Schedule B (“Franchisee”)

BACKGROUND FACTS

Franchisor has developed a unique and distinctive proprietary system for the preparation, marketing and sale of certain quality food products under various trademarks, service marks and trade names owned by them.

The Business System features distinctive and uniform color schemes, business formats, signs, equipment, layouts, systems, methods, procedures, designs and marketing and advertising standards and formats, all of which Franchisor may modify from time to time. Compliance by franchisees with the foregoing standards and policies in conjunction with the trademarks, service marks and trade names provides the basis for the valuable goodwill and wide acceptance of the Business System.

Franchisee desires to acquire the right to use the Business System and Licensed Marks and to own and operate a restaurant pursuant to the terms and conditions set forth in this Franchise Agreement (“Agreement”).

In this Agreement, capitalized terms have the meanings specified in Schedule A. Site-specific information and financial terms are set forth in Schedule B, and contractual modifications and amendments are set forth in Schedule C.

THE PARTIES AGREE:

1. GRANT OF FRANCHISE

- 1.1** Franchisor grants to Franchisee the non-exclusive right to use the Business System and Licensed Marks for the Term, as defined in Schedule B, solely in connection with the conduct of the business at the Unit Address defined in Schedule B, and subject to the terms and conditions of this Agreement. The grant of the license to use the Licensed Marks is subject to the rights of any prior user.
- 1.2** Franchisee will not, without Franchisor’s prior written approval:
 - (a) lease, purchase or otherwise acquire a site for the Unit until Franchisor has issued a notice of no objection for the proposed site. Franchisee will not sign a lease without the enforceability of the lease being conditional upon Franchisor’s written approval of Franchisee;
 - (b) operate any part of the Restaurant at any location other than the Unit Address;
or
 - (c) sub-license to any other party the right to use, or otherwise permit or authorize any other party to use, the Business System, the System Property or the Licensed Marks or any part thereof.

- 1.3 Franchisor and its affiliates retain all rights, in its sole discretion, and without granting any rights to Franchisee, to operate and grant to others the right to operate, offer and sell and grant to others the right to offer and sell Restaurant using the Business System and/or the Licensed Marks at locations outside the Protected Area and on terms and conditions as Franchisor deems appropriate.
- 1.4 Franchisor reserves the right to reject or disapprove the Franchisee at any time within one hundred eighty (180) days after the date of this Agreement if: (a) Franchisor determines that any financial, personal or other information provided by the Franchisee to Franchisor is materially false, misleading, incomplete or inaccurate; (b) Franchisor determines that the Franchisee's Managers are not qualified or competent to properly manage or participate in the operation of the Franchisee's Restaurant because such person has failed to satisfactorily complete Franchisor's certified training program, or because such person is deemed by Franchisor to be incapable of satisfactorily completing Franchisor's training program; (c) the Franchisee fails to purchase or lease a suitable site for Franchisee's Restaurant; or (d) Franchisee fails to apply for and obtain all required licenses for the operation of the Franchisee's Restaurant from the appropriate governmental agencies. The Franchisee will not sign a lease for the Franchisee's Restaurant unless the enforceability of the lease is conditional upon Franchisor's written approval of the Franchisee.

2. INITIAL FEE, ROYALTY FEE AND PRODUCTION FEE

- 2.1 On or before the Effective Date, Franchisee will pay the Initial Franchise Fee defined in Schedule B, to Franchisor. The Initial Franchise Fee is fully earned by Franchisor upon Franchisee's execution of this Agreement and is non-refundable.
- 2.2 On or before each Due Date, Franchisee will pay the Royalty Fees and Production Fees, each defined in Schedule B, to Franchisor. On Wednesday of each week for the preceding week, Franchisee shall provide a Royalty Report itemizing customer count and actual sales achieved by the Unit and any deductions therefrom to arrive at the Gross Sales for the preceding Accounting Period.
- 2.3 Franchisee acknowledges:
 - (a) its payments pursuant to this Section 2 are in consideration solely for the grant of rights and not for Franchisor's performance of any specific obligations or services; and
 - (b) that its failure to pay all amounts when due shall be a default under this Agreement and, among other things, constitute grounds for termination of this Agreement as provided in Section 15 hereof.

3. MANUALS AND STANDARDS

- 3.1** The Operations Manual contains specifications, standards and operating procedures that Franchisor prescribes for the Business System as well as information relative to other obligations of Franchisee. During the Term of this Agreement, Franchisor will loan to Franchisee one (1) copy of the complete Operations Manual. Franchisee will not reproduce or part with possession of the Operations Manual without Franchisor's prior written approval and will return all copies of the Operations Manual to Franchisor immediately upon the expiration or termination of this Agreement or upon Franchisor's request.
- 3.2** At all times during the Term, Franchisee must comply with the complete Operations Manual and all applicable laws, regulations, rules, by-laws, orders and ordinances in its conduct of the Restaurant. The Operations Manual is incorporated by reference into this Agreement. In the event of any inconsistency the version of the Operations Manual that was most recently (a) transmitted to Franchisee (as evidenced by facsimile, e-mail, regular mail return receipt, delivery confirmation or other acknowledgement by Franchisee or a representative of Franchisee), or (b) was contained on an internet site of Franchisor; will control.
- 3.3** Franchisor has the right to add to and otherwise modify the Operations Manual at its sole discretion. Franchisee shall have a reasonable period of time as set by Franchisor to implement the changes in the Business System. Franchisor will give Franchisee written notice of the changes required and the period of time within which the changes must be implemented. The master copy of the Operations Manual that Franchisor maintains at its principal corporate office shall control if there is a discrepancy between the contents of the copy of the Operations Manual that Franchisee keeps on-site and the original Operations Manual maintained by Franchisor.
- 3.4** Franchisor has the right at any time during business hours, without prior notice, to inspect Franchisee's Unit to determine compliance with the Operations Manual and terms and conditions of this Agreement.

4. UPGRADES

Franchisor may at any time, with notice, require Franchisee to remodel the Unit as detailed in the Operations Manual, at least, but no more than, once every five (5) years. Franchisor will not require Franchisee to make structural changes to the Outlet more frequently than once every ten (10) years. Franchisee acknowledges and agrees that such modifications may require significant capital expenditures and/or periodic financial commitments by Franchisee.

5. APPROVED PRODUCTS AND SUPPLIES

Franchisee shall purchase: (a) Proprietary Products and/or all ingredients, spices, seasonings, mixes, beverages, materials and supplies used in the preparation of the Proprietary Products and (b) equipment, menus, forms, paper and plastic products, packaging or other materials exclusively from Franchisor approved suppliers and distributors as detailed in the Operations Manual.

6. ADVERTISING

- 6.1** Franchisor will institute, maintain and administer an Advertising Production Fund. Franchisee shall pay Franchisor a dollar amount equal to the percentage of Gross Sales of the Franchisee's Unit set forth in Schedule B for each Accounting Period. Such funds shall become the sole and absolute property of Franchisor. Franchisor shall have sole discretion to approve or disapprove the creative concepts, materials, media and all activities financed by the Production Fund. Upon request, Franchisor shall provide Franchisee with an unaudited accounting of the amounts received and expended by Franchisor on the matters set forth above. Franchisor shall not be required to segregate contributions to the Production Fund from other funds of Franchisor.
- 6.2** Franchisor reserves the right to institute, maintain and administer a national Marketing Fund. Franchisee agrees to contribute to the Marketing Fund a dollar amount equal to a percentage of Gross Sales of the Franchisee's Unit as detailed in Schedule B. The purpose of the Marketing Fund is advertising and promoting the Business System on a regional or national basis; provided that Franchisee will not be required to contribute more than two percent (2%) of the Gross Sales of the Franchisee's Unit for each Accounting Period.
- 6.3** At such time as there are two (2) or more restaurants of the same brand in Franchisee's designated market area, the Franchisee must, when required to do so by Franchisor, become a member of and will participate in the Local DMA Co-op, as defined in Schedule B.

7. TRAINING

Franchisor will provide Franchisee with an Initial Managers Training Program at least thirty (30) days before the opening of Franchisee's Unit. Franchisee shall be responsible for the initial and ongoing training of its non-managerial employees. Franchisee and its Managers must attend and satisfactorily complete all refresher courses and additional training programs as detailed in the Operations Manual. Franchisee will pay the salaries, benefits, payroll taxes, unemployment compensation, workers' compensation insurance, lodging, food, automobile rental, travel costs and all other expenses for all persons who attend any training program on behalf of Franchisee.

8. MARKS AND SYSTEM PROPERTY

- 8.1** Franchisee acknowledges and agrees that Franchisor and/or its Affiliates are the owners of all right, title and interest in and to the Licensed Marks as well as the holders of all the goodwill associated with and symbolized by the Licensed Marks. Franchisee further acknowledges and agrees that it has no interest whatsoever in or to the Licensed Marks and that Franchisee's right to use the Licensed Marks is derived solely from this Agreement. Any unauthorized use of the Licensed Marks shall constitute an infringement of Franchisor's rights in and to the Licensed Marks. Franchisee acknowledges and agrees that all usage of the Licensed Marks by Franchisee and any goodwill derived therefrom exclusively benefits Franchisor and does not confer any goodwill or other interests in the Licensed Marks other than the right to use the Licensed Marks in the operation of the Franchisee's Unit in compliance with this Agreement or as otherwise prescribed by Franchisor or its Affiliates.

- 8.2 Franchisee must not use the Licensed Marks as part of its corporate designation, trade name, assumed/fictitious name or other legal name and must not use the Licensed Marks with modifying words, terms, designs or symbols, or in any modified form.
- 8.3 Franchisee shall not, at any time during the Term of this Agreement or after its termination or expiration, contest the validity or ownership of any of the Licensed Marks or assist any other person in contesting the validity or ownership of any of the Licensed Marks. Neither Franchisee nor any Principal may take any action that prejudices or interferes with the validity of Franchisor's rights with respect to the Licensed Marks.
- 8.4 Upon expiration or termination of this Agreement, Franchisee shall immediately and permanently cease to use the Licensed Marks and distinctive forms, slogans, signs, symbols, devices and any distinctive features or designs associated with the Business System. Franchisee must, at its expense, immediately make modifications or alterations as are necessary to clearly distinguish the Franchisee's Unit from its former appearance and to prevent any possibility of confusion by the public (including removal of all distinctive physical and structural features identifying the Business System and removal of all distinctive signs and emblems). Franchisee must take any action required to cancel all fictitious or assumed names or equivalent registrations relating to any of the Licensed Marks.

9. CONFIDENTIALITY

- 9.1 Franchisee acknowledges and agrees that the Confidential Information is confidential to and a valuable asset of Franchisor and its Affiliates, is proprietary, includes trade secrets of Franchisor and its Affiliates, and is disclosed to Franchisee solely on the condition that Franchisee agrees and will cause its owners and its employees who have access to the Confidential Information to agree that, during and after the Term of this Agreement, Franchisee, its owners and such employees:
- (a) will not use the Confidential Information in any other business capacity or for any other reason whatsoever except as expressly contemplated in this Agreement;
 - (b) will disclose the Confidential Information to employees, independent contractors, representatives or agents of Franchisee on a "need to know basis" only;
 - (c) will maintain the absolute secrecy and confidentiality of the Confidential Information in accordance with standards and procedures no less stringent than the standards and procedures used to safeguard Franchisee's confidential and proprietary information;
 - (d) will not make unauthorized copies of any portion of the Confidential Information disclosed in written or any other form;
 - (e) will keep the Operations Manual in a secure place at the Franchisee's Unit; and

- (f) will adopt and implement all reasonable procedures that may be prescribed from time-to-time by Franchisor to prevent unauthorized use or disclosure of the Confidential Information, including, without limitation, requiring the following persons to execute the Confidentiality Agreement:
 - (i) all Principals and owners of Franchisee; and
 - (ii) any employee, independent contractor, representative or agent of Franchisee that may have access to the Confidential Information.

10. RECORDS AND REPORTS

10.1 Franchisee must maintain full, complete and accurate books, records and accounts from Franchisee's Unit in the form and manner Franchisor prescribes during the Term of this Agreement and must preserve and retain the foregoing for three (3) years from the dates of their preparation.

10.2 Franchisee shall comply with the following reporting obligations:

- (a) Franchisee shall submit to Franchisor, in the form Franchisor reasonably prescribes, an unaudited monthly profit and loss statement and balance sheet for Franchisee's Unit within sixty (60) days after the end of each month during the Term of this Agreement;
- (b) Franchisee shall provide to Franchisor annual financial statements for Franchisee reviewed by an independent certified public accountant in accordance with GAAP within ninety (90) days after the end of Franchisee's fiscal year. Franchisor reserves the right to require such financial statements to be audited by an independent certified public accountant satisfactory to Franchisor at Franchisee's cost and expense; and
- (c) Franchisee must timely submit to Franchisor, any other forms, reports, records, information and data as Franchisor may reasonably request.

10.3 Franchisor has the right at any time during business hours, and without prior notice to Franchisee, to examine or audit, or cause to be examined or audited, the business records, cash control devices, bookkeeping and accounting records, bank statements, sales and income tax records and returns and other books and records of the Franchisee's Unit and the books and records of any legal entity which holds the franchise rights.

11. PAYMENTS BY FRANCHISEE

11.1 Franchisee will pay all amounts due to Franchisor pursuant to this Agreement:

- (a) Into the bank account specified in Schedule B or by granting Franchisor the right to deduct such amounts by way of direct debit or in such other manner as Franchisor notifies Franchisee from time to time;

- (b) Franchisee acknowledges that its failure to pay all amounts when due shall be a default under this Agreement and, among other things, constitute grounds for termination as provided in Section 15 of this Agreement;
 - (c) Franchisee is not entitled to withhold or offset payments due Franchisor or its Affiliates under this Agreement on grounds of alleged nonperformance or for any other reason whatsoever.
- 11.2** Without limiting Franchisor's right to terminate this Agreement pursuant to Section 15, all unpaid obligations due and payable under this Agreement that remain unpaid for more than thirty (30) days after becoming due and payable will bear simple interest at the lesser of twelve percent (12%) per annum or the maximum legal rate allowable by applicable law. Franchisee acknowledges that this Section 11.2 does not constitute Franchisor's agreement to accept payments after they are due or a commitment by Franchisor to extend credit to, or otherwise finance Franchisee's operation of, the Franchisee's Unit. Further, Franchisee acknowledges that its failure to pay all amounts when due shall be a default under this Agreement and, among other things, constitute grounds for termination of this Agreement as provided in Section 15 hereof.
- 11.3** Franchisor has sole discretion to apply any payments received from Franchisee or to offset any indebtedness of Franchisor to Franchisee to any past due indebtedness of Franchisee for royalty fees, advertising fees, purchases from Franchisor or its Affiliates, interest or any other indebtedness of Franchisee to Franchisor or its Affiliates.
- 11.4** Franchisee will pay promptly when due all taxes, duties, charges and levies payable in respect of the business and all debts and other financial obligations incurred in the operation of the business, including, without limitation, all obligations to suppliers.

12. INSURANCE, INDEMNITY AND GUARANTEE

- 12.1** Franchisee must procure and maintain in full force at all times during the Term of this Agreement, at Franchisee's expense, on a primary, rather than a participatory basis with Franchisor, an insurance policy or policies protecting Franchisee, Franchisor and certain other Affiliates or other parties designated by Franchisor, as named insureds, against any demand or claim with respect to personal injury, death property damage, or any loss, liability or expense whatsoever arising or occurring upon or in connection with Franchisee's Unit, as prescribed in the Operations Manual.
- 12.2** By the earlier of ninety (90) days after execution of this Agreement or prior to commencing training for the opening of the Franchisee's Unit, Franchisee must deliver or cause to be delivered to Franchisor a copy of the Certificate of Insurance naming Franchisor as an "additional insured" under all required insurance policies (other than Franchisee's workers' compensation insurance policies) in compliance with these requirements. All insurance policies required must expressly provide that no less than thirty (30) days' prior written notice shall be given to Franchisor in the event of a material alteration to or cancellation of the policies.
- 12.3** Should Franchisee, for any reason, fail to procure or maintain the insurance required by this Agreement, or otherwise in writing by Franchisor, Franchisor has the right and authority (without obligation) immediately to procure insurance and to charge same to

Franchisee, which charges, together with a reasonable fee for Franchisor's expenses in so acting, shall be payable by Franchisee immediately upon demand. Franchisee acknowledges and agrees that any costs and expenses so incurred by Franchisor shall be deemed a monetary obligation due and owing hereunder which, among other things, shall not be subject to offset.

12.4 The parties understand and agree that this Agreement does not create a fiduciary relationship between them and that Franchisor and Franchisee are independent contractors. Franchisor shall have no liability for any sales, use, excise, gross receipts, property or other taxes, whether levied upon Franchisee, the Franchisee's Unit or its assets, or upon Franchisor in connection with sales made, services performed or business conducted by Franchisee. Franchisee agrees that it is solely responsible for its employee relations and that any suggestions or recommendations provided by Franchisor are subject to varying state laws and that Franchisee will make an independent investigation of any suggestions or recommendations prior to implementation.

12.5 Franchisee will indemnify and keep indemnified Franchisor, its Affiliates and their agents, employees, directors, successors and assigns from and against any and all claims, liabilities, losses, costs and damages (including legal costs and expenses) arising directly or indirectly in connection with or related to Franchisee's conduct of the business, Franchisor's exercise of any right pursuant to this Agreement or any act or omission by any agent, representative, contractor, licensee or invitee of Franchisee, other than where any such claim, liability, loss, cost or damage arises solely as a result of Franchisor's fault or negligence.

13. PROTECTION OF SYSTEM PROPERTY AND GOODWILL OF SYSTEM

13.1 In consideration of the receipt of certain license grants, training, trade secrets and Confidential Information, Franchisee and any Principals, on behalf of themselves and their respective Affiliates and members of their Immediate Families, therefore covenant that during the Term of this Agreement, Franchisee, its Affiliates, any Principal, or any member of the Immediate Family of the foregoing, shall not directly or indirectly:

- (a) have any interest in any Competitive Business (this restriction shall not be applicable to the ownership of shares of a class of securities listed on a stock exchange or traded on the over-the-counter market and quoted on a national inter-dealer quotation system that represent less than three percent (3%) of the number of shares of that class of securities issued and outstanding);
- (b) perform services as a director, officer, manager, employee, consultant, representative, agent, or otherwise for any Competitive Business;
- (c) divert or attempt to divert any business or any customers of any Business System restaurant to any Competitive Business or Permitted Competitive Business, as defined in Schedule B, provided that Franchisee's Affiliates may otherwise advertise and operate the Permitted Competitive Businesses in their ordinary course or (b) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Licensed Marks and the Business System; or

- (d) employ or seek to employ any person who is employed by Franchisor, its Affiliates or by any other developer or franchisee of the Business System restaurants, nor induce any such person to leave said employment without the prior written consent of such person's employer.

13.2 Franchisee covenants that, for the period specified in Schedule B as the Post-Term Restraint Period following the expiration, termination or transfer of this Agreement, neither Franchisee nor any Affiliated Company of Franchisee will directly or indirectly in any capacity, whether on its own account or as a member, shareholder, director, employee, agent, partner, joint venture, advisor, consultant or lender, have any interest in, be engaged in or perform any services for any business within the Post Term Restraint Area specified in Schedule B involved the preparation, marketing or sale of products similar to the food products sold in the business under the Licensed Marks.

14. TRANSFERS AND CHARGES

14.1 Franchisee agrees that:

- (a) Franchisor must approve a proposed transferee, which, along with its guarantors must execute all documentation necessary for them to accept all duties and obligations of the franchisee and its guarantors, respectively, under the existing Franchise Agreement for the remaining balance of the term;
- (b) no obligations, rights or interest of Franchisee in (a) this Agreement, (b) the lease or ownership interest for the premises of the Franchisee's Unit, (c) the Franchisee's Unit or (d) all or substantially all of the assets of the Franchisee's Unit may be transferred without the prior written consent of Franchisor. This restriction shall not prohibit Franchisee from granting a mortgage, charge, lien or security interest in the assets of the Franchisee's Unit or this Agreement for the purpose of securing financing for the development of the Franchisee's Unit. Any purported Transfer in violation of this Section shall constitute a breach of this Agreement and shall convey to the transferee no rights or interests in the foregoing.

In addition to the foregoing, a Transfer will require the prior written consent of Franchisor where such Transfer occurs by virtue of (a) divorce; (b) insolvency; (c) dissolution of a corporation, partnership or limited liability company; (d) will; (e) intestate succession; or (f) declaration of or transfer in trust.

14.2 Franchisor will have the right to transfer or assign this Agreement and all or any part of our rights or obligations under this Agreement to any person or legal entity without your consent, and upon such transfer or assignment, the transferee or assignee shall be solely responsible for all our obligations arising subsequent to the transfer or assignment. Without limitation of the foregoing, we may sell our assets to a third party; may offer our securities privately or publicly; may merge with or, acquire other corporations, or may be acquired by another corporation; may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring.

