



**FRANCHISE DISCLOSURE DOCUMENT  
(FOR INDIVIDUAL RESTAURANT FRANCHISES)**

Tilted Kilt Franchise Operating, LLC  
(a Wyoming limited liability company)  
8915 S. Harl Avenue  
Tempe, Arizona 85284  
Phone: (480) 456-5458  
~~Fax: (480) 456-0385~~  
Website: [www.tiltedkilt.com](http://www.tiltedkilt.com)

We offer franchises for the operation of a Celtic-themed sports and entertainment bar and restaurant.

The total ~~estimated~~ investment necessary to begin operation of a TILTED KILT franchise ranges from \$887,000 to \$1,233,000 for a restaurant that is built-to-suit; \$2,057,000 to \$2,868,000 for a restaurant that is developed by ground-up construction; and \$1,094,000 to \$2,133,000 for conversion of an existing restaurant to a TILTED KILT Restaurant. ~~These amounts~~ This includes \$75,000 that must be paid to us.

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

You may wish to receive this Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Ed Messina, at 8915 S. Harl Avenue, Tempe, Arizona 85284, (480) 456-5458.

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

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

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

ISSUANCE DATE: March 28, 2018, as amended August 1, 2018

## STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file 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 A for information about the franchisor, about other franchisors, 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 BINDING ARBITRATION NEAR OUR PRINCIPAL OFFICE (CURRENTLY LOCATED IN ARIZONA). OUT-OF-STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH US NEAR OUR PRINCIPAL OFFICE THAN IN YOUR HOME STATE.
2. THE FRANCHISE AGREEMENT STATES THAT ARIZONA 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. IF YOU ARE A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER BUSINESS ENTITY, YOUR OWNERS WILL HAVE TO GUARANTEE YOUR OBLIGATIONS AND BE BOUND BY THE PROVISIONS OF OUR FRANCHISE AGREEMENT. IF THE OWNER IS A RESIDENT OF A STATE WHICH REQUIRES SPOUSAL CONSENT TO ENCUMBER THE ASSETS OF A MARITAL ESTATE, THEN THE OWNER'S SPOUSE MUST CONSENT TO THE GUARANTY.
4. SINCE DECEMBER 31, 2015, A HIGH PERCENTAGE OF FRANCHISED OUTLETS (MORE THAN 50%) WERE TERMINATED, NOT RENEWED, RE-ACQUIRED, OR CEASED OPERATIONS FOR OTHER REASONS. THIS FRANCHISE COULD BE A HIGHER RISK INVESTMENT THAN A FRANCHISE IN A SYSTEM WITH LOWER TURNOVER RATE.
5. ~~4.~~ THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

**We 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 is our agent and 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.**

The effective dates of this Disclosure Document in the states with registration laws are on the following page.

## FRANCHISE DISCLOSURE DOCUMENT

### STATE EFFECTIVE DATES

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

This Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

|                   |                                                  |
|-------------------|--------------------------------------------------|
| California        | April 12, 2018, <u>as amended</u>                |
| Illinois          | May 21, 2018, <u>as amended August 2, 2018</u>   |
| Indiana           | March 29, 2018, <u>as amended August 1, 2018</u> |
| Maryland          | April 10, 2018, <u>as amended</u>                |
| Michigan          | March 28, 2018, <u>as amended August 1, 2018</u> |
| Minnesota         | April 5, 2018, <u>as amended</u>                 |
| <u>New York</u>   | <u>Pending</u>                                   |
| North Dakota      | April 5, 2018, <u>as amended</u>                 |
| Rhode Island      | April 2, 2018, <u>as amended</u>                 |
| South Dakota      | April 11, 2018, <u>as amended August 1, 2018</u> |
| Virginia          | May 22, 2018, <u>as amended</u>                  |
| <u>Washington</u> | <u>April 14, 2018, as amended</u>                |
| Wisconsin         | March 28, 2018, <u>as amended August 1, 2018</u> |

In all other states, the effective date of this Disclosure Document is March 28, 2018, as amended August 1, 2018

**THE FOLLOWING APPLIES TO TRANSACTIONS GOVERNED BY THE MICHIGAN  
FRANCHISE INVESTMENT LAW**

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

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

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

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire 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:

State of Michigan  
Department of Attorney General  
Consumer Protection Division  
Franchise Section  
G. Mennen Williams Building, 6th Floor  
525 West Ottawa Street  
P.O. Box 30213  
Lansing, Michigan 48909  
Telephone Number: (517) 373-7117

Note: Despite paragraph (f) above, we intend, and we and you agree to fully enforce the arbitration provisions of the Franchise Agreement. We believe that paragraph (f) is unconstitutional and cannot preclude us from enforcing these arbitration provisions.

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## EXHIBITS

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| Exhibit A | List of State Agencies/Agents for Service of Process |
| Exhibit B | Franchise Agreement                                  |
| Exhibit C | List of Restaurants                                  |
| Exhibit D | Franchisees Who Have Left the System                 |
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## ITEM 1

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

#### ~~The Franchisor, and Any Parents, Predecessors and Affiliates.~~

The name of the franchisor ~~underoffering~~ the ~~programfranchise~~ described in this Disclosure Document ("Disclosure Document") is Tilted Kilt Franchise Operating, LLC. For ease of reference, the franchisor will be referred to as "we," "us" or "TKFO" in this Disclosure Document. We will refer to the person who buys the franchise as "you" or "your" throughout this Disclosure Document. If the franchisee is a corporation, partnership, or limited liability company, your owners will have to guarantee your obligations and be bound by the provisions of the Franchise Agreement ("Franchise Agreement"), attached as Exhibit B to this Disclosure Document. The owners' spouses may also be required to acknowledge the guaranty.

#### The Franchisor.

We were formed on October 13, 2005 as a Wyoming limited liability company. Our principal ~~offices are located at~~ business address is 8915 S. Harl Avenue, Tempe, Arizona 85284. We currently do business only under our corporate name and the trade name and service mark "Tilted Kilt Pub and Eatery." Our agents for service of process are listed on Exhibit A. We have offered franchises for TILTED KILT Restaurants since February 2006. We do not operate a business of the type being franchised, but our affiliates do.

#### Our Parent and Affiliates.

On May 31, 2018, SDA Holdings LLC ("Parent") became our parent company. Parent's principal business address is 3909 Ambassador Caffery Parkway, Building I, Lafayette, LA 70503.

The following entities, which are ~~Our affiliates are,~~ provide products or services to our franchisees: Tilted Kilt Franchise Ltd. Liability Company ("TKFL"); Tilted Kilt National Advertising and Marketing Fund ("TKNAMF"); ~~and~~ TK Training LLC ("TK Training"); and TK Franchising International LLC ("TKFI"). TKFL was also formed on October 13, 2005 as a Wyoming limited liability company. TKFL owns the service marks "TILTED KILT," "TILTED KILT PUB & EATERY" and design and other service marks, trademarks, proprietary concepts, and intellectual property associated with our system. TKNAMF was formed as an Arizona non-profit corporation on November 17, 2010. TKNAMF administers the marketing fund. TK Training was organized on December 24, 2013, under the laws of the State of Arizona, and facilitates training services provided to franchisees. Each of these affiliates shares our principal business address.

TKFI was organized as an Arizona limited liability company on July 14, 2014, for the purpose ofOur affiliate, TK Franchising International LLC ("TKFI"), has been offering franchises for TILTED KILT Restaurants outside of the United States and Canada since its formation in July 2014. As of December 31, 2017, there were no Tilted Kilt franchises outside of the United States and Canada. ~~Our affiliates~~TKFI shares our principal business location. ~~We do not have a parent company address.~~

~~In October 2005, we acquired our rights to the Tilted Kilt concept, and TKFL acquired the related marks and intellectual property from Let's Eat, Inc. ("LEI"), a Nevada corporation formed on November 5, 2001. TKFL licenses the rights to the marks and intellectual property to us. LEI originated the concept in connection with the opening in 2003 of the first Restaurant in the Rio Hotel and Casino in Las Vegas, Nevada. LEI may be considered our predecessor. LEI's principal office address is 3700 W. Flamingo Rd., Las Vegas, Nevada 89103.~~



ARC Group, Inc. ("ARC"), is our affiliate through common ownership with Parent. Since April 2000, ARC has offered franchises for sports-themed, casual, full-service restaurants under the name "Dick's Wings & Grill," which offer a specialized menu of buffalo-style chicken wings, specialty sandwiches, burgers, salads, and domestic and craft beer selections. As of December 31, 2017, there were 21 franchised Dick's Wings & Grill restaurants in the United States. ARC's principal business address is 6327-4 Argyle Forest Boulevard, Jacksonville, Florida 32244.

We do not have a predecessor during the 10-year period immediately before the close of our most recent fiscal year. Except for TKFI and ARC, none of our affiliates has offered franchises in any line of business. None of these affiliates currently operates a TILTED KILT Restaurant.

### **Our Business**~~The Franchise Offered.~~

We ~~currently~~ offer franchises for the operation of sports and entertainment bars and restaurants ("TILTED KILT Restaurants" or "Restaurants"). The Restaurants offer dinner entrées, traditional pub food, hamburgers, and salads made with fresh, quality ingredients, accompanied by full bar service, served up by uniquely kilt-clad wait staff in a lively, Celtic-themed atmosphere with numerous large screen televisions featuring sports programming. TILTED KILT Restaurants operate using our distinctive entertainment and business format, systems, methods, procedures, designs, layouts and specifications ("Licensed Methods") and under our service mark "TILTED KILT" and related logos, trademarks, service marks and commercial symbols ("Marks"). The cornerstone of the Tilted Kilt concept is the "Tilted Kilt Girls;" female servers chosen for their attractiveness, intelligence, and outgoing personalities. The Tilted Kilt Girls, dressed in trademarked kilt-clad costumes, entertain and interact with guests while serving food and drinks.

The Restaurants are typically between 4,500 and 6,500 square feet, in leased or owned restaurant space. The distinctive décor of a TILTED KILT Restaurant features walls lined with Irish, Welsh and Scottish curiosities. The Restaurants have big screen televisions placed throughout the Restaurant for convenient viewing. The casual atmosphere is friendly and decidedly lively and entertaining, with games and music customarily associated with a sports entertainment bar, but with a high degree of emphasis on providing tasty, high-quality menu offerings. The TILTED KILT Restaurant features a standardized and an optional menu, of dinner entrées, traditional pub food, hamburgers and other grilled specialties, hot and cold sandwiches, chicken, salads and, typically, full bar service. TILTED KILT Restaurants are customarily designed to seat over approximately 150 to 250 customers inside, with additional outdoor seating capability also recommended.

Although not required, you may also offer catering services from your Franchised Location (defined below) if you meet our then-current standards and specifications for offering catering services. These standards and specifications include those relating to customer satisfaction as to timelines of delivery, ability to deliver hot food, limitations on what food and beverages are provided through catering, compliance with motor vehicle laws, requirements regarding drivers of vehicles and our contractual requirements.

### **The Franchise Agreement.**

To obtain the right to operate a TILTED KILT Restaurant, you will sign the form of Franchise Agreement attached as Exhibit B to this Disclosure Document, for each Restaurant franchise you purchase. As a franchisee, you will receive the right to use our Marks and Licensed Methods to operate your TILTED KILT Restaurant, at a location selected by you and accepted by us (the "Franchised Location").

### **Area Representation Businesses.**

From 2008 through November 2017, we offered franchises for Area Representation businesses (sometimes also referred to as “area developer” businesses) in which an area representative (“Area Representative”) acts as an independent franchise sales and support representative within a defined geographic area to identify and solicit prospective Restaurant franchisees, to assist franchisees in locating sites for TILTED KILT Restaurants within that area and to provide additional support before, during and after the Restaurant opens. Franchise Agreements for franchised Restaurants in areas served by Area Representatives are executed between us and the franchisee, and not by the Area Representative. We are contractually responsible to you if the services are not performed as required under the Franchise Agreement. Area Representatives do not exercise management responsibility with respect to the sale or operation of TILTED KILT franchises. As of December 31, 2017, there were 4 Area Representatives in the United States. Except for the franchise offered under this Disclosure Document and Area Representation businesses, we have not offered franchises for any other line of business.

### **Regulations.**

You must comply with all local, state and federal health and sanitation laws and regulations, and all liquor licensing and service laws and food handler licensing requirements. The U.S. Food and Drug Administration, the U.S. Department of Agriculture, and various state and local departments of health and other agencies have laws and regulations concerning the preparation of food, display of nutrition facts and calorie counts, and sanitary conditions of restaurant facilities. There may also be smoking laws applicable to your Restaurant; you must observe these laws and any standards that we may establish limiting or restricting smoking areas within the Restaurant. You are responsible for complying with these applicable laws, rules and regulations, as well as with all local, state and federal laws of a more general nature, which affect the operation of your Restaurant. You must also obtain any required permits and fictitious or “DBA” name registrations for your Restaurant. You should consult with your attorney on this subject, especially regarding state and local laws, rules and regulations that may affect the operation of your TILTED KILT Restaurant at your particular location. You are responsible for complying with all labor and employment, worker’s compensation, insurance, corporate, taxing and licensing laws and similar laws and regulations.

Tilted Kilt Girls will be the servers and hostesses in your Restaurant. We require that you hire only females as Tilted Kilt Girls. Consistent with our belief that what we sell is an entertainment experience, we believe the hiring decisions in this regard are protected by free speech rights, and we believe this practice falls under the bona fide occupational qualification defense under Title VII of the Civil Rights Act of 1964, as amended. However, the risk of being challenged on such hiring practices is a business risk associated with the Tilted Kilt concept.

### **Market and Competition.**

The market for both casual dining and for sports bars is well established and highly competitive. The sports bar market segment of the food service industry is only loosely defined and includes diverse concepts, but is generally considered to include establishments that combine the availability of food, alcoholic beverages and sports viewing, games and other entertainment under one roof. Statistics indicate a trend toward increased popularity in the United States of affordably priced, casual restaurants with high quality menu offerings. The popularity of this market segment, however, has also significantly increased the competition. The restaurant business is highly competitive as to price, location, service, and food quality. You will compete with national as well as regional restaurant chains and sports and entertainment bars, operating under well-known and recognizable service marks as well as with independent, sports themed restaurants and sports and entertainment bars and other businesses which

offer food and beverages. You may even experience competition from other TILTED KILT Restaurants in the proximity of your Restaurant.

#### **Our Prior Business Experience.**

~~We do not operate a business of the type being franchised, but our affiliates do. Our predecessor, LEI, operated a TILTED KILT Restaurant in Las Vegas, Nevada from 2003 to 2007. LEI also licensed two Restaurants, both of which opened in 2005, one in Tempe, Arizona and the other in Round Rock, Texas. The Round Rock, Texas Restaurant closed in 2010 due to a fire. TKFL does not currently operate a restaurant of the type to be operated by you. We have offered franchises for TILTED KILT Restaurants and Area Representation franchises since February 2006. We have not offered franchises for any other line of business. Except for TKFI, none of our affiliates nor our predecessor has offered franchises in any line of business. Except as provided above, none of our affiliates are required to be disclosed in this Item.~~

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **President: Richard W. Akam**

Mr. Akam has been our President since June 2018, serving in this role from our headquarters in Tempe, Arizona. Since January 2013, Mr. Akam has also held various roles for ARC in Lafayette, Louisiana, including Chief Operating Officer from January 2013 to August 2013 and Chief Executive Officer from August 2013 to the present.

#### **Vice President of Operations: Nauman A. Yusafi**

Mr. Yusafi has been our Vice President of Operations since June 2018, serving in this role from our headquarters in Tempe, Arizona. Since February 2015, Mr. Yusafi has also served as Vice President of Blue Victory Holdings, Inc., in Lafayette, Louisiana. From January 2013 to February 2015, Mr. Yusafi served as Vice President Operations of CKE Restaurants Holdings, Inc., which is headquartered in Franklin, Tennessee.

#### **~~Vice President, Chief Executive Officer, Principal Manager and Director: Ronald C. Lynch~~Controller: Seenu G. Kasturi**

Mr. ~~Lynch~~Kasturi has been our President, Principal Manager and a Director since our inception and our Vice President and Controller since June 2018, serving in this role from our headquarters in Tempe, Arizona. Since January 2018, Mr. Kasturi has also served as Chief Financial Officer of ARC in Lafayette, Louisiana. Since January 2013, Mr. Kasturi has served as President and Chief Executive Officer since May 2017. From June 2006 to September, 2013, through Red River Kilt Group, LLC, Mr. ~~Lynch~~ was an Area Developer serving the State of Oklahoma and the Dallas-Ft. Worth area in Texas. Mr. ~~Lynch~~ of DWG Acquisitions LLC, which is a franchisee that operates Dick's Wings & Grill restaurants in Florida and Georgia. Since November 2009, Mr. Kasturi has also served as President, Manager and a Director of our affiliate TKFL in Tempe, Arizona since October 2005 and Chief Executive Officer of Blue Victory Holdings, Inc., in Lafayette, Louisiana.

#### **Vice President of Franchise Relations: Ketan Pandya**

Mr. Pandya has been our Vice President of Marketing and Communications since June 2018, serving in this role from our headquarters in Tempe, Arizona. Mr. Pandya has also served in various roles for ARC in Lafayette, Louisiana, including as its Vice President of Marketing since January 2018

and as a Member of the Board of ARC since December 2013. From January 2013 to July 2013, Mr. Pandya was an Account Director for Smart Technologies in Austin, Texas.

**Senior Vice President of Franchise Development: Mark Hanby II**

Mr. Hanby has been our Senior Vice President of Franchise Development since August 2009. From May 2007 to August 2009, he was our Director of Franchise Development.

**Chief Operating Officer: Logan Reves**

Mr. Reves has been our Chief Operating Officer since June 2016. From July 2014 to June 2016, Mr. Reves was our Vice President of Operations, and from January 2014 to June 2014 he was our Franchisee & Area Developer Strategic Support. From August 2011 to December 2013, he was Vice President of New Store Development for Focus Brands/Schlotzsky's in Austin, Texas.

**Senior Director of Franchise Development: Edward John Messina**

Mr. Messina has been our Senior Director of Franchise Development since July 2015. From April 2013 to July 2015, he was our Director of Franchise Development and from April 2007 to April 2013, he was a Franchise Business Consultant for us in Tempe, Arizona.

**General Counsel: Michael Lynch**

Mr. Lynch has been our General Counsel since October 2016. From our inception to October 2016, Mr. Lynch was our corporate counsel. From June 2006 to September 2013, through Red River Kilt Group, LLC, Mr. Lynch was also an Area Developer serving the state of Oklahoma and the Dallas-Ft. Worth area in Texas.

**Director of Training: Erin ~~Colombi~~Plavsic**

Ms. ~~Colombi~~Plavsic has been our Director of Training since June 2016. From July 2013 to June 2016, she was a Franchise Business Consultant for us. From June 2011 to July 2013, she was our Multi-Unit General Manager – Corporate Pubs.

**~~Director: Mark J. DiMartino~~**

~~Mr. DiMartino has been one of our Directors since January 2006. Mr. DiMartino has been the President of Let's Eat, Inc. since October 2006 and was the creator of the Tilted Kilt concept. Let's Eat, Inc. owned and operated the first TILTED KILT Restaurant in Las Vegas, Nevada from 2003 to 2007. Since March 2011, Mr. DiMartino has been the managing member of MDM Creative, LLC, a consulting and concept development company which services the hospitality industry in Las Vegas, Nevada.~~

**~~Director: John A. Reynaud~~**

~~Mr. Reynaud has been one of our Directors since November 2005. Since July 2015, he has also been the owner of JR Golf Management LLC (d/b/a Pure Performance Golf Club) in Clearwater, Florida. From June 2006 to December 2014, Mr. Reynaud was an Area Developer for us. Mr. Reynaud was a member/manager of TK Ventures 1, LLC, a franchisee that has owned a TILTED KILT Restaurant in Clearwater, Florida from June 2006 to December 2014 and a member/manager of Sunshine Kilts, LLC, a franchisee that owns a TILTED KILT Restaurant in Tampa, Florida from May 2010 to December 2014.~~

**Director: Shannon M. Reilly**

Mr. Reilly has been one of our Directors since October 2005. He was an Area Developer for us from August 2008 to December 2015.

### ITEM 3

### LITIGATION

#### Pending

Tilted Kilt Franchise Operating, LLC v. Dine Out, Inc. and William A. Slevin, No. 01-17-0007-4256 (American Arbitration Association, Tempe, Arizona). On December 11, 2017, we filed an Arbitration Demand against the respondents, our former franchisee and its owner, for breach of the former franchisee's franchise agreement and the owner's personal guaranty. On March 8, 2018, we filed a First Amended Arbitration Demand which alleged that the respondents breached the franchise agreement and guaranty when the former franchisee abandoned its restaurant formerly located in Fayetteville, Arkansas, before the scheduled expiration of the franchise agreement. We seek an award of damages of no less than \$518,000 plus costs and expenses (including attorneys' fees). On March 26, 2018, respondents filed their answer, affirmative defenses, and counterclaim. The counterclaim alleges we breached the franchise agreement by, among other things, not providing certain services, promotional materials, or a suitable area developer, and by breaching our obligations with respect to the Tilted Kilt advertising fund. The respondents seek at least \$763,000 in damages, interest, attorneys' fees, expenses, and costs. Also on March 26, 2018, Mr. Slevin filed a motion to dismiss. The motion to dismiss alleges that Mr. Slevin is not bound by a personal guaranty and our claims should, therefore, be dismissed as to Mr. Slevin. He also seeks his attorneys' fees and expenses.

NewPenn Kilt, LLC and NJPhil Kilt LLC v. Tilted Kilt Franchise Operating, LLC, No. 1:17-cv-03794 (United States District Court for the Northern District of Illinois). On May 22, 2017, two former area developers filed a complaint against us based upon a promissory note that we provided to plaintiffs in connection with our repurchase of their area developer territories. On July 12, 2017, plaintiffs filed an amended complaint for \$397,738.72, interest, and costs and fees. On August 2, 2017, we filed an answer, affirmative defenses, and counterclaims against plaintiffs alleging that plaintiffs fraudulently induced us into repurchasing the area developer territories. We demanded rescission of the promissory note, an award of compensatory damages for the amount we overpaid for the area developer territories in an unspecified amount, and costs and fees. The parties are currently engaging in discovery.

#### Completed

Full Tilt, LLC, Billy Shroyer, Jr. and Kevin Harn v. Tilted Kilt Franchise Operating, LLC (American Arbitration Association No. 76 114 Y 00280 11). On November 28, 2011, claimants filed a demand for arbitration with the American Arbitration Association in Tempe, Arizona. Claimant, Full Tilt, LLC ("Full Tilt"), was a party to a multi-unit development agreement and a franchise agreement pursuant to which it operated one TILTED KILT Restaurant in Louisville, Kentucky. At one time, Full Tilt was a party to five multi-restaurant development agreements and two franchise agreements with us, each of which were guaranteed by Billy Shroyer, Jr. and Kevin Harn. All of the agreements have either been terminated by us or expired. In the demand for arbitration, as amended, Claimants alleged that we breached four of the multi-restaurant development agreements by granting unauthorized development rights in Full Tilt's territory, interfering with the site-selection process, and delaying or unreasonably refusing to approve restaurant sites, despite our agreement to extend the development schedules. Claimants also asserted that we breached both franchise agreements by violating territorial protections granted to Full Tilt, interfering with the site-selection process, and enforcing design plans and sourcing requirements that delayed construction and inflated construction costs. As a result of these alleged

breaches, Mr. Shroyer and Mr. Harn argued that they were not required to perform under the guaranties. In addition, claimants argued that by setting unreasonable deadlines to open restaurants, failing to uniformly enforce site selection criteria and withholding or delaying approval of potential sites, we breached the covenant of good faith and fair dealing. Claimants further alleged that we received funds in violation of the Arizona racketeering statutes and fraudulently induced claimants to enter into the agreements with us based on false projections regarding the profitability of a restaurant. Claimants sought rescission of the multi-restaurant development agreements, one franchise agreement and the related guaranties, a return of all fees paid to us, an unspecified amount of monetary damages, establishment of a constructive trust over any fees we improperly received from claimants, treble damages and attorneys' fees and costs. We filed an answer denying all claims and asserted that the claimants breached the agreements (as well as the guaranties to each agreement) by failing to develop restaurants and failing to operate restaurants in accordance with the terms and conditions of the respective agreement.

An arbitration hearing was held in September 2013. On December 8, 2013, the arbitrator issued an Interim Award. The Interim Award denied all of claimants' claims set forth in their amended demand for arbitration. However, the arbitrator awarded claimants a refund of the \$150,000 fee paid under the multi-restaurant development agreement because he determined that our area developer made a negligent misrepresentation. In addition, the arbitrator found that "the demonstrable management failures by claimants" caused the failure of the Louisville restaurant, not any breach by us of any agreement. The Interim Award did not award us relief on our counterclaims for lost future royalties. The Interim Award did not determine the question of whether either party was entitled to recovery of its attorneys' fees and requested additional briefing on that issue. On January 9, 2014, the arbitrator issued a Final Award holding claimants responsible for all of the fees associated with the arbitration. The arbitrator ordered that each party bear its own attorneys' fees and costs, and claimants bear the administrative fees of the American Arbitration Association and the arbitrator's compensation. Ultimately, the arbitrator ordered claimants to pay us \$26,850 in reimbursement for fees in excess of the apportioned costs previously incurred by us. On May 9, 2014, we filed a petition to confirm the arbitration award in federal district court for the district of Arizona. On June 25, 2014, the court entered judgment against Full Tilt, Kevin Harn, and Billy Shroyer, and confirmed the arbitration award entered on January 9, 2014 by the arbitrator.

Tilted Kilt Franchise Operating, LLC v. 1220, LLC, Robert Baroud, Emil Baroud, Anthony Baroud, and Peter Baroud, No. 1:15-cv-10377 and No. 16-cv-744 (United States District Court for the Northern District of Illinois). On November 17, 2015, we filed a complaint for declaratory judgment and further relief in the United States District Court for the Northern District of Illinois against the area developer (1220, LLC) for designated territories in Northern Illinois, Southern Wisconsin and Northwest Indiana, and the guarantors of the area developer. We asserted that the defendants breached their contractual obligation to comply with all federal and state laws and regulations concerning the sales of franchises by delivering illegal financial performance representations to prospective franchisees. We sought a declaratory judgment that it can terminate the area development agreement. It also seeks an order for such necessary and further relief, including (i) an award of damages it has sustained by reason of the defendants' misconduct; (ii) liquidated damages; (iii) indemnification for any damage it has sustained or will sustain by reason of any unlawful financial performance representation, as well as the lost revenue from the closure of franchises or in the form of refunds, payments, or compromised claims, and the attorneys' fees and costs incurred in connection with its ongoing investigation of the defendants' misconduct; and (iii) attorneys' fees and costs in connection with the lawsuit. On January 13, 2016, defendants filed a motion to dismiss, and defendant 1220, LLC filed counterclaims for breach of contract, declaratory relief, appointment of a receiver or other injunctive relief, and violation of the Illinois Franchise Disclosure Act, seeking actual and consequential damages in an amount to be proven at trial, and attorneys' fees and costs.

On January 19, 2016, 1220, LLC filed a separate lawsuit, No. 16-cv-744, alleging virtually-identical claims to the counterclaims and seeking identical relief as its counterclaims. On the same day, 1220, LLC moved to consolidate No. 16-cv-744 with No. 15-cv-10377. On January 29, 2016, we filed a motion to dismiss 1220, LLC's counterclaims in Case No. 15-cv-10377, and on March 21, 2016, we filed a motion to dismiss 1220, LLC's complaint in Case No. 16-cv-744. On July 29, 2016, the court in Case No. 15-cv-10377 granted our motion to dismiss 1220, LLC's counterclaims, denied defendants' motion to dismiss our complaint, and granted defendants' motion to consolidate the two cases for all purposes. On August 12, 2016, the defendants moved for a preliminary injunction, which the court denied on August 18, 2016, without a hearing or additional briefing by the parties. On December 29, 2016, the parties entered into a settlement agreement under which (i) the parties agreed to dismiss all claims and counterclaims; (ii) the parties exchanged mutual releases; (iii) we agreed to pay \$550,000 in installments; and (iv) we waived the area developers' post-termination non-competition obligations. On January 5, 2017, the court entered an order dismissing the consolidated action without prejudice and with leave to reinstate on or before December 15, 2017, in the event the agreed payments are not made. No request for reinstatement being made, on December 15, 2017, the dismissal without prejudice converted to a dismissal with prejudice.

John Fisher, III, and R&J Kilts, LLC v. Tilted Kilt Franchise Operating, LLC, TKFO Land Company, LLC, and Does 1 – 50, No. PC056125 (Superior Court of California, Los Angeles County), No. 2:15-cv-1653-MMM-JEM (United States District Court for the Central District of California). On December 19, 2014, the former franchisees for the TILTED KILT Restaurant located in Valencia, California, John Fisher, III ("Fisher") and R&J Kilts, LLC ("R&J Kilts"), filed a four-count complaint in the Superior Court of California, Los Angeles County ("State Court") against us, TKFO Land Company, LLC ("TKFO Land"), and unnamed John Does asserting causes of action for: (1) declaratory relief against us and TKFO Land; (2) breach of contract against all defendants; (3) fraud against all defendants; and (4) for an injunction against all defendants (the "State Court Action"). The plaintiffs did not serve any of the defendants with the complaint filed in the State Court Action, and the defendants did not learn about the pendency of the State Court Action until approximately February 26, 2015, when the defendants received an e-mailed copy of a "First Amended Complaint". The "First Amended Complaint" purported to allege twenty (20) counts against us, TKFO Land, San Diego Cash Register, Inc. ("SDCR"), Evan Kenville ("Kenville"), and unnamed John Does, for: declaratory relief; breaches of contract and of the covenant of good faith and fair dealing; fraud; conversion; trespass of chattel; interference with prospective economic advantage; interference with contract; intentional infliction of emotional distress; negligence; breach of contract and negligence against SDCR; violations of California Penal Code § 502 for unauthorized computer access, the Wiretap Act and Electronic Communications Privacy Act, the Stored Communications Act, the Computer Fraud and Abuse Act, and Racketeer Influenced and Corrupt Organizations Act; promissory estoppel; accounting; and injunctive relief. In addition to declaratory and injunctive relief, the plaintiffs sought an unspecified amount of damages.

On March 6, 2015, we removed the State Court Action to the United States District Court for the Central District of California ("Federal Court"). On April 1, 2015, we asserted counterclaims for breach of the franchise agreement and the associated personal guaranty. On July 24, 2015, plaintiffs filed a motion for leave to file an amended complaint and for remand in which they sought to dismiss all of the claims brought under federal statutes and to add claims for rescission against us, TKFO Land, and SDCR. On October 13, 2015, the Federal Court granted the motion for leave to amend the complaint and remanded the case back to the State Court.

On January 26, 2016, we, TKFO Land, and Kenville filed an answer and affirmative defenses to the amended complaint and we re-asserted our counterclaims for breach of contract against R&J Kilts and breach of guaranty against Fisher, seeking injunctive relief and damages. On March 7, 2016, Fisher and his spouse filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code in the United States Bankruptcy Court for the Central District of California titled *In re Fisher*, No. 2:16-bk-12836-BR (the "Bankruptcy Court"), and Howard M. Ehrenberg was appointed as Fisher's

bankruptcy trustee (“Trustee”). The Trustee subsequently elected to pursue Fisher’s claims in the State Court Action on behalf of the bankruptcy estate.

On February 7, 2017, we, TKFO Land, and Kenville, on the one hand, and Fisher, R&J Kilts, and the Trustee, on the other hand, reached a settlement of all claims and counterclaims asserted in the State Court Action. The parties dismissed all claims and counterclaims with prejudice and we agreed to pay \$150,000 after bankruptcy court approval and dismissal of the State Court Action. The settlement was conditioned upon approval by the Bankruptcy Court, which the Bankruptcy Court granted on March 20, 2017. On April 20, 2017, the court in the State Court Action entered dismissal of plaintiffs’ complaint with prejudice, and on May 2, 2017, the court entered dismissal of our cross-complaint with prejudice.

Tilted Kilt Franchise Operating, LLC v. Dine Out, Inc. and William A. Slevin, No. 01-17-0007-4256 (American Arbitration Association, Tempe, Arizona). On December 11, 2017, we filed an Arbitration Demand against the respondents, our former franchisee and its owner, for breach of the former franchisee’s franchise agreement and the owner’s personal guaranty. On March 8, 2018, we filed a First Amended Arbitration Demand which alleged that the respondents breached the franchise agreement and guaranty when the former franchisee abandoned its restaurant formerly located in Fayetteville, Arkansas, before the scheduled expiration of the franchise agreement. We sought an award of damages of no less than \$518,000 plus costs and expenses (including attorneys’ fees). On March 26, 2018, respondents filed their answer, affirmative defenses, and counterclaim. The counterclaim alleged we breached the franchise agreement by, among other things, not providing certain services, promotional materials, or a suitable area developer, and by breaching our obligations with respect to the Tilted Kilt advertising fund. The respondents sought at least \$763,000 in damages, interest, attorneys’ fees, expenses, and costs. On June 7, 2018, the parties entered into a settlement agreement. As part of the settlement, no party paid any monetary amount, but the parties executed mutual general releases. The matter was dismissed with prejudice on June 20, 2018.