14.3 Our Right of First Refusal. If you or an Owner wishes to transfer any interest in this Agreement, the Grill, or you pursuant to any bona fide offer received from a third party

to purchase such interest, then the proposed seller shall promptly notify us in writing of the offer, and shall provide such information and documentation relating to the offer as we may require. Franchisor has the right and option, exercisable within thirty (30) days after receipt of such written notification and copies of all required documentation, to send written notice that we intend to purchase the seller's interest on the terms and conditions offered by the third party. Our failure to exercise the option afforded by this Section 14.3 shall not constitute a waiver of any other provision of this Agreement. Failure to comply with this Section 14.3 shall constitute a material event of default under this Agreement.

15. DEFAULT AND TERMINATION

15.1 Franchisor may terminate this Agreement without notice to Franchisee, if:

- (a) Franchisee becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy, or an involuntary petition in bankruptcy is filed against Franchisee;
- (b) A bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee;
- (c) A receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed by any court of competent jurisdiction;
- (d) Franchisee initiates proceedings for a composition with creditors under any state or federal law, or such a proceeding is initiated against Franchisee;
- (e) A final judgment against Franchisee remains unsatisfied or of record for thirty (30) days or longer (unless a supersedeas bond is filed);
- (f) Franchisee is dissolved;
- (g) Execution is levied against Franchisee's business or property;
- (h) If there is an immediate threat or danger to public health or safety resulting from the operation of the Franchisee's Unit;
- (i) The real or personal property of the Franchisee's Unit shall be sold after levy thereupon by any sheriff, marshal or law enforcement officer; or
- (j) Franchisor exercises its right to reject or disapprove Franchisee.

15.2 Franchisor may terminate this Agreement effective upon written notice to Franchisee of one or more of the following material breaches of this Agreement:

- (a) final conviction of Franchisee (or any Principal) of a felony, or if Franchisee engages in conduct which, in the reasonable judgment of Franchisor, may adversely affect the goodwill of the Licensed Marks;

- (b) if Franchisee or a Principal discloses the contents of the Operations Manual or other Confidential Information in breach of this Agreement;
- (c) suit to foreclose any lien or mortgage against the premises or equipment of the Franchisee's Unit operated hereunder is instituted against Franchisee and not dismissed within sixty (60) days after the summons is served on Franchisee;
- (d) if Franchisee or a Principal has made a material misrepresentation in connection with its application for the franchise;
- (e) if Franchisee abandons, surrenders, transfers control of, loses the right to occupy the premises of the Unit, fails to obtain an alternative site or fails to actively operate the Unit;
- (f) if Franchisee fails on three (3) or more separate occasions to submit when due financial statements, reports or other data, information or supporting records, to pay when due the royalty fees, advertising contributions, amounts due for purchases from Franchisor or its Affiliates or other payments due to Franchisor, amounts due to suppliers or vendors approved or designated by Franchisor, or otherwise fails to comply with this Agreement, whether or not failure to comply is corrected after notice is delivered to Franchisee;
- (g) suffers cancellation of or fails to renew or extend the lease for the premises of the Unit or otherwise fails to maintain possession of the premises of the Unit;
- (h) Franchisee or any Principal purports to effect a Transfer that is restricted under this Agreement without Franchisor's prior written consent and in compliance with this Agreement;
- (i) if Franchisee or any of its owners fail to comply with Anti-Terrorism Laws or become listed on the Annex to Executive Order 13244; or
- (j) if Franchisee, any affiliate of Franchisee, or any guarantor of Franchisee commits an act of default under any other agreement or promissory note given to Franchisor or any Affiliate of Franchisor, the effect of which is to allow Franchisor or its Affiliate to terminate the agreement and/or accelerate payment under the promissory note.

15.3 Without limiting Section 15.1 or 15.2, Franchisor may in its sole discretion and in addition to, or in lieu of exercising its termination rights described above, take all or any of the following actions without providing Franchisee advance notice or an opportunity to cure the breach before such action is taken:

- (a) Franchisor may temporarily or permanently suspend any existing credit arrangements or accommodations previously extended to Franchisee, and/or refrain from offering or making available to Franchisee any credit arrangements or accommodations that may be offered or made available to other Business System franchisees;
- (b) Franchisor may modify payment terms for Approved Products or other merchandise purchased by Franchisee (which may include, without limitation, requiring cash on delivery);

- (c) Franchisor may disqualify Franchisee from being eligible for, or from participating in, purchasing from suppliers, the Gift Card Program, special award and promotions programs that may be offered or made available to other Business System franchisees; or
- (d) Franchisor may refrain from providing or making available to Franchisee promotional materials or other materials developed by the Marketing Fund.

16. OBLIGATIONS UPON TERMINATION OR EXPIRATION

16.1 Immediately upon expiration or termination of this Agreement, Franchisee will:

- (a) pay to Franchisor all Royalty Fees, advertising contributions, amounts owed for products purchased by Franchisee from Franchisor or from its Affiliates, as well as any other fees plus interest on any of the foregoing due to Franchisor or its Affiliates;
- (b) Franchisee shall immediately cease to operate the Unit under this Agreement and must not thereafter, directly or indirectly, hold itself out as a present or former franchisee of the Business System;
- (c) Franchisee shall immediately and permanently cease to (a) use, in any manner whatsoever, any confidential methods, computer software, procedures and techniques associated with the Business System Restaurants, (b) communicate with or order products from approved suppliers, and (c) use the Licensed Marks and distinctive forms, slogans, signs, symbols and devices and any distinctive features or designs associated with the Business System Restaurants;
- (d) Franchisee must, at its expense, immediately make modifications or alterations as are necessary to clearly distinguish the Unit from its former appearance and other Business System restaurants to prevent any possibility of confusion by the public (including removal of all distinctive physical and structural features identifying the Business System restaurants and removal of all distinctive signs and emblems). Franchisee must, at its expense, make specific additional changes as Franchisor reasonably requests for this purpose;
- (e) Franchisee must take any action required to cancel all fictitious or assumed names or equivalent registrations relating to any of the Licensed Marks;
- (f) Franchisee shall furnish to Franchisor within thirty (30) days after the effective date of termination or expiration evidence satisfactory to Franchisor of Franchisee's compliance with the foregoing obligations;
- (g) Upon expiration or termination of this Agreement, Franchisee shall immediately deliver to Franchisor the Operations Manual, software licensed by Franchisor, all Confidential Information and other materials deemed proprietary by Franchisor and refrain from using any of the foregoing in any business or otherwise; and
- (h) All obligations of Franchisor and Franchisee under this Agreement which expressly or by their nature are to survive or are intended to survive the termination of this Agreement or expiration of this Agreement shall continue in

full force and effect subsequent to and notwithstanding its termination or expiration until they are satisfied in full or by their nature expire.

16.2 Upon expiration or termination of this Agreement, Franchisee, its Principal and their respective Affiliates or any member of the Immediate Family of the foregoing, shall directly or indirectly, for a period of twelve (12) months commencing on the effective date of such termination or expiration, or the date on which Franchisee ceases to operate the Unit, whichever is later:

- (a) have any interest as a disclosed or beneficial owner in any Competitive Business located or operating:
 - i. at the premises formerly occupied by the Unit;
 - ii. within the Protected Area; or
 - iii. within a three (3) mile radius of any other Business System Restaurant in operation or under development on the effective date of termination or expiration of this Agreement.
- (b) perform services as a director, officer, manager, employee, consultant, representative, agent, or otherwise for any Competitive Business located or operating:
 - i. at the premises formerly occupied by the Unit; or
 - ii. within the Protected Area; or
 - iii. within a three (3) mile radius of any other Business System Restaurant in operation or under development on the effective date of termination or expiration of this Agreement.
- (c) divert or attempt to divert any business or any customers of any Business System Restaurants to any Competitive Business, provided that Franchisee's affiliates may otherwise advertise and operate the Permitted Competitive Businesses in their ordinary course; or
- (d) employ or seek to employ, any person who is employed by Franchisor, its affiliates or any developer or franchisee of a Business System Restaurant, nor induce or attempt to induce any such person to leave said employment without the prior written consent of such person's employer.

16.3 If Franchisee fails to fulfill any of its obligations under Clause 16.1, Franchisor may itself take whatever actions it considers necessary to fulfill those obligations and invoice Franchisee for the full cost of such actions, such invoice to be payable within 7 days.

17. RIGHTS OF ENTRY

- 17.1** Notwithstanding anything to the contrary in Section 3.4, Franchisee expressly authorizes Franchisor and its agents or representatives to enter the Unit, without prior notice to Franchisee, for the purposes of Clauses 10.3, 15.2(e) and 16.3.
- 17.2** Franchisee hereby waives, and releases Franchisor from, any rights, actions or claims which Franchisee may at any time have against Franchisor in connection with Franchisor's entry into the Unit for the purposes of this Agreement, provided that Franchisor and its agents and representatives use all reasonable care in exercising such rights of entry.
- 17.3** Franchisee will execute any documents required by Franchisor in connection with Franchisor's entry into the Unit and use its best endeavors to procure any consent required from any third party in connection with Franchisor's entry into the Unit.

18. RENEWAL

If, upon expiration of the initial term of this Agreement, Franchisee satisfies the conditions set forth below, Franchisee shall have the right to renew this Agreement for subsequent renewal terms as specified in Schedule B:

- (a) Franchisee requests the renewal in writing not less than one hundred eighty (180) days before the end of the initial term of this Agreement;
- (b) Franchisee has during the initial term of this Agreement substantially complied with all its provisions;
- (c) Franchisee satisfies Franchisor's operational and other renewal criteria specified in Schedule B;
- (d) Franchisee's right to renew has not been terminated under Section 15.2(a);
- (e) Franchisee is not, at the expiration of the Term, in breach of any term or condition of this Agreement or any other agreement between Franchisor and Franchisee (or their respective Affiliates);
- (f) Franchisee timely and fully has paid all amounts due to Franchisor pursuant to this Agreement during the 12 months preceding the expiration of the Term;
- (g) No Guarantor or Affiliate of Franchisee is, at the expiration of the Term, in violation of Sections 8, 9, 13 or 14;
- (h) Franchisee upgrades the Unit to Franchisor's then current standards, as detailed in the Operations Manual, for new outlets prior to the expiration of the Term;
- (i) Franchisee pays the Renewal Fee specified in Schedule B to Franchisor at least 90 days prior to the expiration of the Term;
- (j) Franchisee obtains an extension of the lease for the Unit, if applicable, for the period of the renewal term; and
- (k) Franchisee is in compliance with and obtains all necessary governmental approvals and documentation for such renewal.

19. PRINCIPAL OPERATOR

Franchisee hereby appoints the Principal Operator specified in Schedule B to be primarily responsible for the management of the business and to transact with Franchisor, on behalf of Franchisee, in relation to all matters arising under this Agreement. Franchisee acknowledges that Franchisor will deal with the Principal Operator on the basis that the Principal Operator will have the authority to transact with Franchisor on behalf of and in the name of Franchisee. Franchisee may not change the Principal Operator without Franchisor's prior written approval.

20. EXCLUSION OF LIABILITY

In the event that this Agreement expires or is terminated for an event of default attributable to Franchisee, Franchisee shall have no claim or cause of action whatsoever against Franchisor, including without limitation, any claim for damages, compensation for goodwill or loss of future or expected income.

21. NOTICES AND PAYMENTS

All written notices and reports permitted or required to be delivered by the provisions of this Agreement or of the Operations Manual shall be deemed so delivered at the time delivered by hand, one (1) business day after being placed in the hands of a commercial courier service for overnight delivery, or three (3) business days after placed in the U.S. mail by Registered or Certified Mail, postage prepaid, and addressed to the party to be notified at its most current principal business address of which the notifying party has been notified. Reports requiring delivery shall be delivered by U.S. mail. The addresses for the parties set forth in Schedule B shall be used unless and until a different address has been designated by written notice to the other party.

22. MISCELLANEOUS

- 22.1** Except as otherwise expressly provided, nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity who is not a party to this Agreement.
- 22.2** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior negotiations, agreements or understandings.
- 22.3** Franchisee is an independent contractor and is not an agent, representative, joint venture, partner or employee of Franchisor. No fiduciary relationship exists between Franchisor and Franchisee.
- 22.4** This Agreement will inure to the benefit of Franchisor, its successors and assigns and may be transferred by Franchisor to any party without Franchisee's prior approval upon notice to Franchisee. With effect from receipt by Franchisee of such notice, Franchisor is released from all obligations of this Agreement, and Franchisee will have a new contract on the same terms as this Agreement with the transferee, successor or assignee named in the notice.
- 22.5** The delay or failure of any party to exercise any right or remedy pursuant to this Agreement will not operate as a waiver of the right or remedy and a waiver of any particular breach will not be a waiver of any other breach. All rights and remedies under

this Agreement are cumulative and the exercise of one right or remedy will not limit the exercise of any other right or remedy.

- 22.6 If any part of this Agreement is held to be void, invalid or otherwise unenforceable, Franchisor may elect either to modify the void, invalid or unenforceable part to the extent necessary to render it legal, valid and enforceable or to sever the voided, invalid or unenforceable part, in which event the remainder of this Agreement will continue in full force and effect.
- 22.7 The terms and conditions of this Agreement may be changed only in writing signed by both parties. Notwithstanding the above, Franchisee acknowledges and agrees that Franchisor may change the Operations Manual from time to time pursuant to Section 3.3 of this Agreement, upon notice to Franchisee.
- 22.8 This Agreement will be governed by and construed in accordance with the law of the territory specified in Schedule B and the parties agree to submit to the non-exclusive jurisdiction of the courts of that territory.
- 22.9 Franchisee will pay to Franchisor all reasonable legal expenses incurred by Franchisor in connection with this Agreement, including, without limitation, any stamp duty and any expenses incurred in connection with the lawful enforcement of this Agreement, but excluding Franchisor's internal legal costs in the preparation of this Agreement.
- 22.10 **MEDIATION.** BOTH PARTIES ACKNOWLEDGE THAT DISPUTES MAY ARISE THAT ARE UNABLE TO BE RESOLVED. TO FACILITATE A RESOLUTION, IF THE FRANCHISOR SO CHOOSES, AT ITS SOLE DISCRETION, YOU AGREE TO SUBMIT ANY CLAIM, CONTROVERSY OR DISPUTE BETWEEN US, TO MEDIATION BEFORE BRINGING SUCH CLAIM, CONTROVERSY OR DISPUTE IN A COURT OR BEFORE ANY OTHER TRIBUNAL.
- 22.11 **LITIGATION.** WITH RESPECT TO ANY CONTROVERSIES, DISPUTES OR CLAIMS WHICH ARE NOT FINALLY RESOLVED THROUGH MEDIATION AS PROVIDED IN SECTION XIV.F. ABOVE, THE PARTIES IRREVOCABLY SUBMIT THEMSELVES TO THE JURISDICTION OF THE STATE COURTS OF COLLIN COUNTY, TEXAS AND THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AND HEREBY WAIVE ALL QUESTIONS OF PERSONAL JURISDICTION FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. YOU AND WE AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON THEM IN ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW. YOU AND WE FURTHER AGREE THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE COLLIN COUNTY, TEXAS.
- 22.12 **GOVERNING LAW.** EXCEPT TO THE EXTENT GOVERNED BY THE UNITED STATES TRADEMARK ACT OF 1946 (LANHAM ACT, 15 U.S.C. SECTIONS 1051 ET SEQ.) OR OTHER FEDERAL LAW, THIS AGREEMENT, THE FRANCHISE AND ALL CLAIMS ARISING FROM THE RELATIONSHIP BETWEEN US AND YOU

WILL BE GOVERNED BY AND INTERPRETED AND CONSTRUED UNDER TEXAS LAW (EXCEPT FOR TEXAS CONFLICT OF LAW RULES).

- 22.13 PARTIES' ACKNOWLEDGMENTS. YOU AND WE ACKNOWLEDGE THAT THE AGREEMENTS REGARDING APPLICABLE STATE LAW AND FORUM SET FORTH ABOVE PROVIDE EACH OF US WITH THE MUTUAL BENEFIT OF UNIFORM INTERPRETATION OF THIS AGREEMENT AND ANY DISPUTE ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT. YOU AND WE FURTHER ACKNOWLEDGE THE RECEIPT AND SUFFICIENCY OF MUTUAL CONSIDERATION FOR SUCH BENEFIT.
- 22.14 WAIVER OF PUNITIVE DAMAGES. EXCEPT WITH RESPECT TO YOUR OBLIGATION TO INDEMNIFY US PURSUANT TO ARTICLE XIII. AND CLAIMS WE BRING AGAINST YOU FOR YOUR UNAUTHORIZED USE OF THE MARKS OR UNAUTHORIZED USE OR DISCLOSURE OF ANY CONFIDENTIAL INFORMATION, WE AND YOU AND YOUR OWNERS WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN YOU AND US, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.
- 22.15 LIMITATIONS OF CLAIM. EXCEPT FOR CLAIMS WE BRING WITH REGARD TO YOUR OBLIGATIONS TO INDEMNIFY US PURSUANT TO ARTICLE XIII., ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP BETWEEN YOU AND US PURSUANT TO THIS AGREEMENT WILL BE BARRED UNLESS AN ACTION IS COMMENCED WITHIN ONE (1) YEAR FROM THE DATE ON WHICH THE ACT OR EVENT GIVING RISE TO THE CLAIM OCCURRED, OR ONE (1) YEAR FROM THE DATE ON WHICH YOU OR WE KNEW OR SHOULD HAVE KNOWN, IN THE EXERCISE OF REASONABLE DILIGENCE, OF THE FACTS GIVING RISE TO SUCH CLAIMS, WHICHEVER OCCURS FIRST.
- 22.16 JURY WAIVER. YOU AND WE HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL IN ANY ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE RELATIONSHIP CREATED BY THIS AGREEMENT, OR ANY OTHER AGREEMENTS BETWEEN YOU AND US OR YOUR AND OUR RESPECTIVE AFFILIATES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS WRITTEN CONSENT TO A TRIAL BY THE COURT.
- 22.17 In the interpretation of this Agreement, unless the context indicates a contrary intention:
- (a) the obligations of more than one party will be joint and several;
 - (b) words denoting the singular include the plural and vice-versa and words denoting any gender include all genders;
 - (c) headings are for convenience only and do not affect interpretation;
 - (d) references to Sections and Schedules are to sections and schedules of this Agreement.

FRANCHISEE'S REPRESENTATION

Franchisee represents to Franchisor that:

- (a) Franchisee acknowledges that it has read this Agreement and Franchisor's Franchise Disclosure Document in their entirety with the assistance and advice of independent legal counsel and understands and accepts the terms, conditions, and covenants contained within;
- (b) Franchisee has relied upon its own investigations and judgment in entering into this Agreement, after receiving legal and financial advice, and no inducements, representations or warranties, other than those expressly set forth in this Agreement, have been given in respect of the Business System or this Agreement; and
- (c) Franchisee acknowledges that the restaurant business is a highly competitive industry, with often changing market conditions and recognizes that the business venture contemplated by the Agreement involves business and economic risks. Franchisee acknowledges that the financial, business and economic success of the Franchisee's Unit will be primarily dependent upon the personal efforts of Franchisee, its management and its employees, and on economic conditions in the area where the Franchisee's Unit is located and economic conditions in general.

EXECUTED as an agreement.

Signed for and on behalf of FRANCHISOR

Signed for and on behalf of FRANCHISEE

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE A **TO FRANCHISE AGREEMENT**

DEFINITIONS

"Accounting Period" - An accounting period beginning on Tuesday of each calendar week and continuing through Monday of the following week, or such other period as may be specified by Franchisor.

"Advertising Production Fund" or "Production Fund" - A fund used for (1) purchasing media placement, advertising time, public relations materials for use in all forms of media; (2) performance of market research and all advertising avenues; (3) menu testing and development; (4) production of advertising, marketing and public relations materials; and (5) administrative costs.

"Affiliate" - means, with respect to a specified entity or organization, any other entity or organization that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the entity or organization specified and, with respect to any natural person, will include all persons related to such person by blood or marriage.

"Anti-Terrorism Laws" - means Executive Order 13224 issued by the President of the United States, the USA PATRIOT ACT, and all other present and future federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war.

"Business System" - Franchisor's, or its affiliates' distinctive foods, beverages, products and services which are associated with its trademarks, trade names, service marks, copyrights, distinctive interior and exterior building designs, décor furnishings, menus, uniforms, slogans, signs, logos, commercial symbols and color combinations. "Business System" will include all of the uniformity requirements, standards of consistency and quality, procedures, specifications, training, and instructions promulgated by Franchisor for the benefit of each of STEAKHOUSE, BONANZA STEAKHOUSES, BONANZA STEAK & BBQ, PONDEROSA STEAKHOUSE AND COLE'S BACKYARD GRILL.

"Competitive Business" - Any restaurant or food service business, other than a Permitted Competitive Business, that is (i) a part of the "mid-scale segment, grill salad-bar," as such classification is defined by the most up-to-date publication of the Consumer Reports on Eating Share Trends (CREST) report and (ii) in any way similar to a Business System.

"Confidential Information" - Franchisor or its licensors, as applicable, possess and may further develop and acquire certain confidential and proprietary information and trade secrets including, but not limited to, the following categories of information, methods, techniques, procedures and knowledge developed or to be developed by Franchisor or its Affiliates or their consultants, contractors or designees, and/or franchisees and developers:

methods, equipment, specifications, standards, policies, procedures, information, concepts and systems directly or indirectly relating to knowledge of and experience in the development, operation and franchising of the Business System;

marketing and promotional programs for the Business System;

information concerning consumer preferences and inventory requirements for products, materials and supplies used or sold by the Business System;

specifications for and knowledge of suppliers of certain materials, equipment and fixtures used or sold by the Business System;

ingredients, formulas, marinades, mixes, spices, seasonings, sauces, recipes for and methods of preparation, cooking, serving, packaging, catering and delivery of all items sold at the Business System;

information concerning customers, customer lists, product sales, operating results, financial performance and other financial data of the Business System;

any other information deemed to be "trade secrets" by Franchisor or its Affiliates (as applicable); the Operations Manual; and employee selection procedures, training and staffing levels.

"Designated Marketing Area" – As defined in Schedule B of this Agreement.

"Developed Confidential Information" – Any ideas, concepts, methods and products conceived or developed by Franchisee, its Affiliates, Principals, owners, employees, agents, contractors, representatives, assigns and successors during and after the Term of the Franchise Agreement relating to the development or operation of the Business System.

"Due Date" - Due on the tenth (10th) day following the end of each Accounting Period or such other specific day that Franchisor designates.

"EFT" - Payment in the form of electronic funds transfer from the Franchisee's designated bank account.

"Franchisee's Restaurant" – The restaurant to be located at Unit Address as defined in Schedule B.

"GAAP" - Generally accepted accounting principles as in effect from time-to-time in the United States of America, consistently applied.

"Gift Card Program" - is the branded electronic gift card program that is authorized and approved for use within the Business System.

"Gross Sales" - The term "Gross Sales" means the total dollar sales from all customers of the Franchisee's Restaurant, and will include all cash and credit sales made by Franchisee of every kind and nature made at, from, by or in connection with Franchisee's business including, but not limited to, all sales and income from: (a) all foods, food products and food items; (b) alcoholic and non-alcoholic beverages and drinks; (c) vending machines and coin operated games; (d) hats, sweatshirts, T-shirts, jackets, clothing, souvenirs and premiums and novelties; (e) catering services; (f) carry-out items; (g) any and all other foods, goods, products and services; and (h) all sales, use or gross receipts tax rebates. "Gross Sales" will not include any sales, use or gross receipts tax imposed by any federal, state, municipal or governmental authority directly upon sales, if the amount of the tax is added to the selling price and is charged to the customer, a specific record is made at the time of each sale of the amount of such tax, and the amount of such tax is paid to the appropriate taxing authority by the Franchisee.

"Guaranty" - The form of Guaranty and Assumption of Franchisee's Obligations agreement attached to this Agreement as Appendix 1.

"Immediate Family" - The spouse of a person and any other member of the household of such person, including, without limitation, children of such person.

"Initial Managers Training Program" - A program to educate and acquaint Managers with the Business System and the operation of a Business System which covers base business operating procedures including: employee stations, Shift Management, Human Resource Management, Food Production and Merchandising, Quality and Standards, Cost Controls, Safety and Security, Building Equipment and Maintenance, Cleanliness, Basic Administration, the Daypart elements and other or different topics selected by Franchisor representatives.

"Joinder" - The form of Joinder attached to this Agreement as Appendix 2.

"Licensed Marks" - The trademarks, service marks, emblems and indicia of origin, including the marks "PONDEROSA," "PONDEROSA STEAKHOUSE," "BONANZA," "BONANZA STEAKHOUSE" "BONANZA STEAK & BBQ," and "COLE'S BACKYARD GRILL" Trade Dress (defined below), and other trade names, service marks, trademarks, logos and designs authorized by Franchisor to use to identify the Business System and the services and/or products offered by the Business System, all of the following being subject to modification and discontinuance at Franchisor's sole discretion.

"Local DMA Co-op" - Consists of all Restaurants under the same concept in Franchisee's designated market area. Each member of the Local DMA Co-op will abide by the rules and regulations as detailed in the Operations Manual.

"Managers" - The general manager, kitchen manager and any assistant manager of the Franchisee's Restaurant.

"Marketing Fund" - A fund to be used for advertising, marketing, promotional and public relations programs, marketing and consumer research and activities as Franchisor, in its sole discretion, deems necessary or appropriate to advertise, promote and market the Business System regionally or nationally.

"Operations Manual" - The Manual relating to the development and operation of Business System Restaurant policies and procedures, which may consist of one or more volumes, handbooks, Manuals, written materials, video or audio cassette tapes, DVD's, computer diskettes, and other materials and intangibles, as may be modified, added to, replaced or supplemented by Franchisor in its sole discretion.

"Principal" - The term "Principal" includes, collectively and individually, (a) the officers and directors of Franchisee (including the officers and directors of any general partner of Franchisee) who hold an ownership interest in Franchisee, (b) the managing member or manager if Franchisee is a limited liability company, (c) all holders of an ownership interest, directly or indirectly, of ten percent (10%) or more in Franchisee and of any entity directly or indirectly controlling Franchisee, other than limited partners of a limited partnership, and (d) the Managing Principal.

"Proprietary Products" - Products developed by the Business System pursuant to a secret recipe or formula.

"Protected Area" - A one (1) mile radius around Franchisee's Restaurant.

"Royalty Report" - A report itemizing customer count and actual sales achieved by the Unit and any deductions therefrom to arrive at the Gross Sales for the preceding Accounting Period.

"System Property" - Contents of the Operations Manual and all other know-how, information, specifications, systems and data used by Franchisor in or in respect of the Business System, including, without limitation, trade secrets, copyrights, designs, patents and other intellectual property.

"Transfer" - As used in this Agreement, the term "Transfer" shall include: (a) an assignment, sale, gift, pledge or subfranchise; (b) the grant of a mortgage, charge, lien or security interest, including, without limitation, the grant of a collateral assignment; (c) a merger, consolidation, exchange of shares or other ownership interests, issuance of additional ownership interests or securities representing ownership interests, or redemption of ownership interests; and (d) a sale or exchange of voting interests or securities convertible to voting interests, or an agreement granting the right to exercise the voting rights of any holder of ownership interests or to control the operations or affairs of Franchisee. Notwithstanding the foregoing, the following transactions shall not be deemed a Transfer for the purposes of this Agreement:

A transfer of an interest in Franchisee that does not, individually or when taken together with all prior transfers of ownership interests in Franchisee, result in a transfer of a Controlling Interest in Franchisee;

Transfers of ownership interests in Franchisee among individuals who are owners of Franchisee at the time the parties first execute this Agreement;

Transfers of limited partnership interests in Franchisee; and

A Transfer to a trust for the benefit of a Principal or a Principal's spouse, living child or children, or grandchildren.

"Website" - As used in this Agreement, the term "Website" means an interactive electronic document, series of symbols, or otherwise, that is contained in a network of computers and/or other devices linked by communications software and refers to the Franchisee's Restaurant, the Licensed Marks and/or Business System. The term Website includes, but is not limited to, Internet and World Wide Web home pages, Social Media pages and blogs.

**Schedule B
to Franchise Agreement**

**THIS IS SCHEDULE B REFERRED TO IN THE FRANCHISE AGREEMENT BETWEEN
FRANCHISOR AND FRANCHISEE DATED _____.**

Franchisor:
(Full Name)

Franchisor Address:

1311 North Plano Road, Suite 150
Richardson, Texas 75081

Franchisee:
(Full Name)

Franchisee Address:

Advertising Fees:
(Section 11)

DMA Co-op: up to 2 ½% Weekly Gross Sales
Local: 3 ½% Quarterly Gross Sales

Bank:
(Section 11)

Bank Account:
(Section 11)

Concept:

Date of Grant:
(Opening Date)

Designated Market Area:
(Section 6.4)

Due Date:
(Section 2.2)

10 days after each Accounting Period

Governing Law Territory:

Laws of the State of Texas

Guarantors:

Initial Fee:
(Section 2)

\$29,500 USD

Insufficient Funds Fee:

\$35.00 USD

Post-Term Restraint Area:
(Section 13.2)

Post-Term Restraint Period:
(Section 13.2)

Principal Operator:
(Section 19)

Advertising Production Fee:

1/2% of Gross Sales for each accounting period

Renewal Fee:
(Section 18(i))

\$5,000 USD

Renewal Term:
(Section 18)

Royalty Fee:

5% of Revenues

Term:
(Section 1.1)

15 years commencing on the Date of Grant

Transfer Fee (Non-Family):
(Section 14)

\$5,000 USD

Transfer Fee (Family Members):
(Section 14)

All external expenses incurred by Franchisor to effect the transfer (including, without limitation, all legal and other professional fees, costs, and expenses).

Unit Address:

EXECUTED as an agreement

Signed for and on behalf of FRANCHISOR

Signed for and on behalf of FRANCHISEE

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

APPENDIX 1

GUARANTY AND ASSUMPTION OF OBLIGATIONS

THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS IS GIVEN THIS ____ day of _____, 20____, by _____ (the "Guarantor").

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement of even date (the "Agreement") by COLE'S BACKYARD GRILL FRANCHISING, LLC (the "Franchisor"), and _____ ("Franchisee"), each of the undersigned hereby personally and unconditionally (a) guarantees to Franchisor, and its successor and assigns, for the term of the Agreement and as provided in the Agreement, that Franchisee shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement; and (b) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement, both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities.

Each of the undersigned waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or nonperformance of any obligations guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations guaranteed; (4) any right he may have to require that an action be brought against Franchisee or any other person as a condition of liability. Each of the undersigned consents and agrees that: (1) his direct and immediate liability under this guaranty shall be joint and several; (2) he shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (3) liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Franchisee or any other person; and (4) liability shall not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which Franchisor may grant to Franchisee or to any other person, including the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which shall in any way modify or amend this guaranty, which shall be continuing and irrevocable during the term of the Agreement.

Each of the undersigned Guarantors represents and warrants that, by signing the Guaranty: (a) the financial statements and other financial information that Guarantor submitted to Franchisor identify the separate property of Guarantor and any marital property (community property) against which Franchisor may enforce its rights under this Guaranty and do not include any separate property of Guarantor's spouse against which Franchisor may not enforce this Guaranty; (b) if no signature appears below for such Guarantor's spouse, such Guarantor is either not married or, if married, is a resident of a state which does not require the consent of both spouses to encumber the assets of a marital estate (e.g., community property); and (c) if Guarantor's spouse signs below to indicate his/her consent to the Guarantor giving such Guaranty, then such consent also serves to bind the assets of the marital estate to Guarantor's performance of this Guaranty.

Guarantor hereby consents and agrees that:

(1) Guarantor's liability under this undertaking shall be direct, immediate, and independent of the liability of, and shall be joint and several with, Franchisee and the other parties who may be held liable for Franchisee's performance of this Agreement;

(2) Guarantor shall render any payment or performance required under the Franchise Agreement upon demand if Franchisee fails or refuses punctually to do so;

(3) This undertaking will continue unchanged by the occurrence of any bankruptcy with respect to Franchisee or any assignee or successor of Franchisee or by any abandonment of the Franchise Agreement by a trustee of Franchisee. Neither the Guarantor's obligations to make payment or render performance in accordance with the terms of this undertaking nor any remedy for enforcement shall be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of Franchisee or its estate in bankruptcy or of any remedy for enforcement, resulting from the operation of any present or future provision of the U.S. Bankruptcy Act or other statute, or from the decision of any court or agency;

(4) Franchisor may proceed against Guarantor and Franchisee jointly and severally, or Franchisor may, at its option, proceed against Guarantor, without having commenced any action, or having obtained any judgment against Franchisee. Guarantor hereby waives the defense of the statute of limitations in any action hereunder or for the collection of any indebtedness or the performance of any obligation hereby guaranteed;

(5) Guarantor agrees to pay all reasonable attorneys' fees and all costs and other expenses incurred in any collection or attempt to collect amounts due pursuant to this undertaking or any negotiations relative to the obligations hereby guaranteed or in enforcing this undertaking against Guarantor; and

(6) This Guaranty shall bind the heirs, personal representatives, successors and assigns of Guarantor, unless otherwise prohibited by law, and shall inure to the benefit of all transferees, assignees and/or endorsees of Franchisor, notwithstanding that some or all of the monies owed by Guarantor pursuant to this Guaranty may be actually advanced after any bankruptcy, receivership, reorganization or death of Guarantor.

(7) Each Guarantor also makes all of the covenants, representations, warranties and agreements of your Owners set forth in the Development Agreement and is obligated to perform thereunder, including, without limitation, under Sections 22.10. through 22.16 (which include, among other things, the mediation of disputes at Franchisor's option and WAIVERS OF JURY TRIAL RIGHTS AND PUNITIVE DAMAGES).

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each of the undersigned has affixed his signature on the same day and year as the Agreement was executed.

GUARANTOR(S)

**PERCENTAGE OWNERSHIP IN
FRANCHISEE**

Signature: _____

Name: _____

Signature: _____

Name: _____

Signature: _____

Name: _____

The undersigned, as the spouse of the Guarantor indicated below, acknowledges and consents to the guaranty given herein by his/her spouse. Such consent also serves to bind the assets of the marital estate to Guarantor's performance of this Guaranty.

Name of Guarantor

Name of Guarantor

Name of Guarantor's Spouse

Name of Guarantor's Spouse

Signature of Guarantor's Spouse

Signature of Guarantor's Spouse

Name of Guarantor

Name of Guarantor

Name of Guarantor's Spouse

Name of Guarantor's Spouse

Signature of Guarantor's Spouse

Signature of Guarantor's Spouse

APPENDIX 2

JOINDER

In consideration of, and as a condition to, the grant by Franchisor to Franchisee of the Franchise rights set forth in this Agreement, the undersigned Principals hereby agree to be personally bound by the provisions of this Agreement applicable to them.

Signature: _____
Name: _____

Signature: _____
Name: _____

Signature: _____
Name: _____

Signature: _____
Name: _____

APPENDIX 3

TO THE FRANCHISE AGREEMENT BY AND BETWEEN COLE'S BACKYARD GRILL FRANCHISING, LLC AND _____

FRANCHISEE ACKNOWLEDGMENTS AND REPRESENTATIONS STATEMENT

1. Franchisee acknowledges that it has read the Franchise Agreement (the "Agreement") between COLE'S BACKYARD GRILL FRANCHISING, LLC ("Franchisor") and Franchisee concerning Franchisee's Restaurant located at _____ dated as of the same date hereof and Franchisor's Franchise Disclosure Document in their entirety and that it understands and accepts the terms, conditions, and covenants contained in the Agreement as being reasonably necessary to maintain Franchisor's high standards of quality and service at COLE'S and to protect and preserve the goodwill of the Licensed Marks (Capitalized terms not defined herein shall have the respective meanings set forth in the Agreement). Franchisee acknowledges that Franchisor delivered and Franchisee received a copy of Franchisor's Franchise Disclosure Document fourteen calendar days prior to the execution of the Agreement or the payment of any consideration by Franchisee in connection with the transaction contemplated in the Agreement.
2. Franchisee acknowledges that the restaurant business is a highly competitive industry, with often changing market conditions. Franchisee acknowledges that it has conducted an independent investigation of the COLE'S and recognizes that the business venture contemplated by the Agreement involves business and economic risks. Franchisee acknowledges that the financial, business and economic success of the Franchisee's Restaurant will be primarily dependent upon the personal efforts of Franchisee, its management and its employees, and on economic conditions in the area where the Franchisee's Restaurant is located and economic conditions in general.
3. Franchisee acknowledges that, except as expressly set forth in Franchisor's Franchise Disclosure Document:
 - a. neither Franchisor nor any officer, director, employee, agent, representative or affiliate thereof has made any representations or statements of actual, average, projected or forecasted sales, profits, earnings, cash flow or costs with respect to any COLE'S;
 - b. neither Franchisor's sales personnel nor any employee, officer, director, agent, representative or affiliate of the Franchisor is authorized to make any claims or statements as to the sales, profits, earnings, cash flow, costs or prospects or chances of success that any area developer or Franchisee can expect or that present or past Franchisees have had; and
 - c. Franchisor specifically instructs its sales personnel, employees, officers, directors, agents, representatives and affiliates that they are not permitted to make such claims

or statements as to the sales, profits, earnings, cash flow, costs or the prospects or chances of success, nor are they authorized to represent or estimate amounts of sales, profits, earnings, cash flow, costs or other measures as to any aspect of the operation of COLE'S.

Franchisor recommends that applicants for COLE'S franchises make their own investigations and determine whether or not COLE'S are profitable. Franchisor will not be bound by any unauthorized representations as to Franchisee's sales, profits, earnings, cash flow, costs or prospects or chances of success. Franchisee acknowledges that it has not received or relied on any representations about the Franchise by Franchisor, or its sales personnel, employees, officers, directors, agents, representatives or affiliates that are contrary to the statements made in Franchisor's Franchise Disclosure Document or to the terms of the Agreement. Franchisor recommends that each applicant for a COLE'S franchise consult with an attorney of its choosing and further be represented by legal counsel at the time of its closing and Franchisee acknowledges that it has had ample opportunity to consult with legal counsel and other professional advisors.

4. Franchisee hereby acknowledges and agrees that Franchisor's approval of the premises for the Franchisee's COLE'S does not constitute an assurance, representation or warranty of any kind, express or implied, as to the suitability of the premises for a COLE'S, or the successful operation or profitability of COLE'S operated at the premises. Franchisor's approval of the premises indicates only that Franchisor believes that the premises falls within acceptable minimum criteria established by Franchisor solely for Franchisor's purposes at the time of the approval thereof. Both Franchisee and Franchisor acknowledge that application of criteria that have been effective with respect to other sites may not be predictive of potential for all sites and that, subsequent to Franchisor's approval of the premises, demographic and/or economic factors, such as competition from other similar businesses, included in or excluded from Franchisor's criteria could change, thereby altering the potential of the premises. Such factors are unpredictable and are beyond Franchisor's control. Franchisor shall not be responsible for the failure of the premises to meet Franchisee's expectations. Franchisee further acknowledges and agrees that its acceptance of a franchise for the operation of the Franchisee's COLE'S at the premises is based on its own independent investigation of the suitability of the premises.
5. Franchisee acknowledges that in all of Franchisor's dealings with Franchisee, the officers, directors, employees, and agents of Franchisor act only in a representative capacity and not in an individual capacity. Franchisee further acknowledges that the Agreement, and all business dealings between Franchisee and such individuals as a result of the Agreement, are solely between Franchisee and Franchisor. Furthermore, Franchisee represents to Franchisor, as an inducement to its entry into the Agreement, that neither Franchisee nor its owners have made any misrepresentations in obtaining the franchise.
6. If Franchisee is a legal entity, Franchisee:
 - a. represents that it is duly organized and validly existing in good standing under the laws of the jurisdiction of its organization, is qualified to do business in all jurisdictions in which its business activities or the nature of properties owned by Franchisee requires such qualification, and has the authority to execute and deliver the Agreement and perform all of Franchisee's obligations under the Agreement; and

- b. agrees that all certificates representing ownership interests in Franchisee now outstanding or hereafter issued will be endorsed with a legend in form approved by Franchisor stating that the transfer of ownership interests in Franchisee is subject to restrictions contained in the Agreement.
7. Franchisee represents and warrants that neither Franchisee nor any of its owners or affiliates is subject to any restriction, agreement, contract, commitment, law, judgment or decree which would prohibit or be breached or violated by Franchisee's execution and delivery of the Agreement or performance of its obligations thereunder. At Franchisor's request, Franchisee shall furnish an opinion of counsel to Franchisor in form and substance satisfactory to Franchisor, to the effect that the agreement is a valid and binding Agreement of Franchisee, enforceable against Franchisee in accordance with its terms, and that Franchisee is not subject to any restriction, agreement, law, judgment or decree which would prohibit or be violated by Franchisee's execution and delivery of the Agreement and performance of its obligations thereunder.
8. Franchisee further represents and warrants that all owners of Franchisee and their interests therein are completely and accurately listed in Exhibit E to the Agreement and covenants that Franchisee will make, execute and deliver to Franchisor such revisions thereto as may be necessary during the term of the franchise to reflect any changes in the information contained therein.
9. Franchisee represents and warrants that its domicile is as set forth below:

Franchisee

By: _____
Print Name: _____
Title: _____
Date: _____

APPENDIX 4
TO THE FRANCHISE AGREEMENT
BETWEEN COLE'S BACKYARD GRILL FRANCHISING, LLC
AND _____

CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

This "Agreement" is made and entered into as of this ____ day of _____, 20____, by and among Franchisee, Covenantor and Cole's Backyard Grill Franchising, LLC, a Delaware limited liability company ("Franchisor").