NewPenn Kilt, LLC and NJPhil Kilt LLC v. Tilted Kilt Franchise Operating, LLC, No. 1:17-cv-03794 (United States District Court for the Northern District of Illinois). On May 22, 2017, two former area developers filed a complaint against us based upon a promissory note that we provided to plaintiffs in connection with our repurchase of their area developer territories (the “Lawsuit”). On July 12, 2017, plaintiffs filed an amended complaint for \$397,738.72, interest, and costs and fees. On August 2, 2017, we filed an answer, affirmative defenses, and counterclaims against plaintiffs alleging that plaintiffs fraudulently induced us into repurchasing the area developer territories. We demanded rescission of the promissory note, an award of compensatory damages for the amount we overpaid for the area developer territories in an unspecified amount, and costs and fees. On July 30, 2018, the parties entered into a combined settlement agreement of this Lawsuit along with an associated arbitration matter, captioned, Tilted Kilt Franchise Operating, LLC v. North Shore Kilt, LLC, Chris Sotos, Jason Gigot, David Fink, Robert MacDonald, Wyomissing Kilt, LLC, Steve Panko, Robert Byard, and Robinson Kilt, LLC, No. 01-17-0001-0916 (American Arbitration Association, Phoenix, Arizona) filed February 21, 2017) (the “Associated Arbitration”). In the Associated Arbitration, we initiated an action against certain of the plaintiffs in the Lawsuit to collect damages from those plaintiffs, and their respective guarantors, for breach of their franchise agreements and associated guaranties and for trademark infringement. The settlement agreement provides for (i) the satisfaction of the promissory note that was the subject of the Lawsuit, (ii) the dismissal of the Associated Arbitration, (iii) the satisfaction of a monetary award of \$764,641 plus attorneys’ fees and costs that the arbitrator granted to us in the Associated Arbitration against the franchisees and their guarantors, (iv) the franchisees’ and guarantors’ agreement to continue to comply with a permanent injunction entered in the Associated Arbitration, and (v) a payment to us of \$360,000.



## **Other Litigation Involving the Franchise Relationship**

During our last fiscal year, we initiated the following action to collect damages from our former franchisee and its guarantors for breach of the franchise agreement and their guaranties and for trademark infringement:

Tilted Kilt Franchise Operating, LLC v. North Shore Kilt, LLC, Chris Sotos, Jason Gigot, David Fink, Robert MacDonald, Wyomissing Kilt, LLC, Steve Panko, Robert Byard, and Robinson Kilt, LLC, No. 01-17-0001-0916 (American Arbitration Association, Phoenix, Arizona) filed February 21, 2017.

During our last fiscal year, we initiated the following action to collect damages from our former franchisee and its guarantors for breach of franchise agreements, area developer agreements, and their guaranties:

Tilted Kilt Franchise Operating, LLC v. AC Restaurants, LLC, AC Atlantic Development, LLC, Sean Cahill, and Dan Allen, No. 01-17-0002-8790 (American Arbitration Association, Phoenix, Arizona) filed May 17, 2017.

During our last fiscal year, we initiated the following actions to collect damages from our former franchisee and its guarantors for breach of franchise agreement and their guaranties:

Tilted Kilt Franchise Operating, LLC V. Anchorage TK, LLC, Michael Keller, and Liana Keller, No. 01-17-0000-1454 (American Arbitration Association, Phoenix, Arizona) filed January 6, 2017.

Tilted Kilt Franchise Operating, LLC v. TK Indy, LLC and Ryan Murphy, No. 01-17-0005-7572 (American Arbitration Association, Phoenix, Arizona) filed September 26, 2017.

Tilted Kilt Franchise Operating, LLC v. Allied Hospitality, Inc., and Steve Hsu, No. 01-17-0005-7835 (American Arbitration Association, Phoenix, Arizona) filed September 27, 2017.

During our last fiscal year, we initiated the following actions to collect damages from our former franchisee for breach of franchise agreement:

Tilted Kilt Franchise Operating, LLC v. Hyung Michael Moon, No. 01-17-0001-8715 (American Arbitration Association, Phoenix, Arizona) filed March 30, 2017.

Other than the above 11 proceedings, no litigation or arbitration is required to be disclosed in this Item.

## **ITEM 4**

### **BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

## **ITEM 5**

### **INITIAL FEES**

*Initial Franchise Fee:* An initial franchise fee of \$75,000 is payable to us in full when you sign the Franchise Agreement for your TILTED KILT Restaurant. We use the proceeds that we retain from your payment to defray our costs and expenses relating to the sale of the franchise, for providing

assistance to you and for other general costs and expenses. The initial franchise fee is not refundable under any circumstances.

We offer a discount of 10% off the initial franchise fee for the first franchise you purchase if you are an honorably-discharged veteran of the United States armed forces.

## **ITEM 6**

### **OTHER FEES**

| <b>Type of Fee</b>                                | <b>Amount</b>                                                                                                                              | <b>Due Date</b>                                                                             | <b>Remarks</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Royalty <sup>1, 6</sup>                           | 6% of Gross Sales <sup>2</sup>                                                                                                             | Payable on the day of the week we periodically designate, based on prior week's Gross Sales | Royalties are paid by electronic transfer of funds that we initiate. Royalties and other fees will be paid on the dollar value of all comps over 2% of Gross Sales, except during the first 90 days of Restaurant operations. Royalties and other fees on all comps will be waived during this 90-day period.                                                                                                                                                                     |
| Interest <sup>1</sup>                             | Lesser of 1½% per month or highest rate of interest allowed by law                                                                         | On demand                                                                                   | Begins to accrue the day after payments are due.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Late Charge <sup>1</sup>                          | \$100 per incident                                                                                                                         | Automatically assessed and debited after due date                                           | Assessed on all late payments, late submittals of weekly sales and management information reports or other performance reports that we may reasonably require.                                                                                                                                                                                                                                                                                                                    |
| Minimum Advertising Expenditure <sup>3</sup>      | 4% of Gross Sales <sup>2</sup> reduced by any required National Advertising Contribution and any required Local Advertising Group payments | We do not collect this fee; it is retained by you for use in your local area                | This is the minimum average amount which must be expended during each calendar quarter to advertise your Restaurant. This amount will be offset by any required National Advertising and Marketing Contribution. If we establish a Local Advertising Group (LAG) which includes your Restaurant, a portion of your Minimum Advertising Expenditure may be reallocated to the LAG. Your total required advertising expenditure obligations will not exceed 4% of your Gross Sales. |
| National Advertising Contribution <sup>1, 6</sup> | Up to 2% of Gross Sales <sup>2</sup>                                                                                                       | Payable on the day of the week we periodically designate, based on prior week's Gross Sales | We currently collect 2% of Gross Sales. Contributions will be used primarily for the development and production of advertising for the Restaurants. Our Restaurants will contribute the same as franchisee-owned Restaurants. The National Advertising and Marketing Contribution is payable by electronic transfer of funds that we initiate.                                                                                                                                    |

| Type of Fee                                | Amount                                                                                                                           | Due Date                                                                                                               | Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Local Advertising Group (LAG) <sup>6</sup> | Up to 4% of Gross Sales <sup>2</sup> reduced by any required National Advertising Contribution                                   | Payable on the day of the week we periodically designate, based on prior week's Gross Sales, or as directed by the LAG | As of the date of this Disclosure Document, there are no LAGs in existence. We decide when it is appropriate to form a LAG in any particular region and have sole authority to establish LAG bylaws. Our affiliates' Restaurants will contribute on the same basis as franchised Restaurants. We must approve additional dues to be paid to the LAG. We have the right to designate geographic areas for LAGs in whatever way we deem appropriate and dissolve LAGs when we deem appropriate. Your combined National Advertising Contribution and LAG contribution will not exceed 4% of your Gross Sales. |
| Franchisor Service Charge                  | Will vary depending on circumstances                                                                                             | As incurred                                                                                                            | If we provide on-site assistance at your request, we may charge you our representative's travel, lodging and other expenses in connection with the assistance, plus a fee for the services of our representative. Currently, we do not charge a fee.                                                                                                                                                                                                                                                                                                                                                       |
| Audit Underreporting <sup>1</sup>          | Amount of deficiency with interest on any past due amounts at lesser of 1½% per month or highest rate of interest allowed by law | Immediately after audit                                                                                                | Payable if any audit discloses a deficiency in amounts owed to us.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Costs of Inspection and Audit <sup>1</sup> | Costs of audit (including accountants' and attorneys' fees, as well as travel and living expenses)                               | As incurred                                                                                                            | Payable only if you understate your Gross Sales by more than 2%, do not submit reports to us or do not cooperate in performance of the inspection and audit, including failing to have the books, records and other information regarding your Restaurant available for audit.                                                                                                                                                                                                                                                                                                                             |
| Transfer Fee <sup>1</sup>                  | \$15,000 per restaurant                                                                                                          | Before effectiveness of transfer                                                                                       | Payable when the franchise agreement, interest in the Restaurant or the franchise is transferred by you. The transferee is charged no initial franchise fee. If the transfer is from an individual to an entity controlled by that individual, we will not charge a transfer fee, but you will be required to reimburse us our direct costs (including reasonable legal fees) that we incur in documenting and processing the transfer.                                                                                                                                                                    |
| Renewal Fee <sup>1</sup>                   | 25% of the then current initial franchise fee for a single (first) franchise                                                     | When you sign the then-current Franchise Agreement                                                                     | Payable if you opt for and qualify for a successor franchise at the end of the term.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Type of Fee                                            | Amount                                                                         | Due Date                         | Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------|--------------------------------------------------------------------------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Training Program Expenses <sup>4</sup>                 | Currently \$0                                                                  | As incurred                      | S.T.E.P. Training (defined in Item 11) is included as part of your initial franchise fee for up to 4 people (after your first Restaurant, 2 people), except for those costs as may be paid to other parties. We may charge training tuition for additional attendees and replacement managers at our then-current rates. We may require continuing training at other times and reserve the right to charge tuition for the same. If you request, and we agree to provide, additional on-site training for your second or subsequent Restaurant openings, we reserve the right to charge you an hourly fee, plus our representative's travel and living expenses. |
| Inventory Purchases <sup>1, 5</sup>                    | Current published prices                                                       | As incurred, on net 30 day terms | We may charge you for items you purchase through us or our affiliates. Currently we do not sell any items to franchisees, but reserve the right to do so in the future.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Software Licensing Fee                                 | Currently \$0                                                                  | As incurred                      | We may charge you a fee for use of our proprietary software in your Restaurant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Website Fee                                            | Currently \$0                                                                  | As incurred                      | We may require you to link your website to a website maintained by us and may also charge you a reasonable fee to establish and maintain such link. Any amount you are required to spend shall be credited toward your Minimum Advertising Expenditure.                                                                                                                                                                                                                                                                                                                                                                                                          |
| Costs and Attorneys' Fees <sup>1</sup>                 | Will vary depending on nature of your default                                  | As incurred                      | If we prevail in a proceeding initiated by you or us.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Indemnification Under Franchise Agreement <sup>1</sup> | Will vary depending on nature of the claim against us                          | As incurred                      | You have to reimburse us if we are held liable for claims resulting from your Restaurant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Insurance Premiums <sup>1</sup>                        | Will vary depending on your location and insurer                               | As incurred                      | If you do not pay your premiums, although we do not have to, we can pay them for you and you must reimburse us.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| New Supplier Test Fee <sup>1</sup>                     | Will vary but will not exceed cost of test                                     | As incurred                      | If you propose a new supplier, we will test required samples before approval and use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Assumption of Management <sup>1</sup>                  | 10% of Gross Sales <sup>2</sup> plus out-of-pocket costs of us or our designee | As incurred                      | In certain circumstances, we have the right to assume management of your TILTED KILT Restaurant. If we exercise this right, you shall pay this fee after we (or a third-party designee) assume management.                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Type of Fee | Amount                            | Due Date    | Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------|-----------------------------------|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Damages     | Will vary under the circumstances | As incurred | If the Franchise Agreement is terminated because of your default or by you without cause, you will pay us liquidated damages equal to the net present value of the Royalty payments, Advertising Contributions, and LAG contributions that would have become due had the Franchise Agreement not been terminated, for the lesser of (a) the date of termination to the scheduled expiration date of the Franchise Agreement or (b) 5 years. These amounts will be calculated by multiplying (1) the number of calendar months remaining in the term of the Franchise Agreement by (2) the aggregate percentages of the Royalty fees, Advertising Fund contributions, and LAG contributions by (3) the average monthly Gross Sales of your Restaurant during the 12 full calendar months immediately preceding the termination date; however, if as of the termination date, your Restaurant has not been operating for at least 12 months, damages will be calculated based on the average monthly Gross Sales during our previous fiscal year immediately preceding the termination date of all TILTED KILT Restaurants during the entirety of that fiscal year. |

<sup>1</sup> Fees which we charge and must be paid to us. We do not refund these fees. All fees are uniformly imposed. Beginning on the 5th anniversary of the effective date of the Franchise Agreement, and for each 5-year period thereafter, we may adjust any amount in the Franchise Agreement that is set forth in dollars and/or cents in proportion to the 5-year change in the National Consumer Price Index – All Urban Consumers as reported each calendar year in the U.S. Department of Labor (or successor index or agency thereto) using 2011 as the base year, and as so adjusted will apply to all amounts stated in the Franchise Agreement as dollars and/or cents.

<sup>2</sup> “Gross Sales” means the aggregate amount of all sales of products, services, merchandise, or activities of every kind or nature sold at, from, through or otherwise in connection with the operation of the Restaurant, whether for cash or credit, including, without limitation, revenue from admissions, event charges, cover charges, vending machines, jukeboxes and gaming devices, lottery tickets, video games and coin-operated games, less returns for which refunds are made (not to exceed sale price), and excluding (i) all federal, state or municipal sales or service taxes collected from customers and paid to the appropriate taxing authority, and (ii) other discounts (including the amount of employee discounts) and exclusions as may be authorized in writing by us. “Gross Sales” includes gift card redemptions, condemnation awards, all insurance proceeds received by you for loss or interruption of business due to a casualty or similar event at the Restaurant and the fair market value of any services or products received by you in barter or exchange for services and products. All comps, or parts or all of a meal offered to customers on the house, in excess of 2% of Gross Sales shall be included in Gross Sales except during the first 90 days after the Restaurant commences operation.

<sup>3</sup> Your required expenditures under your lease or mall regulations may count toward this advertising requirement.

<sup>4</sup> You will incur additional expenses associated with travel, meals and lodging while attending training sessions. All of these expenses are payable to third parties and are not refundable. These expenses will vary according to where you stay, where you eat and how far you have to travel.

<sup>5</sup> If you are consistently delinquent in your payments for inventory, we may make you pay at the time of order or on a C.O.D. basis.

<sup>6</sup> You must deposit all receipts from the operation of your TILTED KILT Restaurant into one business checking account and authorize us and our affiliates to debit the business checking account for all amounts due under the Franchise Agreement, including Royalties, National Advertising and Marketing Contributions, Local Advertising Group contributions and any other amounts due us. We will debit these amounts from your business checking account on the due date (or the subsequent business day if the due date is a national holiday or a weekend day).