"Franchisee": _____

"Covenantor": _____, being a Principal as defined in the Franchise Agreement.

Covenantor's Address: _____

1. PREAMBLES.

Franchisor has executed or intends to execute a Franchise Agreement (the "Franchise Agreement") with Franchisee under which Franchisor grants to Franchisee certain rights with regard to COLE'S (as defined in the Franchise Agreement). Before allowing Covenantor to have access to the Confidential Information and as a material term of the Franchise Agreement necessary to protect Franchisor's Confidential Information used in the operation of Franchisee's COLE'S (the "Franchisee's COLE'S") and Franchisor's proprietary rights in and Franchisee's right to use the Confidential Information Franchisor and Franchisee require that Covenantor enter into this Agreement.

To induce Franchisor to enter into the Franchise Agreement and/or to avoid a material breach thereof Franchisor, Franchisee and Covenantor desire and consider it to be in Covenantor's best interests that Covenantor enter into this Agreement. Franchisee understands that any use or disclosure of the Confidential Information other than in accordance with this Agreement will cause Franchisor and Franchisee substantial harm.

2. DEFINITIONS.

Certain terms that are capitalized in this Agreement are defined in this section or at the places they first appear.

- a. "Competitive Business" means any restaurant or food service business, other than a Permitted Competitive Business or a Grill, that is (i) part of the "mid-scale segment, grill salad-bar", as such classification is defined by the most up to date publication of the Consumer Reports on Eating Share Trends (Crest) Report and (ii) in any way similar to a COLE'S.
- b. "Confidential Information" means certain confidential and proprietary information and trade secrets including but not limited to the following categories of information, methods, techniques, procedures and knowledge developed or to be developed by Franchisor, its Affiliates and/or Franchisees and developers of COLE'S: (1) methods, equipment, specifications, standards, policies, procedures,

information, concepts and systems directly or indirectly relating to and knowledge of and experience in the development, operation and franchising of COLE'S as well as any affiliated concept or restaurant; (2) marketing and promotional programs for COLE'S as well as any affiliated concept or restaurant; (3) information concerning consumer preferences and inventory requirements for products, materials and supplies used and sold by, and specifications for and knowledge of suppliers of certain materials, equipment and fixtures used and sold by COLE'S as well as any affiliated concept or restaurant; (4) ingredients, formulas, marinades, mixes, spices, seasonings, sauces, recipes for and methods of preparation, cooking, serving, packaging, catering and delivery of all items sold at COLE'S as well as any affiliated concept or restaurant; (5) information concerning customers, customer lists, product sales, operating results, financial performance and other financial data of COLE'S as well as any affiliated concept; (6) any information deemed to be "trade secrets" by Franchisor or its Affiliates (as applicable) (7) the Operations Manual; and (8) employee selection procedures, training and staffing levels.

- c. "Immediate Family" means the spouse of a person and any other member of the household of such person, including, without limitation, children of such person.
- d. "Permitted Competitive Business" means the business described on the Schedule attached hereto.

3. PROTECTION OF CONFIDENTIAL INFORMATION.

Covenantor agrees to use the Confidential Information only to the extent reasonably necessary to perform his or her duties on behalf of Franchisee taking into consideration the confidential nature of the Confidential Information. Covenantor may disclose the Confidential Information only as agent for Franchisee. Covenantor acknowledges and agrees that Covenantor will not acquire any interest in or right to use the Confidential Information under this Agreement or otherwise other than the right to utilize it as authorized in this Agreement and that the unauthorized use or duplication of the Confidential Information in connection with any other business or any other way would be detrimental to Franchisor and Franchisee including without limitation. Unauthorized use or duplication would constitute a breach of Covenantor's obligations of confidentiality and an unfair method of competition with Franchisor, Franchisee and/or other COLE'S owned by Franchisor or Franchisees.

Covenantor acknowledges and agrees that the Confidential Information is confidential to and a valuable asset of Franchisor and its Affiliates (as applicable), is proprietary, includes trade secrets of Franchisor and its Affiliates (as applicable), and is disclosed to Covenantor solely on the condition that Covenantor agrees to the terms and conditions of this Agreement. Covenantor therefore agrees that during the term of the Franchise Agreement and thereafter, he or she: (a) will not use the Confidential Information in any other business capacity or for any other reason whatsoever except as expressly contemplated in this Agreement; (b) will disclose the Confidential Information to employees, independent contractors, representatives or agents of Covenantor on a "need to know basis" only; (c) will maintain the absolute secrecy and confidentiality of the Confidential Information in accordance with standards and procedures no less stringent than the standards and procedures used to safeguard Covenantor's confidential and proprietary information; (d) will not make unauthorized copies of any portion of the Confidential Information disclosed in written or any other form; and (e) will keep the Operations Manual in a secure place at the Franchisee's COLE'S; and (f) will adopt and implement all reasonable procedures prescribed

from time-to-time by Franchisor and Franchisee to prevent unauthorized use or disclosure of or access to the Confidential Information.

Covenantor further agrees that the Confidential Information shall be disclosed only to the employees or agents of Franchisee who have a 'need to know' in connection with providing products and/or services to Franchisee. Moreover, the Confidential Information shall not be disclosed by Covenantor to any third party without such third party entering into a written agreement setting forth terms and conditions substantially similar to the terms and conditions provided herein. Franchisee and Covenantor hereby agree that it shall be the duty and obligation of Franchisee to undertake and ensure that the aforementioned written agreement is entered into by such third party prior to disclosure.

For the purposes of this Agreement, the following shall not constitute Confidential Information: (a) information, methods, procedures and knowledge which are or become generally known or easily accessible other than by Covenantor's breach of an obligation of confidentiality; and (b) information disclosed in judicial or administrative proceedings to the extent that Covenantor is legally compelled by a court of law or other adjudicative body to disclose such information, provided Covenantor has notified Franchisor and Franchisee at least ten (10) days prior to disclosure and shall have used his or her best efforts to obtain, and shall have afforded Franchisor and Franchisee the reasonable opportunity to obtain, an appropriate assurance reasonably satisfactory to Franchisor of confidential treatment for the information required to be so disclosed. Furthermore, Covenantor shall use its best efforts to limit any such disclosure to the minimum disclosure necessary to comply with law or court order.

Covenantor, on behalf of itself, its Affiliates, Principals, owners, employees, agents, contractors, representatives, assigns and successors hereby assigns to Franchisor all rights, title and interests in and to any ideas, concepts, methods and products conceived or developed by Covenantor, its Affiliates, Principals, owners, employees, agents, contractors, representatives, assigns and successors during and after the Term of this Agreement relating to the development and/or operation of COLE'S ("Developed Confidential Information") to the extent the same is not owned by Franchisor or its Affiliates (as applicable) as a matter of law. Moreover, Covenantor acknowledges that the Developed Confidential Information is the exclusive proprietary property of Franchisor or its Affiliates (as applicable) and shall be deemed "Confidential Information" for the purposes of the duties and covenants set forth hereunder.

In the event Covenantor, its Affiliates, Principals, owners, employees, agents, contractors, representatives, assigns and successors shall be granted an ownership interest or other right in the Developed Confidential Information by operation of law or otherwise, Covenantor agrees and shall cause its Affiliates, Principals, owners, employees, agents, contractors, representatives, assigns and successors to agree to assign all such interest to Franchisor or its Affiliates (as applicable) and bear all costs and expenses related thereto.

Nothing contained in this Agreement shall be construed to require the Franchisor to divulge to Covenantor any secret processes, formulae, ingredients or other information, except the material contained in the Operations Manual and training materials.

In the event the duration of the duty of confidentiality set forth herein is limited by judicial action or otherwise, Covenantor and Franchisor expressly agree that information deemed to be "trade secrets" by Franchisor shall be excepted out of Confidential Information and afforded the maximum protection and confidential treatment under the law.

4. IN-TERM RESTRICTIVE COVENANT.

Covenantor and any principals, on behalf of themselves and their respective affiliates and members of their Immediate Families, specifically acknowledge and agree that Franchisee and Principals will receive certain license grants, training, trade secrets and Confidential Information pursuant to the terms of this Agreement. Furthermore, Covenantor acknowledges and agrees that Franchisor and Franchisee would be unable to protect the Confidential Information including trade secrets, against unauthorized use or disclosure and Franchisor would be unable to achieve a free exchange of ideas and information among COLE'S if persons authorized to use the Confidential Information were permitted to engage in, have ownership interests in or perform services for Competitive Businesses. Covenantor therefore agrees that for as long as Covenantor is (a) a Principal or director of Franchisee, or (b) an employee of Franchisee who will have access to Confidential Information, Covenantor shall not directly or indirectly, through members of Covenantor's Immediate Family or otherwise:

- a. have any interest as a disclosed or beneficial owner in any Competitive Business;
- b. perform services as a director, officer, manager, employee, consultant, representative, agent, or otherwise for any Competitive Business;
- c. (a) divert or attempt to divert any business or any customer of any COLE'S to any Competitive Business or Permitted Competitive Business, provided that Covenantor may otherwise advertise and operate the Permitted Competitive Businesses in the ordinary course, (b) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Licensed Marks and the Business System; or
- d. employ or seek to employ any person who is employed by Franchisor, its Affiliates or any developer or Franchisee of Franchisor nor induce nor attempt to induce any such person to leave said employment without the prior written consent of such person's employer.

Notwithstanding the foregoing, nothing contained herein shall prohibit a member of the Immediate Family of Covenantor from being employed by a Competitive Business provided such employment is at a level below that of a COLE'S manager or other supervisory position. The restrictions of clause (a) of this Section will not be applicable to the ownership of shares of a class of securities listed on a stock exchange or traded on the over-the-counter market that represent less than three percent (3%) of the number of shares of that class of securities issued and outstanding.

5. RESTRICTIVE COVENANT UPON TERMINATION OR EXPIRATION OF THE FRANCHISE AGREEMENT OR COVENANTOR'S ASSOCIATION WITH FRANCHISEE.

In consideration of the receipt of certain license grants, training, trade secrets and Confidential Information, Covenantor, on behalf of themselves and their respective affiliates and members of their Immediate Families, covenant that upon the first to occur of: (a) termination by Franchisor upon Franchisee's default or expiration without renewal of the Franchise Agreement; or (b) the date as of which Covenantor is neither (i) a director or Principal of Franchisee nor (ii) an employee of Franchisee who will have access to Confidential Information (each of these events

is referred to as a "Termination Event"), Covenantor agrees that for a period of twelve (12) months commencing on the effective date of a Termination Event Covenantor shall not directly or indirectly through members of Covenantor's Immediate Family or otherwise:

- a. have any interest as a disclosed or beneficial owner in any Competitive Business located or operating:
 - i) at the Franchisee's COLE'S;
 - ii) within the Protected Area (as defined in the Franchise Agreement); or
 - iii) within a five (5) mile radius of any other COLE'S in operation or under development on the effective date of termination or expiration of this Agreement;
- b. perform services as a director, officer, manager, employee, consultant, representative, agent, or otherwise for any Competitive Business, located or operating:
 - i) at the Franchisee's COLE'S;
 - ii) within the Protected Area; or
 - iii) within a five (5) mile radius of any other COLE'S in operation or under development on the effective date of termination or expiration of this Agreement;
- c. (a) divert or attempt to divert any business or any customers of any COLE'S to any Competitive Business or Permitted Competitive Business, provided that Covenantor may otherwise advertise and operate the Permitted Competitive Business in their ordinary course, (b) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Licensed Marks and the Business System; or
- d. employ or seek to employ, any person who is employed by Franchisor, its affiliates or any developer or Franchisee of Franchisor, nor induce nor attempt to induce any such person to leave said employment without the prior written consent of such person's employer.

Notwithstanding the foregoing, nothing contained herein shall prohibit a member of the Immediate Family of Covenantor from being employed by a Competitive Business at a level below that of a COLE'S manager. The restrictions of clause (a) of this Section will not be applicable to the ownership of shares of a class of securities listed on a stock exchange or traded on the over-the-counter market that represent less than three percent (3%) of the number of shares of that class of securities issued and outstanding. The foregoing restrictive covenants shall not apply to Guarantor, nor any member of the Immediate Family of Guarantor if Franchisor breaches this Agreement and Franchisee terminates this Agreement on account of such breach after complying with the provisions of Section 17.B of the Agreement.

Covenantor recognizes the broad scope of the restrictive covenants set forth in Sections 4 and 5 of this Agreement, but agrees that they are reasonable. If any court or tribunal of competent jurisdiction shall refuse to enforce any such covenant because it is more extensive whether as to time limit, geographic area, scope of business or otherwise than is deemed reasonable, it is expressly understood and agreed that such covenants shall not be void, but that the restrictions contained therein shall be deemed reduced to the extent necessary to permit the enforcement of such covenants.

Covenantor expressly acknowledges and agrees that Covenantor possesses skills and abilities of a general nature and has opportunities for exploiting such skills. Consequently, enforcement of the covenants made in Sections 4 and 5 of this Agreement will not deprive Covenantor of the ability to earn a living.

6. SURRENDER OF DOCUMENTS.

Covenantor agrees that as of the effective date of a Termination Event Covenantor shall immediately cease to use the Confidential Information disclosed to or otherwise learned or acquired by Covenantor and return to Franchisee or to Franchisor if directed by Franchisor all copies of the Confidential Information loaned or made available to Covenantor.

7. COSTS AND ATTORNEYS' FEES.

In the event that Franchisor or Franchisee is required to enforce this Agreement in an action against Covenantor, Covenantor shall reimburse Franchisor and/or Franchisee if it/they prevail (whether or not awarded a money judgment) for its/their reasonable attorneys' fees, whether such fees are incurred before, during or after any trial or administrative proceeding or on appeal.

8. WAIVER.

Failure to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition. No waiver of any single breach will be deemed to be a waiver of any other or subsequent breach. No failure on the part of any party hereto to exercise, and no delay in exercising, any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

9. SEVERABILITY.

Each provision of this Agreement and any portion thereof shall be considered severable and if for any reason any such provision is held to be invalid or contrary to or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which Franchisor is a party, that ruling shall not impair the operation of or have any other effect upon such other portions of this Agreement as may remain otherwise intelligible. Such other portions shall continue to be given full force and effect and bind the parties hereto. Any portion held to be invalid shall be deemed not to be a part of this Agreement from the date the time for appeal expires if Covenantor is a party thereto or upon Covenantor's receipt of a notice from Franchisor that it will not enforce the provision in question.

10. RIGHTS OF PARTIES ARE CUMULATIVE.

The rights of the parties hereunder are cumulative and no exercise or enforcement by a party hereto of any right or remedy granted hereunder shall preclude the exercise or enforcement by them of any other right or remedy hereunder or which they are entitled by law to enforce.

11. BENEFIT.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. In the event Franchisor does not execute this Agreement (regardless of the reason) Franchisor shall be deemed a third party beneficiary of this Agreement and shall have the right to enforce this Agreement directly.

12. EFFECTIVENESS.

This Agreement shall be enforceable and effective when signed by Covenantor regardless of whether and when Franchisor or Franchisee signs this Agreement.

13. GOVERNING LAW/CONSENT TO JURISDICTION.

This Agreement and the relationship between the parties hereto shall be construed and governed in accordance with the internal laws of the State of Texas without regard to its conflict of laws principles. Covenantor and Franchisee agree that they shall institute and that Franchisor may institute any action against any of the parties hereto in any state or federal court of general jurisdiction in the state court of general jurisdiction or the Federal District Court nearest to Franchisor's corporate headquarters at the time such action is filed. Covenantor and Franchisee irrevocably submit to the jurisdiction of such courts and waive any objections to either the jurisdiction or venue of such court.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple counterparts as of the day and year first above written.

COVENANTOR:

By: _____
Name: _____
Title: _____

FRANCHISEE:

_____, a _____ corporation

By: _____
Name: _____
Title: _____

FRANCHISOR:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**, a Delaware limited
liability company

By: _____
Name: _____
Title: _____

SCHEDULE TO CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

DESCRIPTION OF PERMITTED COMPETITIVE BUSINESS

The term "Permitted Competitive Business" shall mean:

None

APPENDIX 5
TO THE FRANCHISE AGREEMENT
BETWEEN COLE'S BACKYARD GRILL FRANCHISING, LLC
AND _____

LOYALTY AND GIFT CARD PARTICIPATION AGREEMENT

This Loyalty and Gift Card Participation Agreement (the "LAGC Agreement"), dated as of _____, 20__, is entered into by and between COLE'S BACKYARD GRILL FRANCHISING, LLC, a Delaware limited liability company ("Franchisor"), and _____, a _____ corporation (the "Franchisee"),

WHEREAS, All franchisees shall accept gift cards from BONANZA STEAKHOUSE, BONANZA STEAK & BBQ, PONDEROSA, and COLE'S locations, under the following circumstances:

1. Franchisee owns and operates the franchised COLE'S listed on Exhibit A pursuant to certain Franchise Agreement(s) (the "Franchise Agreement(s)"). Franchisor has developed and is making available to Franchisee a loyalty and gift card program which shall be administered by a third party provider contracted through an affiliate of Franchisor (the "CBGF Gift Card Affiliate"), which may be changed by Franchisor from time to time. As of the date hereof, the CBGF Gift Card Affiliate is Homestyle Dining LLC. The third party provider will administer a system for remote activation, reconciliation, reload, inquiry and redemption of stored value gift cards ("Gift Cards") issued by Franchisor, certain of its affiliates, approved Franchisees, and by other third parties authorized by Franchisor, which gift cards may be redeemed for goods and/or services at any participating COLE'S (hereinafter, the "Gift Card Program");
2. Franchisee acknowledges that the Gift Card Program is part of the Business System and as such, Franchisee must redeem Gift Cards at its franchised COLE'S. Franchisee agrees to participate in and implement the Gift Card Program, as it relates to redeeming Gift Cards, described in the Gift Card Manual provided by Franchisor (as the same may be modified from time to time, the "Manual"). Franchisee agrees to pay the fees set forth in the Manual and to comply with all other obligations (monetary and otherwise) set forth in the Manual. Franchisee agrees to honor all Gift Cards as presented for such period of time as any Gift Cards remain redeemable;
3. This LAGC Agreement only authorizes Franchisee to redeem Gift Cards at its franchised COLE'S. Franchisee agrees to honor all Gift Cards as presented for such period of time as any Gift Cards remain redeemable;
4. Franchisee acknowledges that Franchisee is required to participate as a "seller" in the Gift Card Program, provided Franchisee is approved to be a "seller" by Franchisor, and since this LAGC Agreement only authorizes Franchisee to redeem Gift Cards at its franchised COLE'S, Franchisee understands and agrees that it is required to execute the Seller's Addendum which is attached to this LAGC Agreement, contemporaneously herewith; and
5. Franchisee shall comply with all laws and regulations applicable to the Gift Card Program, including, but not limited to, the Fair Credit Reporting Act and all laws governing privacy, consumer information regulations, expiration dates, assessment of fees and, where

applicable, escheatment obligations. Each party's rights, responsibilities and obligations under the Franchise Agreement(s) shall remain in full force and effect.

FRANCHISOR:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____
Name: _____
Title: _____

FRANCHISEE:

By: _____
Name: _____
Title: _____

SCHEDULE TO LOYALTY AND GIFT CARD
PARTICIPATION AGREEMENT

UNIT NO	UNIT LOCATION	STATE	UNIT MAILING ADDRESS	ZIP CODE
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SELLER'S ADDENDUM TO LOYALTY AND GIFT CARD PARTICIPATION AGREEMENT

This Seller's Addendum (this "Addendum") to Loyalty and Gift Card Participation Agreement (the "LAGC Agreement"), dated _____, 20__, is entered into by and between **COLE'S BACKYARD GRILL FRANCHISING, LLC**, a Delaware limited liability company ("Franchisor"), and _____, a _____ (the "Franchisee") to enable Franchisee to sell Gift Cards at its franchised location(s) in accordance with the terms and conditions set forth in this Addendum, the LAGC Agreement, and the Manual. Any capitalized terms used in this Addendum shall, unless otherwise specified herein, have the same meaning ascribed to such terms as set forth in the LAGC Agreement.

1. Franchisee agrees to be bound by the terms and conditions pertaining to the Gift Card Program as set forth in this Addendum, the LAGC Agreement, and the Manual. Franchisee acknowledges and agrees that participation as a seller in the Gift Card Program is mandatory, but limited to those Franchisees who, at Franchisor's sole discretion, are deemed to be and who remain in "good standing" throughout the term of Franchisee's respective Franchise Agreements. For purposes of the Gift Card Program, a Franchisee in "good standing" is defined as a Franchisee that is (a) current on all monetary obligations owed to Franchisor or its affiliate(s); and (b) in compliance with the terms and obligations of its Franchise Agreement(s) with Franchisor or other agreements between Franchisee and Franchisor or its affiliates. Franchisee's failure to remain in good standing may result in Franchisor terminating or otherwise limiting Franchisee's right to participate as a seller in the Gift Card Program. Further, the parties hereto agree that Franchisor may, at any time, unilaterally amend its "good standing" criteria as it deems necessary.
2. Franchisee shall maintain sufficient funds in a designated bank account as required in the Manual. Franchisee shall be assessed a fee in the amount of Thirty-five Dollars (\$35.00) (or, if less, the maximum fee allowable by law) for each dishonored ACH transaction. Franchisee acknowledges and agrees that its failure to have sufficient funds available in its designated bank account two (2) or more times in a six (6) month period, excluding any failure due to bank error, shall constitute an event of default under this Addendum and the LAGC Agreement and Franchisee further acknowledges and agrees that such failure may result in Franchisor, at Franchisor's sole discretion, either (a) terminating Franchisee's right to participate as a seller in the Gift Card Program; or (b) requiring Franchisee to purchase pre-loaded gift cards to continue selling Gift Cards at its franchised locations.
3. The unredeemed balance remaining on a Gift Card ("Breakage") may be subject to certain state laws, including, but not limited to, escheatment and unclaimed property laws as well as gift card regulation laws. Franchisee acknowledges that it is the "holder" of the Breakage pertaining to the Gift Cards sold at its franchised COLE'S and as such, Franchisee covenants that it shall abide by any and all applicable state laws and regulations and agrees to hold Franchisor and its affiliates and their respective shareholders, partners, directors, officers, and employees harmless from any and all claims directly or indirectly arising out of or relating to the Breakage, including but not limited to, Franchisee's compliance with such escheatment and unclaimed property laws and regulations. This obligation shall survive the termination or expiration of the LAGC Agreement, including this Addendum, and Franchise Agreements or any determination that either agreement or any portion of either agreement is void or voidable.

4. The LAGC Agreement, as amended and modified by this Addendum, is ratified and affirmed in all respects.

FRANCHISOR:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____
Name: _____
Title: _____

FRANCHISEE:

By: _____
Name: _____
Title: _____

STATEMENT OF OWNERSHIP INTERESTS AND FRANCHISEE'S PRINCIPALS

[illegible][illegible]

APPENDIX 7
TO THE FRANCHISE AGREEMENT
BETWEEN COLE'S BACKYARD GRILL FRANCHISING, LLC
AND _____

PRE-OPENING DOCUMENTATION

Under the Franchise Agreement or the Development Agreement, Franchisee is obligated under certain circumstances to provide Franchisor with specific documents before Franchisee opens the Franchisee's COLE'S described in the Franchise Summary. The chart below identifies the documents Franchisee must provide and indicates when Franchisee must provide them.

Required Document	When Franchisee must provide document to Franchisor
Lease or purchase agreement for the premises of the Franchisee's COLE'S for Franchisor's approval	Prior to signing the lease or purchase agreement; provide a copy of the executed lease or purchase agreement within 15 days after execution
Lease Rider	With executed lease
Initial Franchise Fee	At the same time as the execution of Franchise Agreement
Confidentiality and Non-Competition Agreement	Upon Franchisor's request
Confidentiality Agreement	Upon Franchisor's request
Guaranty and Assumption of Obligations	At the same time as the execution of Development Agreement and/or Franchise Agreement
Insurance Certificate	No later than Franchisee's commencement of employee training

APPENDIX 8
TO THE FRANCHISE AGREEMENT
BETWEEN COLE'S BACKYARD GRILL FRANCHISING, LLC
AND _____

ELECTRONIC FUND TRANSFER AUTHORIZATION

Electronic Fund Transfer:

On your payment due date as set forth in the Franchise Agreement or any other agreements between COLE'S BACKYARD GRILL FRANCHISING, LLC (CBGF) or any of its affiliates and the Franchisee, CBGF or its designated affiliate will process an Electronic Funds Transfer ("EFT") drawn against Franchisee's bank or savings and loan account as designated below (the "Bank Account") for the amount of the installment payment then due. This EFT will pass through the banking system in the same way as a check.

If sales are reported on a timely basis, the Franchisee will receive notice of the amount to be drawn against the Bank Account via EFT at least four (4) business days prior to the withdrawal of funds. If there are insufficient funds in the Bank Account or if there is an error in the amount of sales reported to CBGF then Franchisee may stop or adjust the EFT withdrawal by notifying CBGF in writing at least two (2) business days prior to the scheduled date of withdrawal. Franchisee acknowledges that if it fails to maintain sufficient funds in the Bank Account or otherwise fails to pay its obligations when due then such failures may result in the Franchisee incurring late fees and interest charges as set forth in the Franchise Agreement or any other agreements between CBGF or its affiliates and the Franchisee.

Authorization:

Commencing on the date that CBGF notifies Franchisee that an EFT will be drawn against the Bank Account, and continuing thereafter on scheduled dates designated solely by CBGF, CBGF or its designated affiliate is authorized to initiate an EFT to the Bank Account for payment of royalty fees, and other amounts due under the Franchise Agreement(s) and any other agreements between CBGF or any of its affiliates and the Franchisee. This authorization will remain in effect unless otherwise agreed in a writing executed by CBGF and Franchisee.

Agreed and Accepted

this ____ day of _____, 20__

By: _____

Name: _____

Title: _____

Franchisee Contact Name: _____

Email Address: _____

Fax Number: _____

Financial Institution: _____

Financial Institution Address:

Routing Transit Number: _____

Account Number: _____

Please include a voided check or deposit slip to permit CBGF to confirm the information noted above.

APPENDIX 9

SPECIAL PROGRAMS ADDENDUM TO THE COLE'S FRANCHISE AGREEMENT BETWEEN COLE'S BACKYARD GRILL FRANCHISING, LLC AND

THIS ADDENDUM TO COLE'S FRANCHISE AGREEMENT dated this _____ day _____, 201__ (this "Addendum"), is made and entered into between COLE'S BACKYARD GRILL FRANCHISING, LLC, a Delaware limited liability company ("Franchisor"), and _____, a _____ ("Franchisee") to amend and revise certain provisions of the COLE'S Franchise Agreement (the "Franchise Agreement") between Franchisor and Franchisee dated this same date.

- A. Introduction. CBGF has implemented special programs for veterans of the United States military forces, women, and minorities. For veterans, women, or minorities who qualify, CBGF will reduce the Initial Franchise Fee and royalty fees for the first Franchise Agreement executed with CBGF, as described below.

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants set forth hereinafter, the parties, intending to be legally bound, hereby agree as follows:

1. Qualifications. In order to obtain the Initial Franchise Fee reduction and royalty fee reduction, Franchisee or the principals of Franchisee (if Franchisee is an entity), as applicable, must meet the criteria of one of the programs listed below:

Program A: (i) be one of the first 10 individuals or entities (the "Pioneers") to enter into a franchise agreement or agreements.

Program B: (i) be a veteran of the United States military, (ii) have been honorably discharged from the United States military as evidenced by adequate documentation provided to CBGF, and (iii) be the Franchisee, or, if applicable, have at least a 51% ownership interest in the Franchisee entity signing the Franchise Agreement.

Program C: (i) be a woman or a minority ("minority" meaning an individual who is a member of an ethnic minority group), and (ii) be the Franchisee, or, if applicable, have at least a 51% ownership interest in the Franchisee entity signing the Franchise Agreement.

Any Franchisee that meets the qualifications for more than one of the special programs described above, must select, and will only receive the benefit of one special program to apply to his or her franchise purchase transaction.

2. The following Sections of the Franchise Agreement are amended or modified to read as follows:

- (a) Initial Franchise Fee. Notwithstanding anything to the contrary contained in the Franchise Agreement, the first sentence of Section 5.A (Initial Franchise Fee) of the Franchise Agreement is deleted and replaced with the following:

“Franchisee must pay to Franchisor an Initial Franchise Fee in the amount of \$20,000 for Pioneer Program and \$22,125 for other Specialty Programs as set forth in the Franchise Summary, which is due and payable on the date this Agreement is executed by Franchisee and is returned to Franchisor.”

- (b) Royalty Fee. Notwithstanding anything to the contrary contained in the Franchise Agreement, the first paragraph of Section 5.D. (Royalty Fee) of the Franchise Agreement is deleted and replaced with the following:

“During and after (as applicable) the Term of this Agreement, Franchisee shall pay to Franchisor, a continuing non-refundable royalty fee in an amount equal to the percentage of Gross Sales set forth in the Franchise Summary provided, however, so long as no ownership changes have occurred with respect to Franchisee that would cause Franchisee or Franchisee’s Principal(s), as applicable, to no longer qualify for participation in Franchisee’s special veterans, women or minority programs, commencing on the date the Franchisee’s COLE’S first opens for business, the royalty fee shall be temporarily reduced to an amount equal to three percent (3%) of Gross Sales for the term of the Agreement as qualifying under the Pioneer Program or the royalty fee shall be temporarily reduced to an amount equal to four percent (4%) of Gross Sales for the first year the Franchisee’s COLE’S is open and operating, as qualifying under a Special Program (the “Abatement Period”). Following the end of the Abatement Period, the royalty fee rate will return to the percentage of Gross Sales set forth in the Franchise Summary for the remainder of the Term of this Agreement. The on-going royalty fee is calculated based on the Gross Sales for the previous Accounting Period. Franchisor may require Franchisee to pay the royalty fees and other amounts due under this Agreement by whatever means Franchisor deems appropriate and Franchisee agrees to comply with Franchisor’s payment instructions. Notwithstanding the foregoing, Franchisee agrees that Franchisor is authorized to demand and collect payment in the form of electronic funds transfer (“EFT”) from the Franchisee’s designated bank account and shall execute an authorization agreement, as attached hereto as Exhibit G or in such other form required by Franchisor (the “Authorization Agreement”), for preauthorized payment of royalty fee payments and other amounts due from Franchisee under this Agreement, by EFT from Franchisee’s designated bank account to the bank account that Franchisor designates. Franchisee shall execute and return the Authorization Agreement no later than thirty (30) days before the Franchisee’s COLE’S opens for business. Royalty fee payments shall be paid weekly by Franchisee to Franchisor and are due on the tenth (10th) day following the end of each Accounting Period or such other specific day that Franchisor designates from time to time (“**Due Date**”). Franchisee further agrees that it will make sufficient funds available in the Franchisee’s designated bank account for Franchisor’s withdrawal by EFT of fees owed by Franchisee to Franchisor no later than each Due Date. By Wednesday of each week for the preceding week, Franchisee shall report by telephone, electronic means, or in written form, as Franchisor directs, a royalty report (the “**Royalty Report**”)

itemizing actual sales achieved by Franchisee's COLE'S and any deductions therefrom to arrive at the Gross Sales for the preceding Accounting Period ("**Weekly Gross Sales**"), together with any other reports required under this Agreement."

- (c) Entire Agreement. As used in this Addendum, the expression "the Franchise Agreement" means the body of the Franchise Agreement, this Addendum, and all exhibits, schedules, addenda, amendments, and other attachments to the Franchise Agreement. This Addendum constitutes the entire agreement between the parties with regard to the subject matter contained herein and therein, and supersedes all prior or contemporaneous oral or written agreements, conditions, or representations between the parties.
- (d) Counterpart Execution. The Franchise Agreement and this Addendum may be executed in multiple counterparts, each one of which shall be deemed an original, but all of which shall be considered together as one and the same instrument. Signatures need not appear on the same counterpart, and a signature on any such counterpart shall have the same effect as if the signatures on each such counterpart were all on the same document.
- (e) Continuation of Agreement. Except as modified, amended, clarified, or superseded in this Addendum, the Franchise Agreement shall continue in full force and effect as to all provisions therein. The terms set forth in this Addendum shall prevail in the event of any conflicts between the Franchise Agreement and this Addendum.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

FRANCHISOR:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____
Name: _____
Title: _____

FRANCHISEE:

(If FRANCHISEE is a corporation)

Name of Corporation

By: _____
Name: _____
Title: _____

(If FRANCHISEE is an individual owner,
FRANCHISEE must sign below; if a
partnership, all partners must sign below)

Franchisee

Franchisee

Franchisee

Franchisee

(If Franchisee is a Limited Liability
Company)

Name of Limited Liability Company

By: _____
Name: _____
Title: _____

APPENDIX 10

SAMPLE GENERAL RELEASE LANGUAGE

COLE'S # _____
[Location] _____

[CONSENT TO ASSIGNMENT/SALE/OWNERSHIP CHANGE/TRANSFER] AGREEMENT¹

THIS AGREEMENT (this "Agreement") is being made and entered into as of the _____ day of _____, 20____, by and between COLE'S BACKYARD GRILL FRANCHISING, LLC, a Delaware limited liability company ("CBGF"), and _____ a _____ (the "Franchisee"), under the following circumstances:

- A. CBGF and _____ are the current parties to a COLE'S Franchise Agreement dated _____ (as may be amended to date, the "Franchise Agreement");
- B. **[Insert circumstances regarding purpose of agreement (e.g., transfer, assignment, sale, ownership change)]**
- C. The parties hereby desire and intend to effectuate the foregoing upon the terms and conditions set forth hereinafter.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements set forth hereinafter, the parties, intending to be legally bound, hereby agree as follows:

- 1. Consent to [insert Transfer/Ownership Change/Assignment/Sale]. CBGF consents to the [transfer, assignment, sale, ownership change], subject to the provisions contained herein [insert information regarding transfer/assignment/sale/ownership change].
- 2. Ratification and Affirmation. The Franchise Agreement is ratified and affirmed in all respects.
- 3. Franchisee's Release of CBGF, et al. Franchisee and its partners, affiliates, heirs, predecessors in interest, officers, directors, employees, agents and representatives each individually release CBGF and its respective predecessors in interest, affiliates, partners, officers, employees, agents and representatives, and the respective shareholders, partners, directors, officers, employees, agents and representatives of its predecessors in interest and affiliates, from any and all present and future claims of any and every nature whatsoever with respect to the Franchise Agreement and/or the COLE'S, regardless of whether such claims are known, unknown, suspected, unsuspected, accrued, unaccrued, vested and/or contingent as of the date of this Agreement.
- 4. CBGF's Release of Franchisee. CBGF releases Franchisee from any and all claims of any and every nature whatsoever occurring prior to the date of this Agreement with respect to the Franchise Agreement, regardless of whether such claims are known, unknown, suspected, unsuspected, accrued, unaccrued, vested and/or contingent as of the date of this Agreement; provided, however, such release will in no way apply to: (i) any outstanding debts owed by Franchisee to CBGF under the Franchise Agreement; and (ii) any indemnity obligations of the Franchisee in favor of CBGF as contained in the Franchise Agreement as of the date of this Agreement.

¹ State law may supersede the provisions in your Franchise Agreement and Development Agreement requiring you to execute a general release as a condition to assignment, sale, or transfer. State specific addenda to this Disclosure Document are located in Exhibit J.

5. Integration and Modification. This agreement contains the entire understanding between CBGF, on the one hand, and Area Developer, Assignor, and Assignee on the other hand, with respect to the subject matter of this Agreement; and this Agreement may not be amended, canceled, or superseded, nor will any provision of this Agreement be deemed waived, except by a written instrument executed by each of the parties to be charged.
6. Binding Effect. This Agreement will be binding upon, and inure to the benefit of, the parties and their respective heirs, legatees, personal representatives, successors and assigns.
7. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which, when taken together, will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

COLE'S BACKYARD GRILL FRANCHISING, LLC

By: _____
Name: _____
Title: _____

FRANCHISEE:

By: _____
Name: _____
Title: _____

[THIRD PARTY IF NECESSARY (e.g., assignee/transferee)]

EXHIBIT D

**OPERATIONS AND GIFT CARD MANUAL
TABLE OF CONTENTS**

COLE'S BACKYARD GRILL
Introduction
Table of Contents

INTRODUCTION.....	1
HISTORY OF THE COMPANY.....	2
BRAND VISION	2
MANUAL ORGANIZATION.....	3
OWNERSHIP OF MANUAL.....	3
PURPOSE OF MANUAL	3
MANDATORY VS. SUGGESTED	4
IMPORTANCE OF CONFIDENTIALITY.....	4
KEEPING THE MANUAL CURRENT.....	5
SUBMITTING SUGGESTIONS.....	5
WHO TO CALL.....	6
FRANCHISEE DISCLAIMER	6

COLE'S BACKYARD GRILL
Human Resources and Employee Relations
Table of Contents

INTRODUCTION TO HUMAN RESOURCE MANAGEMENT	1-1
IN THE DOOR - RECRUITING	1-2
Sources of Employee Candidates	1-2-A
Referrals	
High Schools and Colleges	
Church and Youth Organizations	
Internet Advertising	
Newspaper Advertising	
Help Wanted Sign	
State and City Agencies	
Recruiting Team Members from within the Senior Section of Society	
Disabled Persons	
Other Sourcing Information	
Job Advertisements	1-2-B
Requirements to Advertise Open Positions	
In-Restaurant Poster	
Banners	
Written Advertisements	
Staffing Levels	1-2-C
Guidelines for Team Size	
Monitoring and Maintaining Staffing Levels	
Becoming the Preferred Employer	
Applications	1-2-D
Confidentiality of Applications	
Conducting Successful Interviews	1-2-E
An Overview of Selection Interviewing	
Treatment of the Applicant Before the Interview	
Reviewing Applications	
What to Look For in an Applicant	
Anti-Discrimination Regulations	
Guidelines for questions	
Reference Checks	
ON THE FLOOR - ORIENTATION	13
Setting the Tone and Expectations for Employment	14
Provide all the necessary Information	15

Assemble all required Legal Documents	16
Tips for conducting an effective Orientation	17
Job Descriptions	18
Benefits	19
SHOW THEM HOW - TRAINING & CERTIFICATION	1-4
Our Responsibility	1-4-A
Expectations.....	
What is Certification?	1-4-B
What do I need to begin Certification?.....	
How do I select my Trainers?.....	
So What Happens Next?	
What Do I Gain From Certification?.....	
The Certification Program	1-4-C
The Adult Learning Approach	
Communication and Listening	
Giving critical Feedback	
Handling Differences.....	
Giving Direction and Support.....	
Reinforcement	
Certification Training Skills	1-4-D
Steps for Planning Your Training	1-4-E
Preparing a Training Plan	1-4-F
Preparation	
Introduction	
Overview	
Body	
Close.....	
Follow up	
The four-step on the Job Training Method	1-4-G
Prepare the Learner.....	
Present the Operation	
Try out Performance	
TELL THEM MORE – PERFORMANCE MANAGEMENT	1-5
Conducting Performance Reviews	1-5-A
Taking Corrective Actions	1-5-B
Progressive Discipline	1-5-C

Unsatisfactory Performance	1-5-D
How to Discipline	1-5-E
Written Warnings	1-5-F
Suspension	1-5-G
Dismissal	1-5-H
How to dismiss a Team Member	1-5-I
Preliminary.....	
The Discharge Session: 10-15 minutes.....	
Some selected Phrases	
Immediately after the Discharge Session	
SET THE PATH - DEVELOPMENT	1-6
Formalize and publish your Restaurant's career path	1-6-A
Shadowing	1-6-B
Cross training	1-6-C
Know where your team wants to go	1-6-D
MOVING ON – EXIT PROCESS	1-7
Post separation procedures	1-7-A
Final paychecks	1-7-B
The Exit Interview	1-7-C
Tips for conducting a successful Exit Interview	
Sample Exit Interview Questions	
Once the Interview is complete	
Explaining to other employees	1-7-D
Giving references	1-7-E
COMPLAINT PROCEDURE	1-8
How to Effectively Handle a Complaint	1-8-A
SCHEDULING	1-9
The importance and impact of the work schedule	1-9-A
Scheduling Dos and Don'ts	1-9-B

Scheduling Accountabilities 1-9-C

Scheduling System 1-9-D

Projecting1-9-E

Writing an Effective Schedule1-9-F

 Tools.....

 Daily Shift Management Planner

 Staffing Guide

 Fixed Hours

 Work schedule

 Guest Count Tracking Form

 Putting the schedule together

Considerations 1-9-G

 Requests for days off

 Impact of marketing promotions

 Skill level of your staff.....