## **ITEM 7**

### **ESTIMATED INITIAL INVESTMENT**

#### **YOUR ESTIMATED INITIAL INVESTMENT (BUILD-TO-SUIT)**

| <b>Type of Expenditure</b> (See Note 1)                                               | <b>Amount</b>         | <b>Method of Payment</b> | <b>When Due</b>                   | <b>To Whom Payment Is To Be Made</b> |
|---------------------------------------------------------------------------------------|-----------------------|--------------------------|-----------------------------------|--------------------------------------|
| Initial Franchise Fee                                                                 | \$75,000              | Lump Sum                 | At signing of Franchise Agreement | Us                                   |
| Construction Buildout & Leasehold Improvements (See Note 2)                           | Not applicable        | Not applicable           | Not applicable                    | Not applicable                       |
| Kitchen Equipment, Smallwares and Beer System (See Note 3)                            | \$270,000 - \$285,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Furniture, Fixtures and Signs (See Note 4)                                            | \$280,000 - \$300,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Electronics (See Note 5)                                                              | \$110,000 - \$130,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Point-of-Sale System, Software and Office Equipment (See Note 6)                      | \$36,000 - \$60,000   | As incurred              | Before Opening                    | Other Suppliers                      |
| Opening Inventory, Costumes/Employee Attire and Supplies (See Note 7)                 | \$50,000 - \$75,000   | Lump Sum when ordered    | Before Opening                    | Other Suppliers                      |
| Security Deposits, Utility Deposits, Licenses; Related Professional Fees (See Note 8) | \$12,000 - \$150,000  | As incurred              | Before Opening                    | Other Suppliers                      |
| Initial Franchisee Training; Travel and Living Expenses (See Note 9)                  | \$10,000 - \$20,000   | As incurred              | Before Opening                    | Other Suppliers                      |

| <b>Type of Expenditure</b> (See Note 1)                    | <b>Amount</b>                  | <b>Method of Payment</b> | <b>When Due</b> | <b>To Whom Payment Is To Be Made</b> |
|------------------------------------------------------------|--------------------------------|--------------------------|-----------------|--------------------------------------|
| Casting Call Event<br>(See Note 10)                        | \$8,000 - \$18,000             | As incurred              | Before opening  | Other Suppliers                      |
| Grand Opening Program<br>(See Note 11)                     | \$16,000 - \$20,000            | As incurred              | Around Opening  | Other Suppliers                      |
| Additional Funds - 3 months<br>(See Note 12)               | \$20,000 - \$100,000           | As incurred              | As incurred     | Other Suppliers                      |
| <b>TOTAL ESTIMATED INITIAL INVESTMENT</b><br>(See Note 13) | <b>\$887,000 - \$1,233,000</b> |                          |                 |                                      |

**YOUR ESTIMATED INITIAL INVESTMENT  
(GROUND-UP CONSTRUCTION)**

| <b>Type of Expenditure</b> (See Note 1)                                                  | <b>Amount</b>             | <b>Method of Payment</b> | <b>When Due</b>                   | <b>To Whom Payment Is To Be Made</b> |
|------------------------------------------------------------------------------------------|---------------------------|--------------------------|-----------------------------------|--------------------------------------|
| Initial Franchise Fee                                                                    | \$75,000                  | Lump Sum                 | At signing of Franchise Agreement | Us                                   |
| Construction Buildout & Leasehold Improvements<br>(See Note 2)                           | \$1,300,000 - \$1,600,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Kitchen Equipment, Smallwares and Beer System<br>(See Note 3)                            | \$140,000 - \$320,000     | As incurred              | Before Opening                    | Other Suppliers                      |
| Furniture, Fixtures and Signs<br>(See Note 4)                                            | \$280,000 - \$300,000     | As incurred              | Before Opening                    | Other Suppliers                      |
| Electronics<br>(See Note 5)                                                              | \$110,000 - \$130,000     | As incurred              | Before Opening                    | Other Suppliers                      |
| Point-of-Sale System, Software and Office Equipment<br>(See Note 6)                      | \$36,000 - \$60,000       | As incurred              | Before Opening                    | Other Suppliers                      |
| Opening Inventory, Costumes/Employee Attire and Supplies<br>(See Note 7)                 | \$50,000 - \$75,000       | Lump Sum when ordered    | Before Opening                    | Other Suppliers                      |
| Security Deposits, Utility Deposits, Licenses; Related Professional Fees<br>(See Note 8) | \$12,000 - \$150,000      | As incurred              | Before Opening                    | Other Suppliers                      |
| Initial Franchisee Training; Travel and Living Expenses<br>(See Note 9)                  | \$10,000 - \$20,000       | As incurred              | Before Opening                    | Other Suppliers                      |
| Casting Call Event<br>(See Note 10)                                                      | \$8,000 - \$18,000        | As incurred              | Before opening                    | Other Suppliers                      |

| <b>Type of Expenditure</b> (See Note 1)          | <b>Amount</b>             | <b>Method of Payment</b> | <b>When Due</b> | <b>To Whom Payment Is To Be Made</b> |
|--------------------------------------------------|---------------------------|--------------------------|-----------------|--------------------------------------|
| Grand Opening Program (See Note 11)              | \$16,000 - \$20,000       | As incurred              | Around Opening  | Other Suppliers                      |
| Additional Funds - 3 months (See Note 12)        | \$20,000 - \$100,000      | As incurred              | As incurred     | Other Suppliers                      |
| TOTAL ESTIMATED INITIAL INVESTMENT (See Note 13) | \$2,057,000 - \$2,868,000 |                          |                 |                                      |

**YOUR ESTIMATED INITIAL INVESTMENT  
(CONVERSION OF EXISTING RESTAURANT)**

| <b>Type of Expenditure</b> (See Note 1)                                               | <b>Amount</b>         | <b>Method of Payment</b> | <b>When Due</b>                   | <b>To Whom Payment Is To Be Made</b> |
|---------------------------------------------------------------------------------------|-----------------------|--------------------------|-----------------------------------|--------------------------------------|
| Initial Franchise Fee                                                                 | \$75,000              | Lump Sum                 | At signing of Franchise Agreement | Us                                   |
| Construction Buildout & Leasehold Improvements (See Note 2)                           | \$362,000 - \$900,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Kitchen Equipment, Smallwares and Beer System (See Note 3)                            | \$140,000 - \$285,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Furniture, Fixtures and Signs (See Note 4)                                            | \$255,000 - \$300,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Electronics (See Note 5)                                                              | \$110,000 - \$130,000 | As incurred              | Before Opening                    | Other Suppliers                      |
| Point-of-Sale System, Software and Office Equipment (See Note 6)                      | \$36,000 - \$60,000   | As incurred              | Before Opening                    | Other Suppliers                      |
| Opening Inventory, Costumes/Employee Attire and Supplies (See Note 7)                 | \$50,000 - \$75,000   | Lump Sum when ordered    | Before Opening                    | Other Suppliers                      |
| Security Deposits, Utility Deposits, Licenses; Related Professional Fees (See Note 8) | \$12,000 - \$150,000  | As incurred              | Before Opening                    | Other Suppliers                      |
| Initial Franchisee Training: Travel and Living Expenses (See Note 9)                  | \$10,000 - \$20,000   | As incurred              | Before Opening                    | Other Suppliers                      |
| Casting Call Event (See Note 10)                                                      | \$8,000 - \$18,000    | As incurred              | Before opening                    | Other Suppliers                      |
| Grand Opening Program (See Note 11)                                                   | \$16,000 - \$20,000   | As incurred              | Around Opening                    | Other Suppliers                      |



| Type of Expenditure (See Note 1)                 | Amount                    | Method of Payment | When Due    | To Whom Payment Is To Be Made |
|--------------------------------------------------|---------------------------|-------------------|-------------|-------------------------------|
| Additional Funds - 3 months (See Note 12)        | \$20,000 - \$100,000      | As incurred       | As incurred | Other Suppliers               |
| TOTAL ESTIMATED INITIAL INVESTMENT (See Note 13) | \$1,094,000 - \$2,133,000 |                   |             |                               |

### **Explanatory Notes**

**Note 1: Non-Refundable; Type of Construction.** All amounts paid to us are non-refundable. Third-party suppliers will determine whether payments to them are refundable.

The tables above provide estimates for three different types of construction: (1) build-to-suit; (2) ground-up construction; and (3) conversion of an existing restaurant. In a build-to-suit construction, typically, you will negotiate with a landowner to construct a building to suitable for the operation of your TILTED KILT Restaurant. The landowner will retain ownership of the land and building and you will lease the premises from the landowner. In ground-up construction, you will purchase a parcel of land and develop the land and construct a building sufficient to operate your TILTED KILT Restaurant. In a conversion, you will convert an existing restaurant to a TILTED KILT Restaurant.

**Note 2: Construction Buildout and Leasehold Improvements.** In a build-to-suit arrangement, we have anticipated that the landowner will incur the costs associated with development and construction of the building for your TILTED KILT Restaurant. Typically, a TILTED KILT Restaurant will have approximately 4,500 to 6,500 square feet of retail space and seat approximately 150 to 250 customers inside. Ideally, patio seating is also available. Your costs for tenant finish for the Restaurant will depend in large part on the square footage of your Restaurant, the location and overall costs in the market in which you are developing the Restaurant. The lower range of the estimate assumes that you are acquiring a location previously occupied by a restaurant, and, therefore, build-out costs may be lower. The leasehold improvements that you will typically make to a built but unimproved location include: installation of a grease trap, interior remodeling, floor covering, painting, HVAC, electrical, design and other improvements. These estimated costs include payments for architects, and, if your Restaurant is located in leased space, an as-built survey completed before the creation of architectural plans. You will be directly responsible for these fees and costs. If you purchase property or a building, or both, for the Restaurant, your additional costs will depend on the location and size of the land and building. We do not typically invest in the land and building for a TILTED KILT Restaurant. We are unable to estimate these costs due to the significant variances based on location and market conditions.

**Note 3: Kitchen Equipment, Smallwares and Beer System.** This item includes the estimated costs to obtain and install the grill and the ventilation system for your grill, as well as refrigerators, freezers, sinks, dishwashers, oven, beer taps, food preparation stations and smallwares.

**Note 4: Furniture, Fixtures and Signs.** This item includes the estimated costs to obtain required furniture, fixtures, and signs for a Restaurant, including bar, tables, chairs, furniture, counters, millwork, and other restaurant items, as well as gaming furniture (such as pool tables and shuffle board). The gaming furniture is typically leased; the chart includes the initial lease costs for these items. If purchased, the gaming furniture would cost approximately \$25,000.

**Note 5: Electronics.** This item includes required electronics and audio/visual equipment, such as projectors, televisions, wall mounts, speakers, a motorized screen/video wall, a Digital Video Recorder player, audio and video matrix switches, power supplies, a music sound system, amplifiers, a control

system, video surveillance equipment and warranty plans for certain products, each that meet the specifications prescribed in the Operating Manual.

**Note 6: Point-of-Sale System, Software and Office Equipment.** This item includes the estimated costs to purchase and license a computerized point-of-sale system and software, telephone system, photocopier, computers and software and fax machine. None of these payments are refundable once paid. The estimates include charges for 6 to 8 point-of-sale terminals; your costs may be higher if you decide to add more terminals. The point-of-sale system is only available through our designated, third party supplier. You may be able to defer some of this cost through a third-party leasing arrangement. All of the costs included in this item are paid to third party suppliers. You will enter into a license with a third party for our proprietary database that we make available to you. We reserve the right to charge you for obtaining the software in an amount that will not exceed the high range estimate in the chart above, when added to your other costs incurred for items in this category. See Item 11 for a description of the required computer hardware and software for your Restaurant.

**Note 7: Opening Inventory, Costumes/Employee Attire and Supplies.** You must open with and maintain an adequate inventory of menu items, food and ingredients, beer, liquor and beverages, costumes or other employee attire, paper goods and branded products and merchandise for retail sale to serve your customers.

**Note 8: Security Deposits, Utility Deposits and Business Licenses; Related Professional Fees.** Security deposits, if applicable to your Restaurant, range from one to two months' rent; utility deposits range from a nominal amount to approximately \$4,000; and business licenses range from approximately \$100 to \$1,000, depending on your location. The professional and other fees and costs relating to the acquisition of a liquor license may be as much as \$120,000 or more. Since a liquor license may be controlled by local authorities in your area, the costs may vary greatly, so you should make your own determination of the estimated costs.

**Note 9: Initial Franchisee Training (Travel and Living Expenses).** Your travel and living expenses when you attend S.T.E.P. Training (defined in Item 11) vary depending on the length of your instruction, the distance you must travel and the standard of living you desire while you attend the program. The high range estimate covers expenses for up to four people attending up to a 19-day training session in Tempe, Arizona or another location that we may designate. The estimates do not include travel and living expenses incurred in attending and participating in a Restaurant opening; this is recommended if timing permits, but is not mandatory.

**Note 10: Casting Call Event.** You must hold a Casting Call Event before your Restaurant opens for business. If you do not have a certificate of occupancy to use your Restaurant for the Casting Call Event, expenses will include renting a casting location that we have approved before the Casting Call Event (such as a conference room, lounge or empty retail space or our Casting and Recruiting RV, if available). Additionally, you will be required to have obtained from us the approved Cassie Initiate décor package as well as obtained the necessary office supplies and all required casting and recruiting print materials for General Manager and prospective applicants. It is estimated that the cost of renting the casting location, obtaining the Cassie Initiate décor package, office supplies and casting and recruiting print material will be approximately \$6,000 (This does not include Kilt Girl costumes or staff attire).

**Note 11: Grand Opening Program.** You must spend a minimum amount, which we will designate when you execute the Franchise Agreement (which will not be in excess of the high range estimate noted), on the Grand Opening Program. We must approve your Grand Opening Program and related marketing plan. The amount approved depends on the size of your market, the extent to which the Marks have established goodwill in the market, the proximity to other Restaurants, and similar factors. We will mutually determine with you at what time around the commencement of your operation

that your Grand Opening Program should be conducted, but it will start at least 4 weeks before opening and run through at least 60 days after opening.

**Note 12: Additional Funds.** This estimates your pre-operational expenses that we have not listed above, as well as additional funds necessary for the first three months of your business operations. We relied on our leadership team's combined 120 years' of experience in the restaurant business and in the opening of other non-restaurant franchised businesses when preparing these figures. These figures are estimates and we cannot guarantee that you will not have additional expenses or overhead starting the business. Your costs depend on factors such as: how much you follow our methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our products and services; the prevailing wage rate in your jurisdiction (including any local minimum wage that exceeds the federal minimum wage); competition; and the sales level reached during this initial period. This item includes a variety of expenses and working capital items during your start-up phase such as: site demographic and psychographic report; rent; debt service; legal costs; accounting fees; insurance premiums; advertising and promotional expenses and materials; employee salaries; and other miscellaneous costs. However, this item excludes your salary. Although not required, if you choose to develop a catering business, you may incur additional expenses to purchase or lease a vehicle, if you do not currently own a suitable vehicle, and additional items you may not currently have in connection with the operation of your Restaurant, such as serving dishes, a warming system and linens.

**Note 13: Total Estimated Initial Investment.** Because the ranges in the chart are only estimates, it is possible both to reduce and exceed the estimated range of costs listed in each item of the chart. In certain major metropolitan areas, actual costs may substantially exceed the high range estimates in the chart because of increased rent and occupancy costs and increased labor costs. You should review these figures carefully with a business advisor before making any decision to purchase a franchise. We do not offer financing either directly or indirectly for any part of the initial investment. The availability and terms of financing from independent third parties depends on factors such as the availability of financing generally, your creditworthiness, other security and collateral you may have and policies of lenders.

## **ITEM 8**

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

#### **Operations**

Your TILTED KILT Restaurant must be established and operated in compliance with your Franchise Agreement. It is mandatory that you comply with the standards and specifications contained in manuals we provide to you, in the form of one or more manuals, technical bulletins or other written materials (collectively, the "Manuals"), which we may modify. We reserve the right to provide you with our mandatory standards and specifications for the menu items and retail products and related services offered at or through your TILTED KILT Restaurant and for the Franchised Location, equipment, furniture, fixtures, menus, food, packaging, paper products, employee attire, supplies, forms, advertising material, décor, music and other items used at your Restaurant.

#### **Restaurant Build-Out and Lease**

You must, at your expense, construct, convert, design and decorate the Restaurant location in accordance with our plans and specifications. If you lease the Franchised Location, we require that you obtain an as-built survey of the Franchised Location before the development of architectural plans. We require that you obtain our written consent to any improvements to the Franchised Location before construction begins. The building contractors you use and all contractors must meet our minimum

standards and specifications. You must obtain our written consent to any improvements to the Restaurant site before construction begins.

Our prior, written acceptance of any lease or, if applicable, any purchase agreement for your Restaurant is required before you execute any of these agreements. If you are leasing, you must execute a lease that we have accepted no later than 6 months from the date the Franchise Agreement is executed. The lease for the Franchised Location must contain certain provisions listed in the Lease Rider and Special Stipulations attached as Exhibit B to the Franchise Agreement.

If you have already leased space or if you already own property when you sign the Franchise Agreement, our execution of the Franchise Agreement does not express or imply that we approve of any particular location for your Restaurant, unless we specifically accept your pre-existing location in writing.

### **Computer Systems**

Each of our franchisees must use the Computer System (as defined in Item 11) meeting our specifications. We currently derive no revenue from your purchase of the Computer System or other technology systems. We reserve the right to develop and own proprietary software and other technology, license it to you and charge a licensing fee. We reserve the right to derive revenue from the Computer System, or technology maintenance or upgrade fees for our proprietary software or other technology for use in Restaurants. You are required to participate in all credit card, gift card, electronic data capture, payment card industry compliance standards and other, similar programs that we may implement for TILTED KILT Restaurants. See also Items 7 and 11.

### **Purchases from Approved Sources**

We and our affiliates reserve the right to approve and/or designate, from time to time, contractors, manufacturers, vendors, distributors, suppliers, producers, terms, and distribution methods for any goods and services, which include insurance, products, equipment, supplies, and materials. You must purchase all goods and services required for the operation of your TILTED KILT Restaurant from an approved supplier (which may be only one supplier for any given good or service, under the terms and in the manner we or our affiliates designate. If we or our affiliates designate that such goods and/or services are to be purchased through approved third party suppliers, then you must purchase such goods and/or services from such suppliers according to the terms and in the manner which we or our affiliates approve. We may designate only one exclusive supplier for any product and/or service.