 Training

EMPLOYMENT LAW BASICS 1-10

ADDENDUM 1-11

I-9 Instructions 1-11-A

COLE'S BACKYARD GRILL

Daily Operating Procedures

Table of Contents

INTRODUCTION	2-1
LEADERSHIP BEHAVIORS	2-2
Train	2-2-A
Teach the Systems	
Monitor Training	
Coach & Counsel	2-2-B
Take Corrective Action	
Recognize Outstanding Performance	
Communication	2-2-C
Talk with Team Members	
Team Satisfaction	
Be a Role Model	2-2-D
Work Shoulder-to-Shoulder	
Project Enthusiasm	
Raise the Bar	
Create a Safe and Secure Environment	2-2-E
RECURRING ACTIVITIES	2-3
Quality Control	2-3-A
Temperature Checklist	
Salad Bar Walk	
"Recipe Right"	
The "N.O.W." System	
Guest Relations	2-3-B
Guest Satisfaction	
Service Recovery	
Guest Feedback	
Restaurant Cleanliness	2-3-C
Restroom Inspection	
"Clean as you Go"	
Business Analysis	2-3-D
Monitor your Goals	
React to Business Trends	
Administrative Duties	2-3-E

Audit the Safe _____ **2-3-F**

Bank Run _____ **2-3-G**

A DAY-IN-THE-LIFE _____ **2-4**

8:00am – 10:00am _____ **2-4-A**

Recurring Activities
Start Off Right
Arrive at the Restaurant
Entering the Restaurant
Plan Your Day
Assess Previous Close
Review Messages
Finalize "To Do" List
Review Staffing Requirements
Audit Financials and File Daily Paperwork
Inventory
Walk the Cooler
Check Meat Count / Pull
Freezer Pull
Must Sell Entrées
Prepare Orders
Expected Deliveries

10:00-10:45 a.m. _____ **2-4-B**

Mid-Shift Manager Planning
Recurring Activities
Communication
Greet Arriving Team Members
Check Uniform and Appearance
Delegate Special Projects and Daily Duties
Conduct Shift Meeting
Team Member Preparation
Confirm Team Member's Attendance
Ensure all Stations are Ready
Distribute Cash Drawers
Restaurant Preparation
Complete Exterior and Interior Cleaning / Maintenance
Check P.O.P. Signage
Conduct Final Pre-Opening Walk-through
Open the Doors for Business

10:45 a.m.-12:00 p.m. _____ **2-4-C**

Recurring Activities
Shift Management
Schedule Breaks
Monitor First Tickets into Kitchen

12:00-2:00 p.m. _____ **2-4-D**

Closing-Shift Manager Arrival
Recurring Activities

Leadership

2:00-4:00 **2-4-E**

Recurring Activities
Leadership
Post-Rush Activities
Closing-Shift Manager Planning
Tracking Forms
Bank Run #2
Transition Preparation
Verify Completed Prep
Changeover Product Identification
Station Check
Trash Audit

4:00-5:00 p.m. **2-4-F**

Recurring Activities
Shift Change
Greet Arriving Team Members
Confirm Team Member's Attendance
Check Uniform and Appearance
Delegate Special Projects
Cashier Transition
Conduct Shift Meeting

5:00-7:00 p.m. **2-4-G**

Recurring Activities
Leadership
Product Quality
Quality Check
Ensure Efficiency
Planning
Schedule Breaks
Plan Your Next Shift
Management Communication
Set Closing Shift Manager Up for Success

7:00-Close **2-4-H**

Recurring Activities
Leadership
Bank Run
Quality Check
Advanced Closing Preparations
Pre-Close and Closing Checklists
Reduce Staff
Mid-Shift Manager Departure

End of the Day **2-4-I**

Meat Count / Pull
Meat Count
Closing Preparations
Balance the Cashier Cash Drawer
Check the Closers
Ensure Restaurant is "Flashlight Clean"
Closing Administrative Reporting

Close **2-4-J**

Administrative
Monitor Guests
Check All Stations
Finish the Temperature Checklist
Review Your Messages
Secure the Building
Turn Off the Lights
Turn On the Alarm

ADDENDUM **2-5**

Temperature Checklist **2-5-A**

Cook Planning Chart **2-5-B**

Salad Bar Walk Form **2-5-C**

COLE'S BACKYARD GRILL
Building and Equipment Maintenance
Table of Contents

INTRODUCTION	3-1
EXTERIOR MAINTENANCE	3-2
Signage and Lighting	3-2-A
Parking Lot	3-2-B
Building Appearance	3-2-C
Roof	
Gutters	
Outside Storage Areas	
Landscaping	3-2-D
Sidewalks and Drainage Covers	3-2-E
Dumpster Area	3-2-F
INTERIOR MAINTENANCE	3-3
Entrance	3-3-A
Doors, Hinges, Threshold Plates	
Ceilings, Windows and Walls	3-3-B
Ceilings	
Window	
Walls	
Lighting	3-3-C
General Lighting	
Emergency Lighting	
Furniture	3-3-D
Floor Care	3-3-E
Sweeping and Mopping Procedures	
Carpet Care	3-3-F
Vacuum Cleaning	
Pre-treatment for Spots and Stains	
Detergent Treatment	
Treatment of Specific Stains	
Carpet Damage - Mechanical and Chemical	
Shampooing (Wet Extraction)	

Walk Off Mats 3-3-G

Restrooms 3-3-H

Hourly Restroom Checklist

Restroom Cleanliness Standards

Maintenance Room 3-3-I

EQUIPMENT MAINTENANCE 3-4

Broiler 3-4-A

Lighting the Broiler

Broiler Cleaning

Fryer 3-4-B

Lighting the Fryer

Fryer Cleaning

Exhaust Fans 3-4-C

Exhaust Fan Cleaning

Exhaust Fan Repair

Make Up Air Unit

Convection Ovens 3-4-D

Lighting the Convection Oven

Convection Oven Cleaning

Potato Warmer / Holding Drawers 3-4-E

Potato Warmer / Holding Drawers Cleaning

Potato Warmer / Holding Drawers Maintenance

Microwave Ovens 3-4-F

Impinger Conveyor Oven..... 3-4-G

Preventative Maintenance

Cleaning.....

Dito-Dean 3-4-H

Dito-Dean Cleaning

Dish Machine 3-4-I

The Dish Machine Set-Up Procedure

Dishmachine Operating Tips

Dishmachine Maintenance.....

Beverage Stations 3-4-J

Ice Machine

The Beverage Dispenser

Coffee Maker

Glassware area

Adjusting the Beverage Ratio (Brix)

Miscellaneous Equipment	3-4-K
Can Opener	
Heat Lamps.....	

Coolers	3-4-L
Walk-In Cooler.....	
Meat Cooler.....	
Reach-in Cooler	
Walk-In Freezer	
On-Line (Production) Freezer	
Cleaning Condensers and Evaporators.....	

PREVENTIVE MAINTENANCE 3-5

Alarm Systems	3-5-A
Fire Alarm System	
Fire Extinguisher.....	
Sprinkler System.....	
Ansul system	
Security/Burglary Alarm System	

HVAC System	3-5-B
Cooling System Preventative Maintenance	
Heating System Preventative Maintenance.....	

Water Softener	3-5-C
-----------------------------	--------------

Electrical Equipment - General	3-5-D
---	--------------

Fuse Box and Circuit Breaker	3-5-E
Cartridge Fuses.....	
Screw Type Fuses	
Circuit Breakers	
Electrical Circuits for Lights and Fixtures.....	

Exhaust System and Hood Area	3-5-F
Belt Replacement and Adjustment	

Stack Cleaning	3-5-G
-----------------------------	--------------

Checking Gas Operated Equipment	3-5-H
Gas Ovens, Gas Broiler, Water Heaters and Appliances	

Water Heater	3-5-I
---------------------------	--------------

Tools and Supplies	3-5-J
Tools	
Instructions for Use of Tools	

Caulking Windows	3-5-K
-------------------------------	--------------

Ladders3-5-L

QSC Inspection3-5-M

Cold Weather Reminders3-5-N

ADDENDUM 3-6

Restroom Checklist 3-6-A

Floor Mopping Procedures 3-6-B

QSC Inspection 3-6-C

Equipment Tempertures 3-6-D

COLE'S BACKYARD GRILL

Cost Control

Table of Contents

INTRODUCTION	4-1
MAXIMIZING SALES.....	4-2
Minimizing Reductions to Sales	4-2-A
Coupons	
Discounts	
Voids	
Team Member Benefits.....	
FORECASTING AND PROJECTIONS.....	4-3
Other Variables to Consider	
Guest Count Projections.....	4-3-A
Steps for Calculating Guest Count Projections.....	
Sales Projections	4-3-B
Production Planning.....	4-3-C
PRODUCT ORDERING	4-4
Inventory	4-4-A
Inventory Procedures	
Weekly Inventories.....	
Calculating an Order	4-4-B
Usage Rates	
Usage per 100 Guests.....	
Ordering	4-4-C
Approved Suppliers / Distributors.....	
Minimum Orders	
Receiving Product	4-4-D
Delivery Times	
Key Drop	
C.O.D.	
Quality Assurance.....	
Storing and Rotating	4-4-E
MANAGING FOOD COST	4-5
Yields/Variances	4-5-A
Salad Bar Management	4-5-B

LAYOUTS	
MANAGING LABOR COST.....	4-6
Controlling Average Wage.....	4-6-A
Overtime	
Tip Credit	
Effective Scheduling	4-6-B
Management Scheduling.....	
Team Member Scheduling	
Tools to Help Control Labor	33
Staffing Guides	
Shift Planner	
Daily Labor Analysis.....	
Labor Matrix	
Weekly Labor Review	
Schedule Execution	4-6-D
OTHER COSTS	4-7
Supplies	4-7-A
How to Control Costs in your Supply Accounts.....	
Kitchen and Dining Room Supply Inventories	
Janitorial Supply Inventory.....	
Maintenance Expenses.....	4-7-B
How to Control Maintenance Costs	
Utilities	4-7-C
Reading the Meter	
Where to find some hidden energy savings.....	
What can be done to Reduce Gas and Electricity usage	
ADDENDUM	4-8
HSD QA Complaint Form	4-8-A
Food Cost Troubleshooting Checklist	4-8-B
Food Cost Containment Calendar	4-8-C
Action to Conserve Energy (ACE) - Equipment On Off Times.....	4-8-D
Additional Actions to Conserve Energy	4-8-E

COLE'S BACKYARD GRILL

Safety and Security

Table of Contents

INTRODUCTION	5-1
EMERGENCY CONTACT PHONE NUMBERS	5-2
Company Incident reporting.....	5-2-A
SAFETY OVERVIEW	5-3
Injuries	5-3-A
Responding to Injuries - First Aid	
Injuries that Require More Than Minor First Aid	
Reporting Injuries	
Accident and Injury Prevention	5-3-B
Slips, Trips and Fall Prevention.....	
Lacerations	
Burns	
Back Injury	
Other Safety Issues	5-3-C
Hazardous Chemicals	
Life Safety	
Fire Safety.....	
OSHA	
Lock Out – Tag Out (LOTO).....	
Food Safety.....	5-3-D
Food Contamination.....	
Product Recall	
Food Borne Illness/Pathogenic Microorganisms.....	
Communicable Disease	
Breaking the Bacteria Cycle.....	
Natural Toxins and Allergens	
Health Inspection	
Sanitizer Buckets	
Energy Safety.....	5-3-E
SECURITY OVERVIEW	5-4
Zero Tolerance	5-4-A
Exterior.....	5-4-B
Interior	5-4-C
Security/Burglary Alarm System	

Burglary	
Robbery	
Violence in the Restaurant	
Asset Loss Prevention – Cash Handling	5-4-D
Cash Register	
Side Drawers/Drop Boxes	
Bleeding Drawers	
Restaurant Safes	
Cash Variances	
Voids	
Deposits	
Team Member Paychecks	
Gift Cards/Gift Certificates	
Internal Theft	5-4-E
Team Member Theft	
Tips for Preventing Internal Theft	
Team Member Meals	
External Theft	5-4-F
Counterfeit Currency	
Short Change	
Credit Card Handling	
SEVERE WEATHER	5-5
Weather Emergencies	5-5-A
Natural Disasters	5-5-B
Tornados	
Severe Winter Storms	
ADDENDUM	5-6
Emergency Procedures Chart	5-6-A
Reporting Team Member Injuries	5-6-B
Reporting Guest Injuries	5-6-C
Temperature Checklist	5-6-D
Breaking the Bacteria Cycle Chart	5-6-E
Cooler Arrangement Chart	5-6-F
Color Coded Cutting Boards	5-6-G
Hand Washing Guidelines	5-6-H
Employee Illness Reporting Policy	5-6-I

Knife Safety	5-6-J
Safe Audit	5-6-K

COLE'S BACKYARD GILL

Sales Building and Marketing

Table of Contents

INTRODUCTION - WHO WE ARE	6-1
Brand	6-1-A
Brand Vision.....	
Brand Promise.....	
Core Consumer Target	6-1-B
Competition	6-1-C
Identify.....	
Shop	
Direct Competitors.....	
Indirect Competitors.....	
 BRAND STANDARDS	6-2
Marketing Standards	6-2-A
Logo Usage Guidelines	6-2-B
Trademarks and Service Marks.....	
Protecting your Investment.....	
Your Responsibility	
 MARKETING SERVICE OVERVIEW	6-3
In-store Events	6-3-A
National Agency of Record	6-3-B
Culinary Product Development Process	6-3-C
Production Fund	6-3-D
National Marketing and Promotional Fund	
 IN-STORE MARKETING	6-4
POP (Point of Purchase) Materials	6-4-A
Zone Merchandising	6-4-B
 EXTERNAL ADVERTISING	6-5
TV/ Radio/Print / Outdoor/ Email /Word-of-mouth Marketing Strategy	6-5-A
Broadcast Overview	

Local Television	
Local Cable	
Radio	
Print	
Outdoor	
Internet	
Advertising Spending Percentage	6-5-B
Broadcast Co-op Process – Shared DMA/Funding	6-5-C
Contribution to Co-op	
Meetings	
Election of Officers	
Voting	
By-laws	
Media Plans & Buying	
Co-op Treasury	
Annual Broadcast Penetration Report	
Local Promotions (market or store level)	
Local Advertising Agency for Media Placement	6-5-D
LOCAL STORE MARKETING / COMMUNITY INVOLVEMENT	6-6
What is Local Store Marketing?	
Networking	6-6-A
Business To Business Programs	6-6-B
Hotels & Motels	
Apartments & Extended Stay Hotels	
Car Dealerships	
Employee of the Month	
Be Our Guest program	
Fundraising Programs	6-6-D
Benefit Night Program	
Community Rebate Program	
Celebrity Runner	
Medical Programs	6-6-E
Doctors, Dentists & Hospitals	
Good Patient Certificate (Ages 12 & under)	
Get It To Go	
Employee / Volunteer of the Month	
Sales & Traffic Building Programs	6-6-F
Friends & Neighbors Crew Incentive program	
Kid's Bike Giveaway	
Gas Receipt program	
Motor Coach / Tour Bus program	
Sports Team program	
Halloween program	

To Go Programs 6-6-G
 Carryout Wings
 Entrées To Go.....37
 Party Platters

Bounce Back Flyers 6-6-H
 Execution / Distribution procedures.....

Gift Cards for LSM 6-6-I

MARKETING SUPPLIERS AND AGENCY CONTACTS 6-7

COLE'S BACKYARD GRILL

Sales Building and Marketing

Table of Contents

INTRODUCTION - WHO WE ARE	7-1
Brand	7-1-A
Core Consumer Target	7-1-B
Competition	7-1-C
Identify	
Shop	
Direct Competitors	
Indirect Competitors	
BRAND STANDARDS	7-2
Marketing Standards	7-2-A
Logo Usage Guidelines	7-2-B
Trademarks and Service Marks	
Protecting your Investment	
Your Responsibility	
MARKETING SERVICE OVERVIEW	7-3
Promotional Calendar Development	7-3-A
System Events	
Participation	
In-store Secondary Events	7-3-B
National Agency of Record	7-3-C
Culinary Product Development Process	7-3-C
Production Fund	7-3-D
National Marketing and Promotional Fund	
IN-STORE MARKETING	7-4
POP (Point of Purchase) Materials	7-4-A
Zone Merchandising	7-4-B
EXTERNAL ADVERTISING	7-5

TV/ Radio/Print / Outdoor/ Email /Word-of-mouth Marketing Strategy	7-5-A
Broadcast Overview	
Local Television	
Local Cable	
Radio	
Print	
Outdoor	
Internet	

Advertising Spending Percentage	7-5-B
--	--------------

Broadcast Co-op Process – Shared DMA/Funding	7-5-C
Contribution to Co-op	
Meetings	
Election of Officers	
Voting	
By-laws	
Media Plans & Buying	
Co-op Treasury	
Annual Broadcast Penetration Report	
Local Promotions (market or store level)	

Local Advertising Agency for Media Placement	7-5-D
---	--------------

LOCAL STORE MARKETING / COMMUNITY INVOLVEMENT 7-6

What is Local Store Marketing?	
--------------------------------------	--

Networking	7-6-A
-------------------------	--------------

Business To Business Programs	7-6-B
Hotels & Motels	
Apartments & Extended Stay Hotels	
Car Dealerships	
Employee of the Month	
Be Our Guest program	

School Programs	7-6-C
The Star Student Achievement Program (Ages 12 and under)	
School's Back / School's Out Program (Ages 12 and under)	
Sports Programs	
Fund-Raising Programs (See Fund-Raising section)	
New Student Packages for Colleges	

Fundraising Programs	7-6-D
Benefit Night Program	
Community Rebate Program	
Celebrity Runner	

Medical Programs	7-6-E
Doctors, Dentists & Hospitals	
Good Patient Certificate (Ages 12 & under)	
Get It To Go	

Employee / Volunteer of the Month	
Sales & Traffic Building Programs	7-6-F
Friends & Neighbors Crew Incentive program.....	
Kid's Bike Giveaway	
Gas Receipt program	
Motor Coach / Tour Bus program.....	
Sports Team program	
Halloween program	
To Go Programs	7-6-G
Carryout Wings	
Entrées To Go.....	39
Party Platters	
Bounce Back Flyers	7-6-H
Execution / Distribution procedures.....	
Gift Cards for LSM	7-6-I
 MARKETING SUPPLIERS AND AGENCY CONTACTS	 7-7

COLE'S BACKYARD GRILL
Financial Management
Table of Contents

ACCOUNTS PAYABLE	6-1
Processing of Invoices	6-1-A
Entering Invoices In The Back Office System	
Vendor Statements	6-1-B
Inventory Transfers	6-1-C
ACCOUNTS RECEIVABLE.....	6-2
House Accounts.....	6-2-A
Forms:.....	
Process & Administrative Requirements	
Employee Purchasing	6-2-B
PAYROLL.....	6-3
Timekeeping	6-3-A
Payroll Administration	6-3-B
Nightly Payroll Tracking	
Weekly Payroll Tracking.....	
Payroll Adjustment Codes	6-3-C
Remacs System Adjustments to Gross Pay Codes	
Payroll Reconciliation.....	6-3-D
Payroll Ledger Cover Sheet.....	
To Reconcile Payroll Dollars	
Payroll Tax Withholding (W-4)	6-3-E
Employee Time Detail Report (ETD)	6-3-F
Payroll Check Protection & Handling.....	6-3-G
Garnishments.....	6-3-H
Overtime	6-3-I
Terminations.....	6-3-J
PURCHASING	6-4
Approved Products and Suppliers	6-4-A

ACCOUNTING	6-5
TRAVEL AND BUSINESS EXPENSE PROCESSING	6-6
CASH HANDLING	6-7
Deposits	6-7-A
Deposit Bags	
Deposit Preparation	
What Not To Do	
Making the Deposit	
Steps for Verifying Bank Deposits	
Missing Deposits	
Petty Cash	6-7-B
Petty Cash Income (Paid Ins)	
Violations	
Cash Advances	
Terminations	
Contests	6-7-C
Safe audits	6-7-D
Manual Credit Card Processing	6-7-E
Micros System & Mercury Credit Card Terminal Credit Card Balancing Steps	6-7-F
Change of Sales Associate	
End of Day	
Tax Exempt Transactions	6-7-G
Gift Cards	6-7-H
P & L RECONCILIATIONS	6-8
REDUCTIONS TO SALES	6-9
FUNDRAISING MARKETING PROGRAMS	6-10
Benefit Night Fundraising Program	6-10-A
Overview	
Accounting	
Celebrity Servers Fundraising Program	6-10-B
Process	
Team Member Responsibilities	
Coupons	6-10-C
Discounts	6-10-D

Free.....	6-10-E
Meals	6-10-F
Voids	6-10-G
ADDENDUM.....	6-11
Safe Audit Form	6-11-A
Authorization for Charged Meals	6-11-B

GIFT CARD MANUAL

TABLE OF CONTENTS

This Gift Card Manual (this "Manual") will serve as referenced in the BONANZA® and PONDEROSA® Franchise Disclosure Documents, as well as the Franchise Agreement, Loyalty and Gift Card Participation Agreement, Seller's Addendum" and any other agreements related to the Gift Card Program. This Manual will provide an overview of the details, contacts, procedures, and policies of The Gift Card Program. The Gift Card Program is considered to be a business system.

This Manual is not intended to be a training guide, nor does it contain detailed operational information.