Currently, you must purchase certain architectural services (that include a feasibility study, floor layout, kitchen layout, bar layout, reflected ceiling plan, the elevations and the final review of the architectural drawings), Restaurant fixtures and décor items, employee costumes, retail apparel and accessories, menus, stationery and business cards, audio and sports TV services, sport TV guides, the point-of-sale system, marketing and promotional printing services, other printing services, food and beverage products, smallwares, soft drink fountains, and gift cards exclusively from our designated supplier for each product. In addition, you must purchase or lease general contracting services for the Restaurant build-out, Restaurant equipment, fixtures, furniture, payroll specialist services, beverage systems, beverage shelving, and dishwashing services from a supplier that has been approved by us. We may also recommend suppliers of other products and services, but you are not obligated to use such recommended suppliers. We or our affiliates may be a supplier or otherwise a party to these transactions, may derive revenue or profit from such transactions, and may use such revenue or profit without restriction.

As of the date of this Disclosure Document, none of our officers owns an interest in any required, approved or recommended suppliers. We and our affiliates reserve the right to sell products,

equipment, supplies and services to franchisees and to derive revenue from such sales. However, neither we nor any of our affiliates is currently a designated or approved supplier for any product or service. We estimate that the costs of your purchases from designated or approved sources, or according to our standards and specifications, may range from 93% to 94% of the total cost of establishing a TILTED KILT Restaurant and approximately 30% to 45% of the total cost of operating a TILTED KILT Restaurant after that time.

If we designate one or more exclusive suppliers for a particular good or service, you may not request to use an alternative supplier. However, if an exclusive supplier has not been designated and you would like to purchase or use products, equipment, supplies, materials, or services from suppliers other than those we or our affiliates have previously approved, you must ask us in writing to change supplier before purchasing any goods or services from non-approved suppliers. We will notify you in writing of the approval or rejection of the proposed supplier within a reasonable time after we receive the request to approve a proposed supplier, typically 60 days. Unless and until we approve the proposed supplier in writing, the proposed supplier shall be considered disapproved. In order to make such determination, we and our affiliates may investigate the proposed supplier and require that samples from the proposed supplier be delivered for testing before approval and use. We may charge you a fee, not to exceed the actual cost of the test. We and our affiliates may, for any reason whatsoever, elect to withhold approval of the supplier. We are likely to reject your request for a new supplier without conducting any investigation if we or our affiliates have already designated an exclusive supplier for the goods and/or services proposed to be offered by the new supplier. We or our affiliates may from time to time inspect any supplier's facilities and products to ensure proper production, processing, storing, and transportation of goods and services to be purchased from the supplier by you. Permission for such inspection will be a condition of the continued approval of the supplier.

We do not provide material benefits to franchisees based on your use of designated or approved sources or suppliers.

### **Revenue**

In the fiscal year ended December 31, 2017, we received a total of \$330,844 in revenue from third-party suppliers based on franchisee purchases. We contributed 100% of this revenue to TKNAMF for the Advertising Fund (defined in Item 11). None of our affiliates derived revenue from purchases by franchisees. We may either retain the credit of any volume discounts, rebates or incentives received as a result of your purchases or contribute them to the Advertising Fund.

In the fiscal year ended December 31, 2017, we received \$64,500 in sponsorship revenue for our franchise training conference.

Except as provided above, neither we nor our affiliates derived any revenues from purchases from franchisees in 2017.

We receive an allowance of 1 to 6 cents per pound, and 25 to 50 cents per case, on franchisee purchases of certain food products.

### **Franchisee Insurance**

You must procure, and provide us evidence of: (i) commercial general liability insurance for the Franchised Location and its operations with a limit of not less than \$3,000,000 combined single limit, or such greater limit as may be required as a part of any lease agreement for the Franchised Location; (ii) liquor liability insurance of not less than \$3,000,000 or the state required coverage, whichever is higher; (iii) automobile liability insurance including owned and non-owned automobile insurance, covering all employees of the Restaurant with authority to operate a motor vehicle in an amount not less

than \$3,000,000 or, with our prior written consent, such lesser amount as may be available at a commercially reasonable rate, but in no event less than any statutorily imposed minimum coverage; (iv) unemployment and worker's compensation insurance with a broad form all-states endorsement coverage sufficient to meet the requirements of the laws or coverage in an amount not less than \$1,000,000; (v) all-risk personal property insurance in an amount equal to at least 100% of the replacement costs of the contents and tenant improvements located at the Restaurant; (vi) employment practices liability insurance ("EPLI") (including third party) with a limit of not less than \$1,000,000, a deductible/SIR of \$25,000, and a \$100,000 sublimit for defense of us, covering: (1) acts and omissions of third parties (including punitive damages), (2) Fair Labor Standards Act and wage and hour claims with a minimum \$150,000 sublimit, (3) Immigration Reform and Control Act (IRCA) claims with a minimum \$25,000 defense sublimit, and (4) claims arising from acts of terrorism (to include punitive damages); and (vii) such other types of insurance and minimum coverage amounts as we periodically specify. If you fail to purchase this insurance, we may demand that you cease operations or obtain insurance for you and you must reimburse us for the cost of the insurance. You must maintain insurance in amounts sufficient to meet all state requirements of all types for operating a TILTED KILT Restaurant. We reserve the right to change the insurance requirements in our Manuals and you agree to comply with any changes that may apply to your Restaurant. You are responsible for obtaining and maintaining insurance of types and amounts over and above our minimum requirements that are sufficient in your judgment. We are not responsible for any judgments against you, including those that exceed the minimum insurance levels we require.

All insurance policies must name us and your Area Representative, if applicable, as additional insureds, using a form of endorsement that we have approved, and give us and your Area Representative, if applicable, at least 30 days prior written notice of termination, amendment or cancellation. However, if there is no additional insured endorsements available for Workers Compensation Insurance, we will accept waiver of subrogation against us. You must provide us with certificates of insurance evidencing your insurance coverage before the opening of your TILTED KILT Restaurant. You must furnish us with copies of all required insurance policies or other evidence of insurance coverage and payment of premiums as we request periodically. We reserve the right to require you to change the type of insurance you are required to maintain and upon 60 days prior written notice to you to revise the required coverage limits. We also reserve the right to require that you participate in any national or regional insurance program that we deem mandatory.

### **Purchasing Arrangements**

We may establish pricing programs with certain suppliers that would provide for discounts based on volumes purchased. Periodically, we may negotiate other purchase arrangements and programs with suppliers for the benefit of our franchisees. We can require that you participate in these arrangements and programs. We currently maintain purchasing and pricing arrangements for the supply of food items with DMA Distribution Cooperative, for the supply of soft drinks with Coca-Cola and for the supply of wait staff costumes and promotional items. However, you should not rely on the availability of any particular pricing or distribution arrangement, or the availability of any particular product or brand, in deciding whether to purchase the franchise. We and our affiliates have the right to receive payments from suppliers on account of their dealings with you and other franchisees. We also periodically negotiate certain marketing contributions from beverage vendors and marketers in relation to menu printing support, promotional programs, and the printing of collateral and support materials for system-wide marketing programs.

## **ITEM 9**

### **FRANCHISEE'S OBLIGATIONS**

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

| <b>Obligation</b>                                            | <b>Section in Agreement</b>                                                | <b>Item in Disclosure Document</b> |
|--------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------|
| (a) Site selection and acquisition/lease                     | Sections 3.1, 5.1 and 5.2 of Franchise Agreement                           | Items 8 and 11                     |
| (b) Pre-opening purchases/leases                             | Sections 5.2, 5.3, 5.4, 5.5 and 5.6 of Franchise Agreement                 | Items 5, 6, 7 and 8                |
| (c) Site development and other pre-opening requirements      | Sections 5.3, 5.4, 5.5, 5.6, and 5.7 of Franchise Agreement                | Items 7, 8 and 11                  |
| (d) Initial and ongoing training                             | Article 6 of Franchise Agreement                                           | Item 11                            |
| (e) Opening                                                  | Sections 5.8, 10.2, and 13.5 of Franchise Agreement                        | Items 5, 7 and 11                  |
| (f) Fees                                                     | Articles 4, 12, and 13; Sections 5.6, 7.2, and 14.6 of Franchise Agreement | Items 5, 6 and 7                   |
| (g) Compliance with standards and policies/Operations Manual | Article 8 and Sections 14.1 and 14.2 of Franchise Agreement                | Item 11                            |
| (h) Trademarks and proprietary information                   | Article 15 and Section 21.3 of Franchise Agreement                         | Items 13 and 14                    |
| (i) Restrictions on products/services offered                | Sections 3.3, 10.1(d) and (m), 14.4, and 14.5 of Franchise Agreement       | Items 11 and 16                    |
| (j) Warranty and customer service requirements               | Not Applicable                                                             | Not Applicable                     |
| (k) Territorial development and sales quotas                 | Not applicable in Franchise Agreement                                      | Item 12                            |
| (l) On-going product/service purchases                       | Sections 14.4, 14.5 and 14.6 of Franchise Agreement                        | Item 8                             |
| (m) Maintenance, appearance and remodeling requirements      | Sections 10.1(a), (b) and (i) of Franchise Agreement                       | Item 11                            |
| (n) Insurance                                                | Article 22 of Franchise Agreement                                          | Item 7                             |
| (o) Advertising                                              | Article 13 of Franchise Agreement                                          | Items 6, 7 and 11                  |
| (p) Indemnification                                          | Section 20.3 of Franchise Agreement                                        | Item 6                             |
| (q) Owner's participation/management/staffing                | Sections 10.1(c), (j), (k) and (l), and 19.3 of Franchise Agreement        | Items 11 and 15                    |
| (r) Records/reports                                          | Article 16 of Franchise Agreement                                          | Item 6                             |
| (s) Inspections/audits                                       | Sections 14.3 and 16.4 of Franchise Agreement                              | Item 6                             |
| (t) Transfer                                                 | Article 17 of Franchise Agreement                                          | Item 17                            |
| (u) Renewal                                                  | Section 18.2, 18.3 and 18.4 of Franchise Agreement                         | Item 17                            |
| (v) Post-termination obligations                             | Section 19.5 of Franchise Agreement                                        | Item 17                            |

| Obligation                    | Section in Agreement                      | Item in Disclosure Document |
|-------------------------------|-------------------------------------------|-----------------------------|
| (w) Non-competition covenants | Article 21 of Franchise Agreement         | Item 17                     |
| (x) Dispute resolution        | Articles 23 and 25 of Franchise Agreement | Item 17                     |

## **ITEM 10**

### **FINANCING**

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

## **ITEM 11**

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

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

#### **Pre-Opening Assistance**

Before you open your TILTED KILT Restaurant, we and/or our Area Representative, if applicable, will:

1. Assist you in locating the site for your TILTED KILT Restaurant, by evaluating a site that you propose and accepting or rejecting such site as a Franchised Location if it meets our criteria. You must locate and obtain our acceptance of the Franchised Location within 6 months of signing the Franchise Agreement and must open your TILTED KILT Restaurant within 18 months of signing the Franchise Agreement. It is your responsibility to obtain our written acceptance of the Franchised Location and the lease for the Franchised Location. No contractual limit exists on the time it takes us to accept or reject your proposed location; however, we typically take no more than 30 days to accept or reject your proposed location. If you do not meet your deadlines to obtain our acceptance of a site or our deadline to open the TILTED KILT Restaurant, we may terminate the Franchise Agreement. (Sections 5.1, 5.8, and 19.1.aa Franchise Agreement.)

2. Provide you with our standards and specifications for the leasehold improvements, design of the TILTED KILT Restaurant, layout, signs, color, decor, design and construction elements, products, inventory, equipment, computer hardware and software, displays and wait staff costumes, trade dress and other employee attire. We must accept the lease, if applicable, before you enter into it and of your construction plans and specifications before construction begins. You are responsible for the cost of any architectural designs and drawings that you obtain, and for any modification of the standard blueprints that we may provide to you, and for the cost of construction. (Sections 5.2, 5.3, 5.4, 5.5, and 5.6, Franchise Agreement.)

3. Provide you with information regarding the selection of suppliers of equipment, costumes or employee attire, items and materials used, and food and beverage products and merchandise offered for sale, in your TILTED KILT Restaurant. We will make available to you a list of required, approved and recommended suppliers, if any, of such equipment, costumes, trade dress, other employee attire, items, materials, food and beverage products, merchandise and, if available, a description of any regional or central purchase and supply agreements offered by such recommended and required suppliers for the benefit of our franchisees. (Section 14.5, Franchise Agreement.)



4. Before the Restaurant's opening, we furnish S.T.E.P. Training described below in this Item. (Sections 6.1 and 6.2, Franchise Agreement.)

5. Grant you access to our confidential and proprietary Manuals, covering the specifications, standards, recipes and operating procedures that we require in a TILTED KILT Restaurant and information about your obligations in this regard. (Section 8.1, Franchise Agreement.)

### **Continuing Assistance**

During the operation of your TILTED KILT Restaurant, we and/or our Area Representative, if applicable, will:

1. Provide opening assistance from one or more of our representatives to assist you and your employees in the opening and initial operation of your TILTED KILT Restaurant. (Section 7.1, Franchise Agreement.)

2. Continue to grant you access to our confidential and proprietary Manuals. (Section 8.1, Franchise Agreement.)

3. Approve the types of menu items and other products and services offered in your TILTED KILT Restaurant, as we may periodically modify. (Section 10.1.d, Franchise Agreement.)

4. Provide our standards and specifications for products and services offered at or through your TILTED KILT Restaurant and for the Franchised Location, equipment, furniture, fixtures, inventory policies, menus, food, packaging, paper products, employee attire, cast members, supplies, forms, advertising material and other items used in connection with your Restaurant. (Section 14.2, Franchise Agreement.)

### **Advertising and Promotion**

**Initial Advertising and Follow-Up Local Advertising.** Your initial promotional advertising campaign will be conducted at or around the time your TILTED KILT Restaurant opens for business, in a manner and based on a schedule which we must first approve. Afterwards, you must spend a minimum average per calendar quarter of 4% of your total quarterly Gross Sales ("Minimum Advertising Expenditure") on local advertising that has been pre-approved by us. An accounting of your advertising expenditures may be requested. If so, you must submit it to us within 15 days after the end of each calendar quarter. Some or all of your Minimum Advertising Expenditure may be reallocated so that it is paid to a Local Advertising Group, if one exists in your area. National Advertising Contributions and required payments to a Local Advertising Group will be counted toward your total Minimum Advertising Expenditure so that your combined advertising payments will not exceed the 4% of Gross Sales.

You may create your own advertising and promotional materials; however, all advertising and promotion by you must be in such media and of such type and format as we may approve and must be conducted in conformance with the standards and requirements as we may specify. You must submit to us samples of all advertising and promotional materials that have not been prepared or previously approved by us at least 30 days prior to publication, broadcast or use. If we do not approve your advertising and promotional material within 30 days of submission, the material is deemed disapproved. Your Restaurant must participate in promotions we institute periodically. We reserve the right, upon 30 days prior written notice to you, to require that you participate in electronic advertising by creating, customizing or providing access to a linked web page or otherwise.

We may require that you use and participate in any social media or other electronic advertising programs. If permitted or required by us, all such social media and electronic advertising must be conducted only in accordance with our guidelines (including our guidelines for posting any messages or commentary). We will own the rights to all social media and other online presences. Any amounts that you are required to spend on electronic advertising will be credited toward the your Minimum Advertising Expenditures.

### **National Advertising Contribution**

You must remit to us an advertising contribution (“National Advertising Contribution”) of up to 2% of your Gross Sales, and we currently collect the maximum 2% of Gross Sales. The National Advertising Contribution is due to us along with your Royalty payment, payable weekly on the day of the week we may periodically designate, based on the amount of Gross Sales in the previous week. We forward all National Advertising Contributions collected from all TILTED KILT Restaurants to TKNAMF, and such payments are deposited in a bank account separated from our operating account (“Advertising Fund”). All company-owned TILTED KILT Restaurants will pay into the Advertising Fund on an equal percentage basis with all franchised TILTED KILT Restaurants. If you request it in writing, we will send you an annual, unaudited financial statement for the Advertising Fund that shows how the Advertising Fund had been spent during the previous calendar year. Because we do not have the Advertising Fund audited, audited financial statements are not available to franchisees.