The information included in this manual is subject to change. Updates will be provided upon a material change to The Gift Card Program.

Contents

ABOUT THIS MANUAL	3
GETTING WITH THE PROGRAM	4
GIFT CARD PROGRAM OVERVIEW	4
HOW DO GIFT CARDS WORK?	5
GIFT CARD SYSTEMS OVERVIEW	5
GIFT CARD ACCOUNTING OVERVIEW	6
BULK SALES AND DISCOUNTING	7
WHAT ARE THE OPTIONS?	8
WHICH OPTION IS RIGHT FOR ME?	10
How Do I Set Up an ACH Account?	11
ACH FUNDING OVERVIEW	11
HOW WILL I GET MY MONEY AFTER I REDEEM A GIFT CARD?	13
WHAT HAPPENS WITH MONEY WHEN I SELL A GIFT CARD?	13
ESCHEATMENT AND OTHER STATE LAWS	14
ACH RECONCILIATION	14
WHAT ARE MY NEXT STEPS?	14
APPENDIX A: TRANSACTION COSTS	15
APPENDIX B: GIFT CARD ORDER FORM	16
APPENDIX C: CONTACT INFORMATION	17
APPENDIX D: CHECKLIST TO PREPARE FOR SELLING	18

EXHIBIT E-1
OPEN FRANCHISEES
OPERATING FRANCHISEES AS OF DECEMBER 26, 2016

NONE

EXHIBIT E-2

FRANCHISEES UNDER AGREEMENT – NOT OPENED

**FRANCHISEES WHO HAVE SIGNED FRANCHISE AGREEMENTS FOR
RESTAURANTS WHICH WERE NOT YET OPERATIONAL
AS OF DECEMBER 26, 2016**

NONE

EXHIBIT E-3

CLOSED FRANCHISEES

**FRANCHISEES THAT HAD THEIR FRANCHISE TRANSFERRED, TERMINATED,
CANCELLED, NOT RENEWED OR OTHERWISE VOLUNTARILY OR
INVOLUNTARILY CEASED TO DO BUSINESS SINCE DECEMBER 28, 2015
AS OF DECEMBER 26, 2016**

NONE

EXHIBIT F
FRANCHISEE QUESTIONNAIRE

As you know, COLE'S BACKYARD GRILL FRANCHISING, LLC ("CBGF") and you are preparing to enter into a Franchise Agreement for the operation of a COLE'S (the "Franchise"). The purpose of this Questionnaire is to determine whether any statements or promises were made to you that CBGF has not authorized and that may be untrue, inaccurate or misleading. Please review each of the following questions carefully and provide honest responses to each question.

1. Have you received and personally reviewed CBGF's Franchise Disclosure Document (the "Disclosure Document") provided to you?

Yes _____ No _____

2. Did you sign a receipt for the Disclosure Document indicating the date you received it?

Yes _____ No _____

3. Do you understand the information contained in the Disclosure Document?

Yes _____ No _____

4. Have you received and personally reviewed the Franchise Agreement and each exhibit attached to it?

Yes _____ No _____

5. Please insert the date on which you received a copy of the Franchise Agreement with all material blanks fully completed: _____, 20__

6. Do you understand your financial and other obligations under the Franchise Agreement?

Yes _____ No _____

7. Have you discussed the economic and business risks of owning and operating the Franchise with an attorney, accountant or other professional advisor?

Yes _____ No _____

8. Do you understand the economic and business risks associated with operating the Franchise?

Yes _____ No _____

9. Do you understand that the success or failure of the Franchise will depend in large part upon your skills and abilities, the service you provide to your customers, competition, interest rates, the economy, inflation, labor and supply costs, lease terms and the marketplace?

Yes _____ No _____

10. Has any employee or other person speaking on behalf of CBGF made any statement or promise to you or anyone else regarding the amount of money you may earn in operating the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?

Yes _____ No _____

11. Has any employee or other person speaking on behalf of CBGF made any statement or promise to you or anyone else concerning the total revenues the Franchise may generate that is contrary to, or different from, the information contained in the Disclosure Document?

Yes _____ No _____

12. Has any employee or other person speaking on behalf of CBGF made any statement or promise to you or anyone else regarding the costs involved in operating the Franchise that are contrary to, or different from, the information contained in the Disclosure Document?

Yes _____ No _____

13. Has any employee or other person speaking on behalf of CBGF made any statement or promise to you or anyone else concerning the actual, average or projected profits or earnings or the likelihood of success that you should or might expect to achieve from operating the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?

Yes _____ No _____

14. Has any employee or other person speaking on behalf of CBGF made any statement or promise to you or anyone else, other than those matters addressed in your Franchise Agreement, concerning advertising, marketing, media support, market penetration, training, support service or assistance relating to the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?

Yes _____ No _____

15. If you answered "Yes" to any of questions ten (10) through fourteen (14), please provide a full explanation of your answer in the following blank lines. (Attach additional pages, if necessary, and refer to them below.) If you have answered "No" to each of the foregoing questions, please leave the following lines blank.

You understand that your answers are important to us and that we will rely on them.

By signing this Questionnaire, you are representing that you have responded truthfully to the above questions.

FRANCHISE APPLICANT

_____, 20____

FRANCHISE APPLICANT

_____, 20____

EXHIBIT G STATE AGENCIES

Department of Business Oversight
320 W. 4th Street, Suite 750
Los Angeles, CA 90013
(213) 576-7500 or 1-866-275-2677

Department of Agricultural and Consumer Services
Division of Consumer Services
2005 Apalachee Parkway
Tallahassee, Florida 32399
(850) 410-3681

Department of Commerce and Consumer Affairs
Business Registration Division
335 Merchant Street, Room 203
Honolulu, Hawaii 96813
(808) 586-2722

Office of Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-1090

Indiana Secretary of State
Indiana Securities Division
302 W. Washington St., Room E-111
Indianapolis, IN 46204
(317) 232-6681

Office of the Attorney General
Consumer Protection Division
P.O. Box 2000 | 1024 Capital Centre Dr.
Frankfort, Kentucky 40602
(502) 573-2200

Office of the Attorney General
Securities Division
200 St. Paul Place
Baltimore, Maryland 21202-2020
(410) 576-6360

Michigan Attorney General's Office
Consumer Protection Division
ATTN: Franchise Section
525 West Ottawa Street, 6th Floor
Lansing, Michigan 48933
(517) 373-7117

Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, Minnesota 55101
(651) 296-4026

Nebraska Department of Banking and Finance
1230 "O" Street Suite 400
Lincoln, Nebraska 68508-51402
(402) 471-3445

Office of the New York State Attorney General
Investor Protection Bureau
Franchise Section
120 Broadway, 23rd Floor
New York, NY 10271-0332
(212) 416-8236

North Dakota Securities Department
600 East Boulevard Avenue, 5th Floor
Bismarck, North Dakota 58505-0510
(701) 328-4712

Department of Consumer and Business Services
Division of Finance and Corporate Securities
Labor and Industries Building
Salem, Oregon 97310
(503) 378-4387

Department of Business Regulation
Securities Division, Franchise Section
John O. Pastore Complex
1511 Pontiac Avenue Bldg. 69-1
Cranston, RI 02920
401-462-9587

Department of Labor and Regulation
Division of Securities
Director, Division of Securities
124 S. Euclid Avenue, Suite 104
Pierre, South Dakota 57501
(605) 773-4823

Statutory Document Section
Secretary of State
P.O. Box 12887 | 1019 Brazos
Austin, Texas 78711 | Austin, Texas 78701
(512) 475-1769

State of Utah
Division of Consumer Protection
160 East 300 South
SM Box 146704
Salt Lake City, Utah 84114-6704
(801) 530-6601

State Corporation Commission
Division of Securities and Retail Franchising
1300 East Main Street
Richmond, Virginia 23219
(804) 371-9051

Department of Financial Institutions
Securities Division
150 Israel Rd SW
Tumwater, Washington 98501
(360) 902-8760

Dept. of Financial Institutions
Division of Securities
345 West Washington Avenue 4th Floor
Madison, WI 53703
(608) 266-1064

EXHIBIT H
Statement of Prospective Franchisee

(Note: Dates and answers must be completed in the Prospective Franchisee's own handwriting.)
The date of my first face-to-face meeting with a Franchise Marketing Representative, Franchise Broker or any other person to discuss the possible purchase of a Franchise:

_____, 20____ Franchisee Initials: _____

The date on which I received a Franchise Disclosure Document about the _____
Franchise:

_____, 20____ Franchisee Initials: _____

The date when I received a fully completed copy (other than signatures) of the Franchise Agreement I later signed:

_____, 20____ Franchisee Initials: _____

The earliest date on which I signed the Franchise Agreement or any other binding document (not including the Receipt page):

_____, 20____ Franchisee Initials: _____

The earliest date on which I delivered cash, check or other consideration to the Franchise Marketing Representative, broker, or _____ ("Franchisor") or any other person or company:

_____, 20____ Franchisee Initials: _____

Representation:

No promises, agreements, contracts, commitments, understandings, "side-deals", options, rights-of-first-refusal or otherwise have been made to or with me with respect to any matter (including but not limited to any representations or promises regarding advertising or marketing, site location, operational assistance or otherwise) nor have I relied in any way on any such information except as expressly set forth in the Franchise Agreement, Exclusive Area Development Agreement, or written addendum signed by me and the President of Franchisor except as follows:

(If none, the prospective franchisee shall write NONE in his/her own handwriting and initial same.)

Franchisee Initials: _____

No oral, written or visual claim or representation, promise, agreement, contract, commitment, understanding or otherwise which contradicted, expanded upon or was inconsistent with the Franchise Disclosure Document, the Franchise Agreement or the Exclusive Area Development Agreement was made to me by any person or entity, except as follows:

(If none, the prospective franchisee shall write NONE in his/her own handwriting and initial same.)

Franchisee Initials: _____

No oral, written or visual claim or representation (including but not limited to charts, tables, spreadsheets or mathematical calculations) which stated or suggested any specific level or range of actual or potential sales, costs, income, expenses, profits, cash flow, tax effects or otherwise (or from which such items might be ascertained) was made to me by any person or entity, except as follows:

(If none, the prospective franchisee shall write NONE in his/her own handwriting and initial same.)

Franchisee Initials: _____

No contingency, condition, prerequisite, prior requirement, proviso, reservation, impediment, stipulation, provision or otherwise exists with respect to any matter (including but not limited to obtaining financing, selection, purchase, lease or otherwise of a site, operational matters or otherwise) and/or with respect to my fully performing all of my obligations under the Franchise Agreement and/or any other documents to be executed by me nor have I relied in any way on any such information, except as expressly set forth in a writing signed by me and the President of Franchisor, except as follows:

(If none, the prospective franchisee shall write NONE in his/her own handwriting and initial same.)

Franchisee Initials: _____

I hereby understand that there will be no refunds.

Franchisee Initials: _____

Franchisor does not make or endorse nor does it allow any marketing representative, broker or other individual to make or endorse any oral, written, visual or other claim or representation (including but not limited to charts, tables, spreadsheets or mathematical calculations) which stated or suggested any specific level or range of actual or potential sales, costs, income, expenses, profits, cash flow, tax effects or otherwise (or from which such items might be ascertained) with respect to this or any other Franchise, whether made on behalf of or for Franchisor, any Franchisee or other individual and expressly disclaims any such information, data or results.

In addition, Franchisor does not permit any promises, agreements, contracts, commitments, understandings, "side-deals", options, rights-of-first-refusal or otherwise or variations of, changes in or supplements to the Franchise Agreement or Exclusive Area Development Agreement or the existence of any contingencies or conditions to Franchisee's obligations except by means of a written Addendum signed by Franchisee and Franchisor.

If any such representations, "side-deals", contingencies or otherwise have been made to you by any person or otherwise exists, immediately inform the President of Franchisor.

The prospective franchisee understands and agrees to all of the foregoing and certifies that all of the above statements are true, correct and complete.

Dated: _____

FRANCHISEE

All of the above is true, correct and complete to the best of my knowledge, information and belief.

Franchise Marketing Representative

EXHIBIT I

LIST OF AGENTS FOR SERVICE OF PROCESS

AGENTS FOR SERVICE OF PROCESS

State	Agent Name	Physical Address	County
Alabama	CAPITOL CORPORATE SERVICES, INC.	150 S PERRY ST MONTGOMERY AL 36104	Montgomery
Alaska	CAPITOL CORPORATE SERVICES, INC.	4318 CONIFER LN JUNEAU AK 99801	Juneau
Arizona	CAPITOL CORPORATE SERVICES, INC.	815 NORTH FIRST AVE STE 4 PHOENIX AZ 85003	Maricopa
Arkansas	CAPITOL CORPORATE SERVICES, INC.	300 S SPRING ST STE 900 LITTLE ROCK AR 72201	Pulaski
California	CAPITOL CORPORATE SERVICES, INC.	455 CAPITOL MALL COMPLEX STE 217 SACRAMENTO CA 95814	Sacramento
Colorado	CAPITOL CORPORATE SERVICES, INC.	36 SOUTH 18TH AVE STE D BRIGHTON CO 80601	Adams
Connecticut	CAPITOL CORPORATE SERVICES, INC.	330 ROBERTS ST STE 203 EAST HARTFORD CT 06108	Hartford
Delaware	CAPITOL SERVICES, INC.	1675 SOUTH STATE ST, STE B DOVER DE 19901	Kent
District Of Columbia	CAPITOL CORPORATE SERVICES, INC.	1090 VERMONT AVE NW STE 910 WASHINGTON DC 20005	District of Columbia
Florida	CAPITOL CORPORATE SERVICES, INC.	155 OFFICE PLAZA DR STE A. TALLAHASSEE FL 32301	Leon
Georgia	CAPITOL CORPORATE SERVICES, INC.	3675 CRESTWOOD PKWY NW STE 350 DULUTH GA 30096	Gwinnett
Hawaii	CAPITOL CORPORATE SERVICES, INC.	1188 BISHOP ST STE 2212 HONOLULU HI 96813	Honolulu
Idaho	CAPITOL CORPORATE SERVICES, INC.	921 S ORCHARD ST STE G BOISE ID 83705	Ada
Illinois	CAPITOL CORPORATE SERVICES, INC.	1315 W LAWRENCE AVE SPRINGFIELD IL 62704	Sangamon

Indiana	CAPITOL CORPORATE SERVICES, INC.	3310 BUSY BEE LN INDIANAPOLIS IN 46227	Marion
Iowa	CAPITOL CORPORATE SERVICES, INC.	1503 42ND ST STE 210 WEST DES MOINES IA 50266	Polk
Kansas	CAPITOL CORPORATE SERVICES, INC.	700 SW JACKSON ST STE 100 TOPEKA KS 66603	Shawnee
Kentucky	CAPITOL CORPORATE SERVICES, INC.	828 LANE ALLEN RD STE 219 LEXINGTON KY 40504	Fayette
Louisiana	CAPITOL CORPORATE SERVICES, INC.	8550 UNITED PLZ BLDG II STE 305 BATON ROUGE LA 70809	East Baton Rouge Parish
Maine	CAPITOL CORPORATE SERVICES, INC.	1536 MAIN ST READFIELD ME 04355	Kennebec
Maryland	CAPITOL CORPORATE SERVICES, INC.	3206 TOWER OAKS BLVD 4TH FLOOR ROCKVILLE MD 20852	Montgomery
Massachusetts	CAPITOL CORPORATE SERVICES, INC.	10 MILK ST STE 1055 BOSTON MA 02108	Suffolk
Michigan	CAPITOL CORPORATE SERVICES, INC.	42180 FORD RD STE 101 CANTON MI 48187	Wayne
Minnesota	CAPITOL CORPORATE SERVICES, INC.	402 21ST ST SOUTH MOORHEAD MN 56560	Clay
Mississippi	CAPITOL CORPORATE SERVICES, INC.	248 E CAPITOL ST STE 840 JACKSON MS 39201	Hinds
Missouri	CAPITOL CORPORATE SERVICES, INC.	222 E DUNKLIN ST STE 102 JEFFERSON CITY MO 65101	Cole
Montana	CAPITOL CORPORATE SERVICES, INC.	26 WEST 6TH AVE HELENA MT 59601	Lewis and Clark
Nebraska	CAPITOL CORPORATE SERVICES, INC.	1125 S 103RD ST STE 800 OMAHA NE 68124	Douglas
Nevada	CAPITOL CORPORATE SERVICES, INC.	202 S MINNESOTA ST CARSON CITY NV 89703	Carson City

New Hampshire	CAPITOL CORPORATE SERVICES, INC.	1 OLD LOUDON RD CONCORD NH 03301	Merrimack
New Jersey	CAPITOL CORPORATE SERVICES, INC.	14 SCENIC DR DAYTON NJ 08810	Middlesex
New Mexico	CAPITOL DOCUMENT SERVICES, INC.	55 OLD SANTA FE TRL 2ND FL SANTA FE NM 87501	Santa Fe
New York	CAPITOL SERVICES, INC.	1218 CENTRAL AVE STE 100 ALBANY NY 12205 Attention: New York Secretary of State New York Department of State One Commerce Plaza 99 Washington Ave., 6 th Floor Albany, NY 12231-0001	Albany
North Carolina	CAPITOL CORPORATE SERVICES, INC.	120 PENMARCO DR STE 118 RALEIGH NC 27603	Wake
North Dakota	CAPITOL CORPORATE SERVICES, INC.	720 MAIN AVE FARGO ND 58103	Cass
Ohio	CAPITOL CORPORATE SERVICES, INC.	4568 MAYFIELD RD STE 204 CLEVELAND OH 44121	Cuyahoga
Oklahoma	CAPITOL DOCUMENT SERVICES, INC.	101 N ROBINSON AVE 13TH FL OKLAHOMA CITY OK 73102	Oklahoma
Oregon	CAPITOL CORPORATE SERVICES, INC.	325 13TH ST NE STE 404 SALEM OR 97301	Marion
Pennsylvania	CAPITOL CORPORATE SERVICES, INC.	600 N 2ND ST STE 401 HARRISBURG PA 17101	Dauphin
Rhode Island	CAPITOL CORPORATE SERVICES, INC.	222 JEFFERSON BLVD STE 200 WARWICK RI 02888	Kent
South Carolina	CAPITOL CORPORATE SERVICES, INC.	2 OFFICE PARK CT STE 103 COLUMBIA SC 29223	Richland

South Dakota	CAPITOL CORPORATE SERVICES, INC.	300 S PHILLIPS AVE STE 300 SIOUX FALLS SD 57104 Department of Labor and Regulation Director - Division of Securities 124 South Euclid, Suite 104 Pierre, South Dakota 57501 (605) 773-4823	Minnehaha
Tennessee	CAPITOL CORPORATE SERVICES, INC.	992 DAVIDSON DR STE B NASHVILLE TN 37205	Davidson
Texas	CAPITOL CORPORATE SERVICES, INC.	800 BRAZOS STE 400 AUSTIN TX 78701	Travis
Utah	CAPITOL CORPORATE SERVICES, INC.	2005 EAST 2700 SOUTH STE 200 SALT LAKE CITY UT 84109	Salt Lake
Vermont	CAPITOL CORPORATE SERVICES, INC.	65 GROVE ST RUTLAND VT 05701	Rutland
Virginia	CAPITOL CORPORATE SERVICES, INC.	10 S JEFFERSON ST STE 1400 ROANOKE VA 24011	Roanoke City
Washington	CAPITOL CORPORATE SERVICES, INC.	1780 BARNES BLVD SW TUMWATER WA 98512	Thurston
West Virginia	CAPITOL CORPORATE SERVICES, INC.	800 BRAZOS STE 400 AUSTIN TX 78701	
Wisconsin	CAPITOL CORPORATE SERVICES, INC.	301 S. BEDFORD ST STE 1 MADISON WI 53703	Dane
Wyoming	CAPITOL CORPORATE SERVICES, INC.	1720 CAREY AVE STE 400 CHEYENNE WY 82001	Laramie

EXHIBIT J

STATE ADDENDA TO THE FRANCHISE DISCLOSURE DOCUMENT

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF CALIFORNIA**

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

OUR WEBSITE (www.colesbackyardgrill.com) HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT www.dbo.ca.gov.

1. The following paragraph is added to the end of Item 3:

Neither we nor any person listed 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. § 78a et seq., suspending or expelling these persons from membership in this association or exchange.

2. The following statement is added at the end of Item 6:

In the event that California law is determined to apply, the maximum interest rate permitted under California law varies but is generally 10 percent per annum.

3. The following paragraphs are added to the end of Item 17:

The California Business and Professions Code Sections 20000 through 20043 provide rights to the Franchisee or Developer concerning termination, nonrenewal, or transfer of a franchise. If the Franchise Agreement or Development Agreement contains a provision that is inconsistent with the law, the law will control.

The Franchise Agreement and Development Agreement provide for termination upon bankruptcy. These provisions may not be enforceable under federal bankruptcy law. (11 U.S.C. § 101 et seq.)

The Franchise Agreement and Development Agreement contain a covenant not to compete which extends beyond the termination or expiration of the franchise. These provisions may not be enforceable under California law.

The Franchise Agreement and Development Agreement require application of the laws of the State of Texas. These provisions may not be enforceable under California law.

Section 31125 of the Franchise Investment Law requires us to give you a disclosure document, in a form containing the information that the commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.

You may be required to sign a general release if you renew or transfer your franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§ 31000 through 31516). Business and Professions Code Section 20010

voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§ 20000 through 20043).

**RIDER TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF CALIFORNIA**

This California Rider modifies the Franchise Agreement dated _____ by and between Cole's Backyard Grill Franchising, LLC and the undersigned Franchisee.

1. Section 22.11 of the Franchise Agreement is deleted in its entirety and the following provision substituted in its place:

22.11 LITIGATION. WITH RESPECT TO ANY CONTROVERSIES, DISPUTES OR CLAIMS WHICH ARE NOT FINALLY RESOLVED THROUGH MEDIATION AS PROVIDED IN SECTION 22.10. ABOVE, THE PARTIES CONSENT TO JURISDICTION AND VENUE FOR DISPUTES BETWEEN THEM IN THE STATE COURTS OF COLLIN COUNTY, TEXAS AND THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AND HEREBY WAIVE ALL OBJECTIONS TO PERSONAL JURISDICTION AND VENUE IN SUCH COURTS FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. YOU AND WE AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON THEM IN ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this California Rider concurrently with the execution of the Franchise Agreement.

FRANCHISOR:

FRANCHISEE:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

**RIDER TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
DEVELOPMENT AGREEMENT
FOR THE STATE OF CALIFORNIA**

This California Rider modifies the Development Agreement dated _____ by and between Cole's Backyard Grill Franchising, LLC and the undersigned Developer.

1. Section XIV.G of the Development Agreement is deleted in its entirety and the following provision substituted in its place:

G. LITIGATION. WITH RESPECT TO ANY CONTROVERSIES, DISPUTES OR CLAIMS WHICH ARE NOT FINALLY RESOLVED THROUGH MEDIATION AS PROVIDED IN SECTION XIV.F. ABOVE, THE PARTIES CONSENT TO JURISDICTION AND VENUE FOR DISPUTES BETWEEN THEM IN THE STATE COURTS OF COLLIN COUNTY, TEXAS AND THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AND HEREBY WAIVE ALL OBJECTIONS TO PERSONAL JURISDICTION AND VENUE IN SUCH COURTS FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. YOU AND WE AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON THEM IN ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this California Rider concurrently with the execution of the Development Agreement.

FRANCHISOR:

DEVELOPER:

**COLE'S BACKYARD GRILL
FRANCHISING, LLC**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF HAWAII**

The Franchise Agreement has been amended as follows:

The Hawaii Franchise Investment Law provides rights to the franchisee concerning non-renewal, termination and transfer of the Franchise Agreement. If the Franchise Agreement contains a provision that is inconsistent with the Hawaii Franchise Investment Law, the Hawaii Franchise Investment Law will control.

If the Franchise Agreement contains a provision that requires the franchisee to sign a general release as a condition of renewal and transfer of the franchise; such release shall exclude claims arising under the Hawaii Franchise Investment Law.

If the Franchise Agreement contains a provision which terminates the Franchise Agreement upon the bankruptcy of the franchisee, such provision may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101, *et seq.*).

The Cover Page of this Franchise Disclosure Document is hereby amended by the addition of the following language:

THIS FRANCHISE 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 HEREIN 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 THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS FRANCHISE DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT AND THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF ILLINOIS**

THE FOLLOWING IS ADDED TO ITEM 17 OF THE DISCLOSURE DOCUMENT:

Illinois law governs the agreements between the parties to this franchise.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue in a forum outside the State of Illinois is void. However, a franchise agreement may provide for arbitration in a venue outside of Illinois.

Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act, or any other law of Illinois is void.

The conditions under which your franchise can be terminated, and your rights upon non-renewal of a franchise agreement are found in Sections 19 and 20 of the Illinois Franchise Disclosure Act.

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MARYLAND**

- (a) The following amends Item 17 of the Franchise Disclosure Document:
Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three (3) years after the grant of the franchise.
- (b) The following amends Item 17 of the Franchise Disclosure Document:
A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
- (c) The following is added to Item 17 of the Franchise Disclosure Document:
The Franchise Agreement provides for termination upon bankruptcy. This provision might not be enforceable under federal bankruptcy law (11 U.S.C.A. § 101 *et seq.*).

The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MICHIGAN**

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

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

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

(C) A PROVISION THAT PERMITS A FRANCHISOR TO TERMINATE A FRANCHISE PRIOR TO THE EXPIRATION OF ITS TERM EXCEPT FOR GOOD CAUSE. GOOD CAUSE INCLUDES THE FAILURE OF THE FRANCHISEE TO COMPLY WITH ANY LAWFUL PROVISION OF THE FRANCHISE AGREEMENT AND TO CURE ANY FAILURE TO COMPLY AFTER BEING GIVEN WRITTEN NOTICE THEREOF AND A REASONABLE OPPORTUNITY, WHICH WOULD NOT BE MORE THAN 30 DAYS, TO CURE SUCH FAILURE.

(D) A PROVISION THAT PERMITS A FRANCHISOR TO REFUSE TO RENEW A FRANCHISE WITHOUT FAIRLY COMPENSATING THE FRANCHISEE BY REPURCHASE OR OTHER MEANS FOR THE FAIR MARKET VALUE AT THE TIME OF EXPIRATION OF THE FRANCHISEE'S INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES, AND FURNISHINGS. PERSONALIZED MATERIALS WHICH HAVE NO VALUE TO THE FRANCHISOR AND INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES, AND FURNISHINGS NOT REASONABLY REQUIRED IN THE CONDUCT OF THE FRANCHISE BUSINESS ARE NOT SUBJECT TO COMPENSATION. THIS SUBSECTION APPLIES ONLY IF: (i) THE TERM OF THE FRANCHISE IS LESS THAN 5 YEARS; AND (ii) THE FRANCHISEE IS PROHIBITED BY THE FRANCHISE OR OTHER AGREEMENT FROM CONTINUING TO CONDUCT SUBSTANTIALLY THE SAME BUSINESS UNDER ANOTHER TRADEMARK, SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING, OR OTHER COMMERCIAL SYMBOL IN THE SAME AREA SUBSEQUENT TO THE EXPIRATION OF THE FRANCHISE OR THE FRANCHISEE DOES NOT RECEIVE AT LEAST 6 MONTHS ADVANCE NOTICE OF FRANCHISOR'S INTENT NOT TO RENEW THE FRANCHISE.

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

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

(G) A PROVISION WHICH PERMITS A FRANCHISOR TO REFUSE TO PERMIT A TRANSFER OF OWNERSHIP OF A FRANCHISE, EXCEPT FOR GOOD CAUSE. THIS SUBDIVISION DOES NOT PREVENT A FRANCHISOR FROM EXERCISING A RIGHT OF FIRST REFUSAL TO PURCHASE THE FRANCHISE. GOOD CAUSE INCLUDES, BUT IS NOT LIMITED TO:

- (i) THE FAILURE OF THE PROPOSED TRANSFEREE TO MEET THE FRANCHISOR'S THEN-CURRENT REASONABLE QUALIFICATIONS OR STANDARDS.
- (ii) THE FACT THAT THE PROPOSED TRANSFEREE IS A COMPETITOR OF THE FRANCHISOR OR SUBFRANCHISOR.
- (iii) THE UNWILLINGNESS OF THE PROPOSED TRANSFEREE TO AGREE IN WRITING TO COMPLY WITH ALL LAWFUL OBLIGATIONS.
- (iv) THE FAILURE OF THE FRANCHISEE OR PROPOSED TRANSFEREE TO PAY ANY SUMS OWING TO THE FRANCHISOR OR TO CURE ANY DEFAULT IN THE FRANCHISE AGREEMENT EXISTING AT THE TIME OF THE PROPOSED TRANSFER.

(H) A PROVISION THAT REQUIRES THE FRANCHISEE TO RESELL TO THE FRANCHISOR ITEMS THAT ARE NOT UNIQUELY IDENTIFIED WITH THE FRANCHISOR. THIS SUBDIVISION DOES NOT PROHIBIT A PROVISION THAT GRANTS TO A FRANCHISOR A RIGHT OF FIRST REFUSAL TO PURCHASE THE ASSETS OF A FRANCHISE ON THE SAME TERMS AND CONDITIONS AS A BONA FIDE THIRD PARTY WILLING AND ABLE TO PURCHASE THOSE ASSETS, NOR DOES THIS SUBDIVISION PROHIBIT A PROVISION THAT GRANTS THE FRANCHISOR THE RIGHT TO ACQUIRE THE ASSETS OF A FRANCHISE FOR THE MARKET OR APPRAISED VALUE OF SUCH ASSETS IF THE FRANCHISEE HAS BREACHED THE LAWFUL PROVISIONS OF THE FRANCHISE AGREEMENT AND HAS FAILED TO CURE THE BREACH IN THE MANNER PROVIDED IN SUBDIVISION (C) ABOVE.

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

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO:

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION
FRANCHISE AND ANTITRUST UNIT
P.O. BOX 30215
LANSING, MI 48909
(517) 373-7117

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MINNESOTA**

THE STATE OF MINNESOTA PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE AGREEMENTS.

- A. Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or franchise 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.
- B. With respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4, and 5 which require, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement.
- C. Minn. Rule Part 2860.4400J prohibits a franchisee from waiving his rights to a jury trial or waiving his rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes. Any such condition, stipulation or provision may be void and unenforceable under the non-waiver provision of the Minn. Stat. Sec. 80C.21. This provision does not bar an exclusive arbitration clause.
- D. Minn. Rule 2860.4400D prohibits requiring a franchisee to assent to a general release. To the extent that the franchise agreement requires you to sign a general release as a condition of renewal or transfer, the franchise agreement will be considered amended to the extent necessary to comply with Minnesota law.

To the extent this Addendum is inconsistent with or contradicts any statements contained in this disclosure document, the statements in this Addendum will control.

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NEW YORK**

The Cover Page of this Franchise Disclosure Document is hereby amended by the addition of the following language:

THIS FRANCHISE DISCLOSURE DOCUMENT IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS FRANCHISE DISCLOSURE DOCUMENT AND ALL CONTRACTS OR AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT G OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT THE STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS OFFERING CIRCULAR. IF YOU LEARN THAT ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY.

Service of process upon the Franchisor may be accomplished in the State of New York by service upon the Secretary of State of New York, 162 Washington Street, Albany, New York 12231.

Item 3 of this Franchise Disclosure Document is hereby amended by the addition of the following language:

Except as set forth in Item 3 of this Franchise Disclosure Document, COLE'S, its predecessors and the individuals identified in Item 2 of this Franchise Disclosure Document: (1) do not have pending any administrative, criminal or material civil actions (or a significant number of civil actions irrespective of materiality) alleging a violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations; (2) have not been convicted of a felony or pleaded nolo contendere to a felony charge, or within the ten year period immediately preceding the date of this Franchise Disclosure Document, been convicted of a misdemeanor charge or pleaded nolo contendere to a misdemeanor or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such misdemeanor conviction or charge or civil action, complaint or other legal proceeding involved violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations; and (3) are not subject to any injunctive or restrictive order or decree relating to franchises or under any federal, state or Canadian franchise, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency.

Item 4 of this Franchise Disclosure Document is hereby amended by the addition of the following language:

Neither the franchisor, officers or members of the franchisor have, during the ten (10) year period immediately before the date of the offering circular, has: (a) filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the Bankruptcy Code; (c) was a principal officer of any company or a general partner in any partnership that either filed as a debtor (or had filed against it) a petition to start action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the Bankruptcy Code during or within one (1) year after the officer or general partner of the franchisor held this position in the company or partnership.

Item 5 of this Franchise Disclosure Document is hereby amended by the addition of the following language:

The source of funds needed by the Franchisor to discharge its obligations will be from the Franchisee's initial franchisee fee and from working capital. The initial franchise fee will be used to defray franchisor's costs in obtaining and screening franchisees, providing training, training materials and assisting in opening the franchised business for business.

Item 17, Renewal, Termination, Section D, of this Franchise Disclosure Document is hereby amended by the addition of the following language:

The franchisee or area developer may terminate the agreement on any grounds available by law.

Item 17, Provision J, of this Franchise Disclosure Document is hereby amended by the addition of the following language:

However, no assignment will be made except to an assignee, who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor's obligations under the franchise or development agreement.

Item 17, Provision V and W, of this Franchise Disclosure Document is hereby amended by the addition of the following language:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee or area developer by Article 33 of the General Business Law of the State of New York

Item 17 of this Disclosure Document is hereby amended by the addition of the following language:

Any condition, stipulation or provision contained in the Franchise Agreement or Development Agreement which purports to bind you to waive compliance with any provision of the New York General Business Law (Article 33, Sections 680 through 695) or any rule promulgated thereunder, may be void and unenforceable under the non-waiver provision of such law.

New York General Business Law, §687.5 prohibits COLE'S from requiring a franchisee to assent to a release, assignment, novation, waiver, or estoppel that would relieve a person from any duty or liability imposed by such law. To the extent the Franchise Agreement or Development Agreement requires you to waive or release any claims you may have against COLE'S or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would serve to relieve any person from liability under the New York General Business Law (Article 33), such release, waiver or acknowledgment shall not apply and shall be void to the extent that they would violate the non-waiver provisions of the New York General Business Law.

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NORTH DAKOTA**

REGISTRATION OF THIS FRANCHISE DISCLOSURE DOCUMENT DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE NORTH DAKOTA OFFICE OF SECURITIES COMMISSIONER.

THE SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (SECTION 51-19-09, N.D.C.C.):

- A. Restrictive Covenants: Franchise offering circulars which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to the statute.
- B. Sites of Arbitration Proceedings: Franchise agreements providing that the parties must agree to the arbitration of disputes at a location that is remote from the site of the franchisee's business.
- C. Restrictions on Forum: Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.
- D. Liquidated Damages and Termination Penalties: Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.
- E. Applicable Laws: Franchise agreements which specify that they are to be governed by the laws of a state other than North Dakota.
- F. Waiver of Trial by Jury: Requiring North Dakota Franchises to consent to the waiver of a trial by jury.
- G. Waiver of Exemplary & Punitive Damages: Requiring North Dakota Franchisees to consent to a waiver of exemplary and punitive damage.
- H. General Release: Franchise Agreements that require the franchisee to sign a general release upon renewal of the franchise agreement.
- I. Limitation of Claims: Franchise Agreements that require the franchisee to consent to a limitation of claims. The statute of limitations under North Dakota law applies.
- J. Enforcement of Agreement: Franchise Agreements that require the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees.

To the extent that the Franchise Agreement contains these provisions, the Franchise Agreement will be amended, by way of North Dakota Amendment, to the extent necessary to comply with North Dakota law.

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF RHODE ISLAND**

Section 19-28.1-14 of the Rhode Island Franchise Investment Act (the "RIFIA") provides that any provision in a franchise agreement restricting jurisdiction or venue to a forum outside of Rhode Island or requiring the application of the laws of another state is void with respect to claims otherwise enforceable under the RIFIA.

Section 19-28.1-15 of the RIFIA provides that a condition, stipulation or provision requiring a franchisee to release claims or rights provided by RIFIA or a rule or order under RIFIA is void. An acknowledgement provision, disclaimer of integration clause or a provision having a similar effect in a franchise agreement that would negate or remove from judicial review any statement, misrepresentation or action, would violate RIFIA, or a rule or order under RIFIA.

**ADDENDUM TO
COLE'S BACKYARD GRILL FRANCHISING, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF WASHINGTON**

THE STATE OF WASHINGTON HAS A STATUTE, RCW 19.100.180 WHICH MAY SUPERSEDE THE FRANCHISE AGREEMENT IN YOUR RELATIONSHIP WITH THE FRANCHISOR INCLUDING THE AREAS OF TERMINATION AND RENEWAL OF YOUR FRANCHISE. THERE MAY ALSO BE COURT DECISIONS, WHICH MAY SUPERSEDE THE FRANCHISE AGREEMENT IN YOUR RELATIONSHIP WITH THE FRANCHISOR INCLUDING THE AREAS OF TERMINATION AND RENEWAL OF YOUR FRANCHISE.

IN ANY ARBITRATION INVOLVING A FRANCHISE PURCHASED IN WASHINGTON, THE ARBITRATION SITE SHALL BE EITHER IN THE STATE OF WASHINGTON, OR IN A PLACE MUTUALLY AGREED UPON AT THE TIME OF THE ARBITRATION, OR AS DETERMINED BY THE ARBITRATOR.

IF ANY OF THE PROVISIONS IN THE FRANCHISE DISCLOSURE DOCUMENT OR FRANCHISE AGREEMENT ARE INCONSISTENT WITH THE RELATIONSHIP PROVISIONS OF RCW 19.100.180 OR OTHER REQUIREMENTS OF THE WASHINGTON FRANCHISE INVESTMENT PROTECTION ACT (THE "WFIPA"), THE PROVISIONS OF THE ACT WILL PREVAIL OVER THE INCONSISTENT PROVISIONS OF THE FRANCHISE DISCLOSURE DOCUMENT WITH REGARD TO ANY FRANCHISE SOLD IN WASHINGTON.

A RELEASE OR WAIVER OF RIGHTS EXECUTED BY A FRANCHISEE SHALL NOT INCLUDE RIGHTS UNDER THE WFIPA 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 WFIPA, RIGHTS OR REMEDIES UNDER THE WFIPA SUCH AS A RIGHT TO JURY TRIAL MAY NOT BE ENFORCEABLE.

TRANSFER FEES ARE PERMISSIBLE ONLY TO THE EXTENT THEY COMPENSATE THE FRANCHISOR FOR EXPENSES DIRECTLY INCURRED AS A RESULT OF TRANSFER. THE AMOUNT OF THE TRANSFER FEE IS A REASONABLE ESTIMATE OF ANTICIPATED TRANSFER EXPENSES.

EXHIBIT K

RECEIPTS

RECEIPT

COLE'S BACKYARD GRILL FRANCHISING, LLC Franchise Disclosure Document

This Franchise Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Franchise Disclosure Document and all agreements carefully.

If Cole's Backyard Grill Franchising, LLC ("CBGF") offers you a franchise, it must provide this Franchise Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York and Rhode Island require you receive this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan, Oregon, Washington and Wisconsin require that you must be provided this Franchise Disclosure Document no less than 10 days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. Hawaii, Minnesota or North Dakota require that you must be provided this Franchise Disclosure Document no less than 7 days before you sign a binding agreement with, or make a payment to the franchisor or an affiliate in connection with the proposed franchise sale.

If CBGF does not deliver this Franchise Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of Federal law and State law may have occurred and should be reported to the Federal Trade Commission; Washington, D.C. 20580 and the State Agency listed in Exhibit G.

Franchise Sellers: Thomas A. Sacco, 1311 North Plano Road, Suite 150, Richardson, Texas 75081, phone number (972) 244-8954.

I have received a Franchise Disclosure Document of COLE'S BACKYARD GRILL FRANCHISING, LLC, dated the Issuance Date indicated above. This Franchise Disclosure Document includes the following Exhibits:

Issuance Date: February 17, 2017

EXHIBIT A	FINANCIAL STATEMENTS
EXHIBIT B	DEVELOPMENT AGREEMENT
EXHIBIT C	FRANCHISE AGREEMENT WITH SCHEDULES A-B AND APPENDICES 1-10
EXHIBIT D	OPERATIONS AND GIFT CARD MANUAL TABLE OF CONTENTS
EXHIBIT E	LIST OF FRANCHISEES (ACTIVE, UNDER AGREEMENT - NOT OPENED, & CLOSED)
EXHIBIT F	FRANCHISEE QUESTIONNAIRE
EXHIBIT G	STATE AGENCIES
EXHIBIT H	STATEMENT OF PROSPECTIVE FRANCHISEE
EXHIBIT I	LIST OF AGENTS FOR SERVICE OF PROCESS
EXHIBIT J	STATE ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT
EXHIBIT K	RECEIPTS

Signature: _____
Name: _____
Title: _____
Company: _____
Address: _____

Phone: _____
Date: _____

Signature: _____
Name: _____
Title: _____
Company: _____
Address: _____

Phone: _____
Date: _____

Prospective Franchisee Copy

RECEIPT

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Signature: _____
Name: _____
Title: _____
Company: _____
Address: _____

Phone: _____
Date: _____

Signature: _____
Name: _____
Title: _____
Company: _____
Address: _____

Phone: _____
Date: _____

Copy to: COLE'S BACKYARD GRILL FRANCHISING, LLC
Attention: Franchise Administration Department
1311 North Plano Road, Suite 150, Richardson, Texas 75081