We have the right to cause the Advertising Fund to be incorporated or operated through an entity separate from us at such time as we deem appropriate, and such successor entity will have the same rights and duties as we do. We currently administer the Advertising Fund through TKNAMF in our sole discretion. The Advertising Fund proceeds may be used for the creation, production and placement of commercial advertising, agency costs and commissions, creation, production and purchase of video, audio, and written advertisements, including direct mail, radio and other media advertising and employing advertising agencies and in-house staff assistance, gift card programs and other customer loyalty programs, secret shopper programs, and sponsorships, supporting public relations, market research, brand recognition, administering online, website, and other electronic advertising and marketing campaigns (including search engine, social media, email, and display ad campaigns), developing and maintaining application software designed to run on computers and similar devices, including tablets, smartphones and other mobile devices, as well as any evolutions or “next generations” of any such devices, and other advertising and marketing activities. None of the Advertising Fund proceeds shall be used principally to solicit new franchise sales.

We may reimburse ourselves from the Advertising Fund for administrative costs, salaries and overhead expenses related to the implementation and administration of the Advertising Fund and its marketing programs, including conducting market research, preparing material and collecting and accounting for Advertising Fund contributions. In any fiscal year we may spend an amount greater or less than the aggregate contribution of all TILTED KILT Restaurants to the Advertising Fund in that year. The Advertising Fund may borrow from us or other lenders to cover deficits or cause the Advertising Fund to invest any surplus for future use. Any amounts remaining in the Advertising Fund at the end of each year accrue and we apply them toward the next year’s expenses. We do not guarantee that advertising expenditures from the Advertising Fund will benefit you or any other franchisee directly or on a pro rata basis. The Advertising Fund is not a trust fund, and we do not owe a fiduciary duty to you with respect to the maintenance, direction, or administration of the Advertising Fund. We assume no other direct or indirect liability or obligation to you for collecting amounts due to any advertising account or for maintaining, directing or administering any advertising account. We reserve the right to terminate the Advertising Fund upon 30 days prior written notice to all franchisees. If the Advertising Fund is terminated, then we will (at our option) either spend the remaining Advertising Fund assets on marketing activities described above or distribute the unspent assets to contributors

(including us and our affiliates, if applicable) then contributing to the Advertising Fund in proportion to their contributions during the preceding 12-month period.

We may use outside advertising agencies and personnel and in-house personnel to create local, regional, and national advertising, including ad slicks, radio spots, direct mail, billboards and other marketing pieces and programs. We may, in our sole discretion, elicit input on advertising from all or a group of franchisees. You must purchase local advertising separately through local marketing and media sources within a geographical area. Local advertising is primarily your responsibility.

During the 2017 fiscal year, we spent 38.3% of the Advertising Fund for production, 36.3% for media placement, 11.8% for administrative expenses, and 13.6% for other expenses, including field marketing services, secret shopper programs, sports TV guide, sponsorships, research, consultants, public relations, and website maintenance and development.

**Local Advertising Group.** We may, upon 30 days written notice to you, create a local advertising group (“Local Advertising Group” or “LAG”) in the market area where you are located, at which time you must become a member of the Local Advertising Group. There are currently no LAGs in existence. If a Local Advertising Group is formed, we will direct whether all or a portion of your Minimum Advertising Expenditure be contributed to the Local Advertising Group, on the same basis as other Restaurants in the market area. If we form a Local Advertising Group for your market area, you will be bound by the decisions of the majority of the LAG members regarding expenditures, assessments and dues, to the extent we approve them. If you fail to participate in the Local Advertising Group or pay any applicable fees or dues, you breach the Franchise Agreement.

You receive credit for payments to the Local Advertising Group toward your Minimum Advertising Expenditure. If you are contractually bound by your lease or mall regulations to expend a required amount on advertising, the LAG must factor this in when considering your dues and assessments to be paid to the LAG.

We must approve all advertising materials before they are used by a Local Advertising Group or furnished to its members. Each LAG must prepare unaudited annual financial statements and send them to you if you request them in writing. We have the right to determine the scope of the geographical areas included in each Local Advertising Group. We can form, determine the bylaws for, change or dissolve the LAG. We also have the right to determine whether and to what extent the LAG will be self-administered. Each Local Advertising Group would operate under written bylaws which franchisees can view. Either we or the LAG may create the LAG’s advertising materials or programs, but advertising created by any Local Advertising Group is required to have our written approval before use.

**Franchisee Advisory Council.** In 2009, we formed a Franchisee Advisory Council (“FAC”). Currently, the members of the FAC are nominated and elected by franchisees. We determine which FAC nominees to include on the ballot based on voting response, regional spread of FAC, compliance and overall performance. If there is ever a vacancy on the FAC or if we expand the number of members on the FAC, we may appoint a member or members to serve in the open role or roles. The FAC shall serve an advisory role and does not have any decision-making power. We reserve the right to change the FAC.

## **Manuals**

Exhibit F to this Disclosure Document is the tables of contents of our Manuals. The total number of pages in the Manuals is approximately 1,326 pages.

## **Computer Systems**

As described in Item 8 above, you must purchase or lease computer equipment and an electronic point-of-sale system, together with software, meeting our specifications (together with the software, referred to as "Computer System"). We currently require you to purchase or lease the following components for the Computer System:

*Front-of-House Hardware*

- 6-8 Radiant 1520 (or current standard) Computer Terminals
- 6-8 Magnetic Stripe Readers
- 6-8 Radiant Thermal Receipt Printers
- 6-8 Power Conditioners for POS Terminal
- 5 Cash Drawers for Radiant Terminal
- 5-6 Radiant Impact Kitchen Printers + Adaptors & Cables
- 6 Power Conditioners for Remote Printer

*Back-of-House Hardware*

- 1 Dell Optiplex 960 Server (or current standard)
- 1 Internal CD Writer / Re-Writer
- 1 17" LCD Flat Screen Monitor
- 1 Server - Power Conditioner
- 1 Server - UPS Power Backup Triplite
- 1 External Modem
- 2 D-LINK 8 Port Switches
- 1 HP BOH PRINTER
- 1 WatchGuard (or equivalent SDCR provided)

*Software*

- 6-8 Aloha TableService Software Keys
- Aloha EDC - Credit Card Authorization Software
- Radiant Command Center Support Software
- Ctuit Reporting module
- Network Security Package & Anti-Virus Suite
- LogMeIn Remote Software

The Computer System allows you to record sales and provides you with information necessary to prepare periodic reports and financial statements in accordance with our standards and specifications and to monitor your inventory. The Computer System currently approved by us permits us to receive information concerning sales and inventory of your TILTED KILT Restaurant. We have independent access to this data, and there are no contractual limitations on our right to access this data.

We have our own proprietary software package developed by Aloha specifically for the Restaurants that you are required to purchase. You must use all proprietary software according to our then-current guidelines. The Computer System installation, configuration and integration must be performed in accordance with our standards and specifications. If you have hardware and software that is compatible and equivalent to our standards and specifications, we may consider approving your use of such hardware and software after our review.

The cost of the Computer System ranges from \$36,000 to \$60,000. We reserve the right to retrieve information contained in the computer databases through on-line communication with your Computer System. We have no contractual limitation on our right to receive information through your Computer System. You will need high-speed internet access such as DSL or cable line meeting our requirements and must join and pay for an electronic network connection service to facilitate communication with us and among our franchisees, which we estimate will cost \$100 to \$200 per month.

We may require you to purchase, install and implement updates, revisions, additions and replacements to the Computer System. No contractual limitation exists on the frequency and cost of this obligation. We estimate that the current annual costs of any support contracts will be approximately \$2,000 to \$6,000.

### **Site Selection Assistance**

You will select and acquire the location for your TILTED KILT Restaurant. When you have selected a proposed location for your TILTED KILT Restaurant you must submit information to us regarding the location, including a psychographic report, so that we may accept or reject the proposed location. The following factors are considered by us when we review a proposed location: location character and desirability; physical characteristics of the proposed location and building; demographics; psychographics; traffic patterns; competition; size of the property and building; lease terms and rates or purchase terms; availability of a liquor license; visibility and parking access. We may, but are not obligated to, send our representative to your proposed location for on-site assessment before granting acceptance of a location. (Section 5.1, Franchise Agreement) We do not generally own the location for your TILTED KILT Restaurant.

### **Schedule For Opening**

We estimate that the typical length of time between the date you sign the Franchise Agreement and the date your TILTED KILT Restaurant opens will be approximately 12 to 18 months. The factors which may affect this time period are your ability to locate a site, secure financing, and obtain a lease or build a facility, as well as the extent to which an existing location must be upgraded or remodeled, the acquisition of a liquor license, the delivery schedule for equipment, product and supplies, and completing your training. You must open your TILTED KILT Restaurant within 18 months after you sign the Franchise Agreement. We may terminate the Franchise Agreement if you fail to open within the 18-month period.

### **Training Program**

You (or, if you are an entity, the “Principal Owner” (as defined in Item 15)) and your General Manager must attend and complete our Spectacular Training and Education Program (“S.T.E.P. Training”) to our satisfaction before you select the Franchised Location for our approval, but in no event later than 90 days after signing the Franchise Agreement. However, if you have already received approval of the Franchised Location when you sign the Franchise Agreement, you (or, if you are an entity, the Principal Owner) and your General Manager will have 60 days after signing the Franchise Agreement to complete S.T.E.P. Training to our satisfaction. Our S.T.E.P. Training currently consists of approximately 19 days of verbal, written, or video classroom and on-the-job training in a Restaurant at or near our corporate headquarters in Tempe, Arizona, or another location that we designate. We do not charge you for S.T.E.P. Training for up to four individuals when you are opening your first Restaurant. If you are opening a second or subsequent Restaurant, we may charge S.T.E.P. Training tuition for your additional attendees and replacement managers at our then-current rate. However, you must pay the travel, living expenses, and wages for you and all of your employees who attend the training sessions. We reserve the right to charge our then-current published rate for additional attendees. Your General Manager and at least one other manager of your Restaurant must also attend any on-site training we provide at the Franchised Location at or around the time the Restaurant begins operations. We recommend that before you open your Restaurant that your Restaurant’s General Manager and at least one other manager attend and participate in the opening for another Restaurant for approximately one week.

Your General Manager and at least one other manager will be required to attend, at your expense, any mandatory seminars, conventions, programs, or meetings we (or third parties designated by

us) may offer. We will give you at least 30 days written notice of any mandatory seminars, conventions, programs, or meetings. We currently require your General Manager to attend any annual national convention and your General Manager and designated managers and employees to attend any local or regional seminars, which we may hold up to two times per year. Your General Manager and you (or your Principal Owner if you are an entity) or at least one other manager if you (or your Principal Owner) cannot attend, must attend either our national convention or our then-current S.T.E.P. Training at least once every 24 months. We reserve the right to require you to attend both the convention and training seminars. We reserve the right to charge a tuition or fee, at our then current published rates, for certain of these local, regional or national meetings or training sessions. You are responsible for all travel and living expenses associated with attendance at any such meetings. If the identity of your General Manager changes during the term of the Franchise Agreement, we may charge you a training fee at our then current published rate (currently \$0) to train a new General Manager.

S.T.E.P. Training is supervised by Erin ~~ColombiPlavsic~~. Ms. ~~ColombiPlavsic~~ has been our Director of Training since June 2016. Ms. ~~ColombiPlavsic~~ has 7 years of experience in the subjects taught and 7 years of experience with us.

We hold training sessions on an as-needed basis as determined by us. The instructional materials for S.T.E.P. Training shall consist of our Manuals. Our training program currently consists of the following:

## TRAINING PROGRAM

### S.T.E.P. TRAINING

| Subject                     | Hours of Classroom / Web-Based Training | Hours of On-The-Job Training | Location                                                                |
|-----------------------------|-----------------------------------------|------------------------------|-------------------------------------------------------------------------|
| Brand Class                 | 7                                       | 0                            | Remotely via the Internet and Tempe, Arizona or a location we designate |
| Captain's Table             | 1.5                                     | 0                            | Remotely via the Internet and Tempe, Arizona or a location we designate |
| BOH Solution/Prime Cost     | 2                                       | 0                            | Remotely via the Internet and Tempe, Arizona or a location we designate |
| POS Training                | 1                                       | 0                            | Tempe, Arizona or a location we designate                               |
| Purchasing                  | 1.5                                     | 0                            | Tempe, Arizona or a location we designate                               |
| Accounting                  | 1                                       | 0                            | Tempe, Arizona or a location we designate                               |
| Casting                     | 5                                       | 2                            | Remotely via the Internet and Tempe, Arizona or a location we designate |
| Marketing                   | 7                                       | 0                            | Remotely via the Internet and Tempe, Arizona or a location we designate |
| Kitchen Operations          | 5                                       | 49                           | Remotely via the Internet and Tempe, Arizona or a location we designate |
| Bar Operations              | 1                                       | 3                            | Tempe, Arizona or a location we designate                               |
| Front of House Operations   | 11                                      | 60.5                         | Remotely via the Internet and Tempe, Arizona or a location we designate |
| Computer Systems/Accounting | 2                                       | 4                            | Tempe, Arizona or a location we designate                               |
| Assessments                 | 8                                       | 0                            | Remotely via the Internet and Tempe, Arizona or a location we designate |

| Subject            | Hours of Classroom / Web-Based Training | Hours of On-The-Job Training | Location |
|--------------------|-----------------------------------------|------------------------------|----------|
| <b>TOTAL HOURS</b> | <b>53 Hours</b>                         | <b>118.5 Hours</b>           |          |

We will provide S.T.E.P. Training to replacement or additional General Managers during the term of the Franchise Agreement. We reserve the right to charge a tuition or fee, commensurate with our then-current published prices for such training, payable in advance. You are responsible for all traveling and living expenses incurred by your personnel during such training. The availability of the training programs is subject to space considerations and prior commitments to new franchisees.

## **ITEM 12**

### **TERRITORY**

**Franchise Agreement.** Under the Franchise Agreement, you may operate your Restaurant and use the Marks and the Licensed Methods only at the Franchised Location that has been accepted by us. We base our acceptance of your proposed Franchised Location on a variety of factors including the viability and demographics of the proposed Franchised Location. If, as of the date of execution of your Franchise Agreement, you do not have the Franchised Location chosen and accepted by us, we will designate, by Addendum to the Franchise Agreement, a “Designated Area” within which to find a Franchised Location. The designation of the Designated Area does not in any manner grant to you any continuing territorial rights in or to such Designated Area. You may not relocate the Franchised Location or establish additional locations without our prior written approval.

We will specify a geographic area around your Franchised Location (“Assigned Territory”), within which we will not establish and operate, or franchise anyone else to establish and operate, other TILTED KILT Restaurants. The Assigned Territory for your Restaurant will typically be defined as a ½-mile radius around your Franchised Location, but may be less than a ½-mile radius depending on the demographics or population density in your area, or the Assigned Territory may be established by county lines, zip code boundaries, street boundaries or similar designations. The placement of a TILTED KILT Restaurant and the designation of an Assigned Territory by us depends on various market conditions around a proposed Franchised Location, including density of population, number of competitors in the market, site availability and growth potential. You may advertise your TILTED KILT Restaurant in any geographic area, and you may serve all customers who enter your TILTED KILT Restaurant. However, except in connection with any website we maintain for promoting TILTED KILT Restaurants, social media sites that we approve, and any other program we designate, you may not engage in promotional or similar activities, directly or indirectly, through the Internet. The Assigned Territory is described in the Franchise Agreement; you may not change the location of your Franchised Location or your Assigned Territory without our prior written consent. You have no option, right of first refusal or similar contractual right to acquire additional TILTED KILT franchises. The continuation of your right to operate your Restaurant in the Assigned Territory is not dependent upon achieving a certain sales volume, market penetration or other contingency. 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.

If you meet our then-current standards and specifications for offering catering, we may, in our sole discretion, provide written consent for you to provide catering services through your Restaurant. Any right to provide catering services is nonexclusive and may be withheld or withdrawn by us. You must obtain our written permission in advance if you wish to provide catering services within the Assigned Territory of another Restaurant. We will designate a “catering area” within which you are to

limit your catering services and your advertising and solicitation of catering clients. The “catering area” will be determined by us, in our sole discretion, based upon standards that address food quality and customer satisfaction. The “catering area” will be designated by zip codes, street boundaries and other means. We may also consent in writing to you providing delivery services through your Restaurant, if you meet our then-current standards for offering delivery services. You may not sell products or services by mail order or through catalogs, transship or reship products, or offer any other type of off-site service or sale of products.

We retain the rights, among others:

1. to use and to license others to use, the Marks and Licensed Methods in connection with the operation of a TILTED KILT Restaurant, at any location other than within your Assigned Territory;
2. to use the Marks and any other marks to identify promotional and marketing efforts or related items, and to identify products and services distributed or otherwise made available through alternative channels of distribution (other than TILTED KILT Restaurants), at any location, including, but not limited to, wholesale distribution, catering, temporary events, Internet distribution, by mail order, catalog sales, telemarketing or other direct marketing sales, or retail store display;
3. to use and license the use of different marks other than the Marks (for example, if we acquire another restaurant chain) in connection with the sale of products and services the same as or similar to those which you sell, or through restaurants which are the same as, or similar to, or different from TILTED KILT Restaurants at any location, and on any terms and conditions as we determine. We have no present plans to establish other related franchises or company-owned businesses selling similar products or services under a different name or trademark, although, as just stated, we reserve the right to do so;
4. to offer and sell any food and beverage services and products under the Marks at or through any permanent, temporary or seasonal non-traditional food service facility such as a stadium, sports and entertainment venue, convention center, casino, entertainment or amusement park, or airport, or at special indoor or outdoor events in the Assigned Territory; and
5. to engage in any activity not specifically prohibited by the Franchise Agreement.

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

As described in Item 1, our affiliate, ARC, offers franchises for sports-themed, casual, full-service restaurants under the trademark “Dick’s Wings & Grill®,” which offer a specialized menu of buffalo-style chicken wings, specialty sandwiches, burgers, salads, and domestic and craft beer selections. Dick’s Wings & Grill restaurants are both franchised and owned by ARC or its affiliates. Operators of Dick’s Wings & Grill restaurants are not restricted from soliciting or accepting orders in your Assigned Territory. We are not obligated to resolve potential conflicts between our franchisees and operators of Dick’s Wings & Grill restaurants. ARC’s principal business address is 6327-4 Argyle Forest Boulevard, Jacksonville, Florida 32244.



## ITEM 13

### TRADEMARKS

Under the Franchise Agreement, we license to you the non-exclusive right to use, for the operation of your Restaurant, the trademarks “TILTED KILT,” “A COLD BEER NEVER LOOKED SO GOOD,” and other trademarks, service marks and commercial symbols that we may authorize.

~~On September 27, 2005, Let’s Eat, Inc. obtained a registration for the service mark TILTED KILT on the United States Patent and Trademark Office, Principal Register, Registration No. 2,999,841, for use in connection with restaurant services. On January 21, 2006, Let’s Eat, Inc. assigned all right, title and interest in the service mark TILTED KILT to TKFL.~~

Under the Trademark and System License Agreement dated January 22, 2006 (“License Agreement”), TKFL licenses to us for a period of 49 years the right to use and sublicense the Marks and Licensed Methods in granting franchises. The License Agreement is automatically renewable for additional periods of 10 years unless earlier terminated in accordance with the terms of the License Agreement. We must use, display and sublicense the Marks only in compliance with mandated quality standards. If we fail to comply with the terms and conditions of the License Agreement and do not cure the default within 90 days after receipt of written notice, or an extended period if we are diligently pursuing a cure to completion, TKFL will have the right to terminate the License Agreement. TKFL also has the right to terminate the License Agreement if we are insolvent, make an assignment for the benefit of our creditors or other unapproved assignment or transfer of our rights under the License Agreement, or our assets are placed in the hands of a trustee or receiver. Upon termination of the License Agreement as a result of a default, our rights under any Franchise Agreement or other license will be deemed to be automatically assigned, at TKFL’s option, to TKFL or its designee. TKFL has registered or has pending applications to register the following trademarks on the Principal Register of the United States Patent and Trademark Office (“USPTO”):

| Mark                                                                                                           | Registration Date/Filing Date | Registration/App. No. |
|----------------------------------------------------------------------------------------------------------------|-------------------------------|-----------------------|
|                             | August 14, 2012               | Reg. No. 4,189,961    |
| <br>(female server costume) | April 5, 2016                 | Reg. No. 4,933,543    |
| TILTED KILT                                                                                                    | March 15, 2011                | Reg. No. 3,931,007    |
| TILTED KILT                                                                                                    | March 8, 2011                 | Reg. No. 3,928,728    |
| TILTED KILT                                                                                                    | September 27, 2005            | Reg. No. 2,999,841    |
| TILTED KILT PUB & EATERY                                                                                       | November 13, 2007             | Reg. No. 3,334,851    |

| Mark                             | Registration Date/Filing Date | Registration/App. No. |
|----------------------------------|-------------------------------|-----------------------|
| A COLD BEER NEVER LOOKED SO GOOD | March 15, 2005                | Reg. No. 2,932,558    |

All required affidavits and renewals of use have been filed.

There are no presently effective adverse determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, from any pending infringement, opposition or cancellation proceedings or material litigation involving TKFL ownership, use or registration of the Marks. Other persons or entities may have claims of prior use or registrations of other marks which are confusingly similar to our Marks. Otherwise, we do not know of any superior or prior rights or infringing uses that could materially affect your use of the Marks in any state.

Under the Franchise Agreement, you must use the Marks as the sole service marks identifying your Restaurant. We require that you identify yourself as the independent owner of the Restaurant in the manner as we may designate. In addition, you may not use any Mark as part of any corporate or trade name or with any prefix, suffix, or other modifying words, terms, designs or symbols (other than logos licensed to you), or in any modified form, nor may you use any Mark to identify unauthorized services or products or in any other manner not expressly authorized in writing by us. Except as permitted in the Manuals, you may not use any of the Marks as part of an electronic mail address or on any sites on the Internet and you may not use or register any of the Marks as part of a domain name on the Internet. You must modify or discontinue your use of the Marks if we require modification or discontinuance, at your own expense.

We are not contractually obligated by the Franchise Agreement to protect you against claims of infringement or unfair competition regarding your use of the Marks, but we may when, in the opinion of our legal counsel, your rights require protection. We pay all costs, including reasonable attorneys' fees and court costs, associated with any litigation we commence or defend on your behalf to protect the Marks and your right to use them. You must cooperate with us in any litigation. Any apparent infringement of or challenge to your use of any Marks should be brought to our attention immediately and you may not communicate with any person other than us or our counsel regarding any such matter. You may not settle any claim without our written consent. We have sole discretion to take any appropriate action. We have the right to control exclusively any litigation, United States Patent and Trademark Office proceeding or any other administrative proceeding arising out of any infringement, challenge or claim relating to any Mark.

## **ITEM 14**

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

We do not own any patents, pending patent applications or copyright registrations which are material to the franchise. We consider our Manuals, our construction plans, our training materials, our recipes and food preparation techniques, our Licensed Methods, any software that we may in the future develop and any and all other related materials as our proprietary and confidential property. You may use the Manuals only as described in the Franchise Agreement. You must not duplicate the Manuals nor disclose its contents to persons other than your employees or officers who have signed a confidentiality and noncompetition agreement in a form approved by us. We require that you maintain the confidentiality of our proprietary information and adopt reasonable procedures to prevent unauthorized disclosure of our trade secrets and proprietary information. Although we have not obtained a copyright registration, we or our affiliates own the copyright on our Manuals, product packaging, theme song lyrics and other works.

## **ITEM 15**

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

You (or your Principal Owner) are not required to participate personally in the direct operation of your TILTED KILT Restaurant, but you are solely responsible for the successful operation of the TILTED KILT Restaurant. If you are an entity, the “Principal Owner” is the owner identified in the Franchise Agreement who is a natural person with the greatest percentage of ownership interest and voting power in you, as compared to the remaining owners. We have the right and you will authorize us to consider the Principal Owner as the chief executive officer who is authorized to represent you in such capacity. If you (or your Principal Owner) do not participate in the day-to-day operation of the TILTED KILT Restaurant, you will need a General Manager to be responsible for the direct on-premises supervision of the TILTED KILT Restaurant at all times during its hours of operation. Otherwise, you (or your Principal Owner) must be designated as a General Manager with these responsibilities. The Restaurant must at all times have on-site management that has successfully completed our S.T.E.P. Training. We have the right to require that the General Manager and other managers attend, at your cost, training that we specify. You must closely monitor and constantly evaluate the management qualities of your General Manager and management staff in order to establish and maintain effective management of your TILTED KILT Restaurant. Maintaining effective management of the TILTED KILT Restaurant is solely your responsibility.

If you are a corporation, limited liability company or partnership, we do not require that your General Manager own an equity interest in the entity. Your General Manager and each of your officers, directors, partners, shareholders, members and employees as we may designate must agree to be bound by the nondisclosure provisions of the Franchise Agreement and must sign a separate nondisclosure and noncompetition agreement with us (Exhibit G to this Disclosure Document).

If you are a corporation, limited liability company or partnership, each of your owners will be required to sign an agreement (Exhibit C to the Franchise Agreement) personally guaranteeing and agreeing to perform all obligations of the franchisee under the Franchise Agreement, if applicable. The spouse of each owner may also be required to acknowledge the guaranty.

## **ITEM 16**

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

You may sell only those products and services approved by us and may not use the TILTED KILT Restaurant or the Franchised Location for any purposes other than the operation of a TILTED KILT Restaurant. You shall not sell any menu items or other products or services not previously approved by us and you shall not produce or distribute any menu items, products and services for non-retail or off-site sale. You shall not offer catering or delivery services without our prior written approval. You may not fill “wholesale orders,” sell products or services off-premises (unless we have approved you, in writing, to provide catering, delivery services or other off-premises sales), by mail order or through catalogs or the Internet, or transship or reship products for retail sale at any other location. You must sell all of the menu items and products and services approved by us, including retail items such as caps, T-shirts, jackets and similar apparel. You must offer and sell all products and services required by us, including “limited time offering” promotions as well as any other promotions implemented by us. You must comply with our standards and specifications for menu items and related preparation methods. You are restricted from selling alcoholic beverages to minors and you may be limited from allowing them to participate in other activities (e.g., gambling) as well. You are restricted from selling alcohol for off-premises consumption. Gaming laws may prohibit the offer of gambling and other games of chance at your Restaurant. You may be required to use a secret shopping service which

we have approved, to visit your Restaurant up to once a month. We have the right to approve all items on your menu. We have the right to change or supplement the types of authorized products and services, and there are no limits on our right to do so.

## **ITEM 17**

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

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

#### **THE FRANCHISE RELATIONSHIP**

| <b>Provision</b>                                  | <b>Section in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Length of the franchise term                   | Section 18.1                          | 20 years                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| b. Renewal or extension of the term               | Sections 18.2 and 18.3                | Term in then-current franchise agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| c. Requirements for franchisee to renew or extend | Sections 18.2 and 18.3                | Comply with all provisions, remodel, upgrade computer software and hardware, pay fee, timely sign new franchise agreement (which terms may materially differ from the Franchise Agreement) and sign general release; provide us notice of your intention to renew 120 to 180 days before end of term. You may be asked to sign a contract with materially different terms and conditions than your original contract if you choose to renew.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| d. Termination by franchisee                      | Not Applicable                        | Not Applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| e. Termination by franchisor without cause        | Not Applicable                        | Not Applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| f. Termination by franchisor with cause           | Sections 19.1 and 19.2                | We can terminate only if you commit any one of several listed violations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| g. "Cause" defined - curable defaults             | Sections 19.1 and 19.2                | 10 days for monetary defaults, misuse of Marks, purchases from non-approved vendors or suppliers, and non-compliance with costume or other employee attire requirements; 72 hours for health or safety violations; 30 days for all other curable defaults.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| h. "Cause" defined - non-curable defaults         | Section 19.1                          | Unauthorized disclosure of trade secrets or confidential information; arrest for or conviction of felony or other crime likely to unfavorably affect the Marks or franchise system; failure to report any sales; Title VII or similar violation; violation of the Fair Labor Standards Act or similar state wage and hour law; failure to complete training on time; failure to have the Restaurant managed by a trained manager or to have employed fewer than 2 trained managers; abandonment for 3 consecutive days; unauthorized transfer; immediate health or safety concern; refusal to allow inspection; refusal to provide certificates of insurance; failure to operate in compliance with standards and specifications; bankruptcy or insolvency, assignment for benefit of creditors, appointment of receiver, unsatisfied judgments, levy, foreclosure, tax liens; repeated violations; misrepresentation; unethical or dishonest conduct; termination of other agreements; loss of right to occupy Franchised Location; violation of non-competition covenant; and failure to commence operation of the Restaurant on schedule. |

| <b>Provision</b>                                                          | <b>Section in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| i. Franchisee's obligations on termination/ nonrenewal                    | Section 19.5                          | Pay outstanding amounts; cease to identify the Franchised Location as a present or former TILTED KILT Restaurant and yourself as a present or former TILTED KILT franchisee; deliver to us all signs and materials containing the Marks; cease using our Marks; cease using our proprietary property, including software and databases; return Manuals and other proprietary information; cancel fictitious or assumed business names using the Marks; notify telephone company; cease using, disable, or transfer to us any social media and other online accounts related to your TILTED KILT Restaurant; assign lease for the premises to us; abide by covenant not to compete (see also r. below).                                                  |
| j. Assignment of contract by franchisor                                   | Section 17.6                          | No restriction on our right to assign.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| k. "Transfer" by franchisee – defined                                     | Section 17.1                          | Includes transfer or assignment of: Franchise Agreement; TILTED KILT Restaurant; any assets of the TILTED KILT Restaurant; any ownership interest or lease in Franchised Location; or any change in ownership of franchisee entity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| l. Franchisor approval of transfer by franchisee                          | Section 17.3                          | Our prior, written approval is required for all transfers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| m. Conditions for franchisor's approval of transfer                       | Section 17.2                          | You are in compliance with the Franchise Agreement. Your TILTED KILT Restaurant is open for business. All amounts are due and paid in full, including the transfer fee. You must provide 45 days prior written notice, execute a general release, abide by the post-termination covenant not to compete, and agree to transferee's receipt of reports. Transferee must execute the then current franchise agreement (which may materially differ from the Franchise Agreement and which will require the transferee's owners to sign a guaranty), agree to complete S.T.E.P. Training, upgrade and/or remodel the TILTED KILT Restaurant to our current standards, and provide sufficient information for us to assess the transferee's qualifications. |
| n. Franchisor's right of first refusal to acquire franchisee's business   | Section 17.4                          | 45-day right of first refusal to purchase under same terms and conditions as any written offer by proposed purchaser/transferee, including the following: we receive written notice of the proposed offer; 45 day period; additional 45 days if there are material changes; we may purchase the interest which is proposed to be sold for cash equivalent if we cannot match offer; compliance with transfer or assignment provisions if we elect not to exercise our right; and we may assign our right of first refusal to another party.                                                                                                                                                                                                             |
| o. Franchisor's option to purchase franchisee's business                  | Section 19.4                          | We may buy your TILTED KILT Restaurant or any portion of the assets of the TILTED KILT Restaurant upon termination or non-renewal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| p. Death or disability of franchisee                                      | Section 17.7                          | Franchise must be assigned to approved successor within 180 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| q. Non-competition covenants during the term of the franchise             | Sections 21.1 and 21.5                | No interest or involvement in competing business and no diversion. No solicitation of our or our franchisees' current and former employees                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| r. Non-competition covenants after the franchise is terminated or expires | Sections 21.2 and 21.5                | No interest in a competing business for 2 years within 5 miles of your TILTED KILT Restaurant. No solicitation of our or our franchisees' current or former employees for 12 months                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| s. Modification of the agreement                                          | Section 25.2                          | No modifications generally without both parties' written consent, but Manuals subject to change.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| Provision                            | Section in Franchise Agreement | Summary                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| t. Integration/merger clause         | Section 25.3                   | Only terms of Franchise Agreement are binding (subject to state law). Any representation or promises outside of the Disclosure Document and Franchise Agreement may not be enforceable. However, nothing in the Franchise Agreement is intended to disclaim the representations we made in the Disclosure Document that we furnished to you. |
| u. Dispute resolution by arbitration | Section 23.1                   | All disputes must be arbitrated within 50 miles of our then current principal place of business (currently Tempe, Arizona) (subject to state law).                                                                                                                                                                                           |
| v. Choice of forum                   | Section 23.2                   | Exclusive jurisdiction in the state or federal court which is closest to our then current principal place of business (currently Tempe, Arizona) (subject to state law).                                                                                                                                                                     |
| w. Choice of law                     | Section 23.2                   | Arizona law applies (subject to state law).                                                                                                                                                                                                                                                                                                  |

Applicable state law might require additional disclosures related to the information contained in this Item 17. These additional disclosures, if any, appear in Exhibit J.

## **ITEM 18**

### **PUBLIC FIGURES**

We do not use any public figure to promote the TILTED KILT franchise system.

## **ITEM 19**

### **FINANCIAL PERFORMANCE REPRESENTATIONS**

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

#### **Average Weekly Unit Volume for Restaurants in the United States in 2017 for the 52-week period from July 24, 2017 to July 22, 2018**

The information in this Item 19 reflects Average Weekly Unit Volume ("AWUV") for the ~~2017 calendar year~~ 52-week period from July 24, 2017, to July 22, 2018 (the "Measurement Period"). Any Restaurant, franchised or company-owned, open as of ~~December 31, 2017~~ July 22, 2018, that was open for ~~any portion of the 2017 calendar year~~ the entire Measurement Period, and was located in the United States is included in this Item 19.

Unit volume was calculated in the same manner as you will calculate Gross Sales under the Franchise Agreement. "Gross Sales" means the aggregate amount of all sales of products, services, merchandise, or activities of every kind or nature sold at, from, through or otherwise in connection with the operation of a Restaurant, whether for cash or credit, including, without limitation, revenue from admissions, event charges, cover charges, vending machines, jukeboxes and gaming devices, lottery tickets, video games and coin-operated games, less returns for which refunds are made (not to exceed

sale price), and excluding (i) all federal, state or municipal sales or service taxes collected from customers and paid to the appropriate taxing authority, and (ii) other discounts (including the amount of employee discounts) and exclusions as may be authorized in writing by us. "Gross Sales" includes gift card redemptions, condemnation awards, all insurance proceeds received for loss or interruption of business due to a casualty or similar event at the Restaurant and the fair market value of any services or products received in barter or exchange for services and products. All comps, or parts or all of a meal offered to customers on the house, in excess of 2% of Gross Sales shall be included in Gross Sales except during the first 90 days after the Restaurant commences operation.

With respect to franchised Restaurants, the data used to calculate the Restaurants' unit volume was obtained either from reports submitted by franchisees or by our polling the information directly from the franchisees' point-of-sale systems. Neither we nor our affiliates have undertaken an independent investigation to verify the amounts reported by franchisees.

### **Average Weekly Unit Volume for Franchisee-Owned Restaurants in 2017**

There were ~~51~~ 39 franchisee-owned Restaurants open in the United States as of ~~December 31, 2017~~ July 22, 2018. Of these ~~51~~ 39 Restaurants, ~~49~~ 39 Restaurants were franchisee-owned and operated, 1 Restaurant was owned and operated by our affiliate, and 1 Restaurant is owned by an entity in which we own 70% of the membership interests. Each of the ~~49~~ 39 franchisee-owned Restaurants ~~is~~ we included in ~~the data set that we used to prepare the tables below.~~ 41 of the 49 Restaurants were open for all 52 weeks in 2017, and 8 were open for fewer than 52 weeks because they were not open throughout the entire Measurement Period. As a result, there are 35 franchisee-owned Restaurants reflected in the table below. We calculated a given Restaurant's AWUV by taking each Restaurant's Gross Sales for all of ~~2017~~ the Measurement Period and dividing that figure by ~~the number of weeks that the Restaurant was open in 2017~~ 52. We then separated the 35 Restaurants into three tiers based on each Restaurant's AWUV. We calculated AWUV within each tier by adding the AWUV for all Restaurants within a given tier and dividing by the number of Restaurants within that tier. There are ~~46~~ 12 Restaurants in the top-third and ~~middle-third~~ lower-third tiers and ~~47~~ 11 Restaurants in the ~~lower-third~~ middle-third tier. We have also listed in the table below, for each tier, the highest and lowest AWUV that a Restaurant obtained within that tier and the median unit volume.

| <b>Top Third</b>                                                         |                         |
|--------------------------------------------------------------------------|-------------------------|
| AWUV for all Restaurants in Top Third Tier                               | <u>\$51,836,484,26</u>  |
| Median Unit Volume for Restaurants in Top Third Tier                     | <u>\$46,156,42,038</u>  |
| Highest Restaurant AWUV                                                  | <u>\$103,143,99,571</u> |
| Lowest Restaurant AWUV                                                   | <u>\$38,835,36,549</u>  |
| Number of Restaurants (and percentage) Exceeding AWUV for Top Third Tier | <u>63 (37.525.0%)</u>   |

| <b>Mid Third</b>                                                         |                        |
|--------------------------------------------------------------------------|------------------------|
| AWUV for all Restaurants in Mid Third Tier                               | <u>\$33,777,31,629</u> |
| Median Unit Volume for Restaurants in Mid Third Tier                     | <u>\$34,126,31,475</u> |
| Highest Restaurant AWUV                                                  | <u>\$37,143,35,217</u> |
| Lowest Restaurant AWUV                                                   | <u>\$29,768,29,862</u> |
| Number of Restaurants (and percentage) Exceeding AWUV for Mid Third Tier | <u>94 (56.336.4%)</u>  |

| <b>Lower Third</b>                                     |                        |
|--------------------------------------------------------|------------------------|
| AWUV for all Restaurants in Lower Third Tier           | <u>\$23,471,20,440</u> |
| Median Unit Volume for Restaurants in Lower Third Tier | <u>\$23,938,20,460</u> |
| Highest Restaurant AWUV                                | <u>\$29,713,27,793</u> |
| Lowest Restaurant AWUV                                 | <u>\$10,357,10,712</u> |

|                                                                               |                |
|-------------------------------------------------------------------------------|----------------|
| Number of Restaurants (and percentage) Exceeding<br>AWUV for Lower Third Tier | 97 (52.958.3%) |
|-------------------------------------------------------------------------------|----------------|

**Average Weekly Unit Volume for ~~Company-Owned~~Affiliate-Owned Restaurants in 2017  
for the 52-week period from July 24, 2017 to July 22, 2018**

As of July 22, 2018, in the United States, there were 2 affiliate-owned Restaurants. The AWUV and the median for the 2017 calendar year Measurement Period for these 2 ~~company-owned~~affiliate-owned Restaurants was \$55,328\$51,551 (with 1 Restaurant (50.0%) meeting or exceeding the average of these 2 Restaurants). Each of these 2 Restaurants was open for all 52 weeks of 2017 and a range of AWUVs from \$51,760 to \$51,342.

**Some TILTED KILT Restaurants have sold these amounts. Your individual results may differ. There is no assurance that you'll sell as much.**

The results of the existing Restaurants may differ materially from your Restaurant based on the length these Restaurants have been operating, the market recognition of the TILTED KILT brand in its existing markets and the experience of the operators of these Restaurants. You are urged to consult with your financial, business and legal advisers to conduct your own analysis of the information contained in this representation.

Written substantiation for the material pertaining to this representation is available at our principal business address and will be provided upon reasonable request.

Other than the preceding financial performance representation, Tilted Kilt Franchise Operating, LLC, does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, 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 Mike Lynch, Tilted Kilt Franchise Operating, LLC, 8915 S. Harl Avenue, Tempe, Arizona 85284, (480) 456-5458 or mlynch@tkfolc.com; the Federal Trade Commission; and the appropriate state regulatory agencies.

**ITEM 20**

**OUTLETS AND FRANCHISEE INFORMATION**

**Table 1.**

**SYSTEMWIDE OUTLET SUMMARY  
FOR YEARS 2015 TO 2017<sup>(1)(3)</sup>**

| Outlet Type                      | Year        | Outlets at the Start of<br>the Year | Outlets at the End of the<br>Year | Net<br>Change |
|----------------------------------|-------------|-------------------------------------|-----------------------------------|---------------|
| Franchised and<br>Licensed       | 2015        | 89                                  | 87                                | -2            |
|                                  | 2016        | 87                                  | 82                                | -5            |
|                                  | 2017        | 82                                  | 49                                | -33           |
| Company-<br>Owned <sup>(2)</sup> | 2015        | 2                                   | 2                                 | 0             |
|                                  | 2016        | 2                                   | 2                                 | 0             |
|                                  | 2017        | 2                                   | 2                                 | 0             |
| <b>Total Outlets</b>             | <b>2015</b> | <b>91</b>                           | <b>89</b>                         | <b>-2</b>     |
|                                  | <b>2016</b> | <b>89</b>                           | <b>84</b>                         | <b>-5</b>     |
|                                  | <b>2017</b> | <b>84</b>                           | <b>51</b>                         | <b>-33</b>    |



- (1) In this table and the other tables in this Item 20, the numbers for the years ending 2015, 2016, and 2017 are as of December 31<sup>st</sup> for each year.
- (2) Owned by affiliate, Warner Kilt LLC. The Tempe, Arizona, location closed in August 2016 due to lease expiration, and Warner Kilt LLC opened a new Restaurant in Tempe, Arizona, in August 2016.
- (3) Totals do not include the 3 franchised TILTED KILT Restaurants in Canada as of December 31, 2017. From January 1, 2018, to ~~March 23~~ July 11, 2018, ~~410~~ TILTED KILT Restaurants have closed, ~~2 in New York and 1 each in Arizona, Colorado, Florida, Louisiana, Maryland, Michigan, and New York, Jersey, and Texas.~~

**Table 2.**

**TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS  
(OTHER THAN FRANCHISOR)  
FOR YEARS 2015 TO 2017**

| State         | Year        | Number of Transfers |
|---------------|-------------|---------------------|
| Florida       | 2015        | 0                   |
|               | 2016        | 2                   |
|               | 2017        | 0                   |
| Georgia       | 2015        | 1                   |
|               | 2016        | 0                   |
|               | 2017        | 0                   |
| Ohio          | 2015        | 2                   |
|               | 2016        | 0                   |
|               | 2017        | 0                   |
| Texas         | 2015        | 1                   |
|               | 2016        | 0                   |
|               | 2017        | 0                   |
| <b>Totals</b> | <b>2015</b> | <b>4</b>            |
|               | <b>2016</b> | <b>2</b>            |
|               | <b>2017</b> | <b>0</b>            |

**Table 3.**

**STATUS OF FRANCHISED OUTLETS  
FOR YEARS 2015 TO 2017**

| State    | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other | Outlets at End of Year |
|----------|------|--------------------------|----------------|--------------|--------------|--------------------------|---------------------------|------------------------|
| Alaska   | 2015 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|          | 2016 | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
|          | 2017 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
| Arizona  | 2015 | 5                        | 0              | 0            | 0            | 0                        | 0                         | 5                      |
|          | 2016 | 5                        | 0              | 0            | 0            | 0                        | 1                         | 4                      |
|          | 2017 | 4                        | 0              | 0            | 0            | 1                        | 2                         | 1                      |
| Arkansas | 2015 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|          | 2016 | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
|          | 2017 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |

| State         | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other | Outlets at End of Year |
|---------------|------|--------------------------|----------------|--------------|--------------|--------------------------|---------------------------|------------------------|
| California    | 2015 | 10                       | 1              | 0            | 0            | 0                        | 2                         | 9                      |
|               | 2016 | 9                        | 2              | 0            | 0            | 0                        | 1                         | 10                     |
|               | 2017 | 10                       | 0              | 0            | 0            | 0                        | 3                         | 7                      |
| Colorado      | 2015 | 2                        | 1              | 0            | 0            | 0                        | 0                         | 3                      |
|               | 2016 | 3                        | 0              | 0            | 0            | 0                        | 0                         | 3                      |
|               | 2017 | 3                        | 0              | 0            | 0            | 0                        | 1                         | 2                      |
| Connecticut   | 2015 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2016 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2017 | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
| Florida       | 2015 | 8                        | 1              | 0            | 0            | 0                        | 2                         | 7                      |
|               | 2016 | 7                        | 0              | 0            | 0            | 0                        | 2                         | 5                      |
|               | 2017 | 5                        | 0              | 0            | 0            | 0                        | 2                         | 3                      |
| Georgia       | 2015 | 5                        | 0              | 0            | 0            | 0                        | 2                         | 3                      |
|               | 2016 | 3                        | 0              | 0            | 0            | 0                        | 1                         | 2                      |
|               | 2017 | 2                        | 0              | 1            | 0            | 0                        | 0                         | 1                      |
| Idaho         | 2015 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2016 | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
|               | 2017 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
| Illinois      | 2015 | 12                       | 1              | 0            | 0            | 0                        | 2                         | 11                     |
|               | 2016 | 11                       | 0              | 0            | 0            | 0                        | 1                         | 10                     |
|               | 2017 | 10                       | 0              | 0            | 0            | 0                        | 4                         | 6                      |
| Indiana       | 2015 | 3                        | 1              | 1            | 0            | 0                        | 0                         | 3                      |
|               | 2016 | 3                        | 0              | 0            | 0            | 0                        | 0                         | 3                      |
|               | 2017 | 3                        | 0              | 0            | 0            | 0                        | 3                         | 0                      |
| Kansas        | 2015 | 0                        | 1              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2016 | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
|               | 2017 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
| Kentucky      | 2015 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2016 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2017 | 1                        | 0              | 1            | 0            | 0                        | 0                         | 0                      |
| Louisiana     | 2015 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
|               | 2016 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
|               | 2017 | 0                        | 1              | 0            | 0            | 0                        | 0                         | 1                      |
| Maine         | 2015 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
|               | 2016 | 0                        | 1              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2017 | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
| Maryland      | 2015 | 3                        | 0              | 0            | 0            | 0                        | 0                         | 3                      |
|               | 2016 | 3                        | 1              | 0            | 0            | 0                        | 0                         | 4                      |
|               | 2017 | 4                        | 0              | 2            | 0            | 0                        | 0                         | 2                      |
| Massachusetts | 2015 | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
|               | 2016 | 0                        | 1              | 0            | 0            | 0                        | 0                         | 1                      |
|               | 2017 | 1                        | 1              | 0            | 0            | 0                        | 1                         | 1                      |
| Michigan      | 2015 | 1                        | 2              | 0            | 0            | 0                        | 0                         | 3                      |
|               | 2016 | 3                        | 0              | 0            | 0            | 0                        | 1                         | 2                      |
|               | 2017 | 2                        | 0              | 1            | 0            | 0                        | 0                         | 1                      |

| State          | Year        | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other | Outlets at End of Year |
|----------------|-------------|--------------------------|----------------|--------------|--------------|--------------------------|---------------------------|------------------------|
| Missouri       | 2015        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2016        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2017        | 1                        | 0              | 1            | 0            | 0                        | 0                         | 0                      |
| Nevada         | 2015        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2016        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2017        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
| New Hampshire  | 2015        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2016        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2017        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
| New Jersey     | 2015        | 5                        | 2              | 0            | 0            | 0                        | 2                         | 5                      |
|                | 2016        | 5                        | 1              | 0            | 0            | 0                        | 1                         | 5                      |
|                | 2017        | 5                        | 1              | 0            | 0            | 0                        | 1                         | 5                      |
| New York       | 2015        | 2                        | 1              | 0            | 0            | 0                        | 0                         | 3                      |
|                | 2016        | 3                        | 2              | 0            | 0            | 0                        | 1                         | 4                      |
|                | 2017        | 4                        | 2              | 0            | 0            | 0                        | 3                         | 3                      |
| North Carolina | 2015        | 4                        | 0              | 0            | 0            | 0                        | 2                         | 2                      |
|                | 2016        | 2                        | 0              | 0            | 0            | 0                        | 1                         | 1                      |
|                | 2017        | 1                        | 1              | 0            | 0            | 0                        | 0                         | 2                      |
| Ohio           | 2015        | 4                        | 0              | 0            | 0            | 0                        | 0                         | 4                      |
|                | 2016        | 4                        | 0              | 0            | 0            | 0                        | 0                         | 4                      |
|                | 2017        | 4                        | 0              | 2            | 0            | 0                        | 1                         | 1                      |
| Pennsylvania   | 2015        | 5                        | 1              | 0            | 0            | 0                        | 0                         | 6                      |
|                | 2016        | 6                        | 0              | 0            | 0            | 0                        | 0                         | 6                      |
|                | 2017        | 6                        | 1              | 3            | 0            | 0                        | 2                         | 2                      |
| South Carolina | 2015        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2016        | 1                        | 1              | 0            | 0            | 0                        | 0                         | 2                      |
|                | 2017        | 2                        | 0              | 1            | 0            | 0                        | 1                         | 0                      |
| Tennessee      | 2015        | 2                        | 0              | 0            | 0            | 0                        | 1                         | 1                      |
|                | 2016        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
|                | 2017        | 1                        | 0              | 0            | 0            | 0                        | 0                         | 1                      |
| Texas          | 2015        | 4                        | 2              | 0            | 0            | 0                        | 1                         | 5                      |
|                | 2016        | 5                        | 0              | 0            | 0            | 0                        | 0                         | 5                      |
|                | 2017        | 5                        | 2              | 0            | 0            | 0                        | 1                         | 6                      |
| Virginia       | 2015        | 2                        | 1              | 0            | 0            | 0                        | 0                         | 3                      |
|                | 2016        | 3                        | 1              | 0            | 0            | 0                        | 0                         | 4                      |
|                | 2017        | 4                        | 0              | 2            | 0            | 0                        | 1                         | 1                      |
| West Virginia  | 2015        | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
|                | 2016        | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
|                | 2017        | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
| Wisconsin      | 2015        | 2                        | 0              | 0            | 0            | 0                        | 1                         | 1                      |
|                | 2016        | 1                        | 0              | 0            | 0            | 0                        | 1                         | 0                      |
|                | 2017        | 0                        | 0              | 0            | 0            | 0                        | 0                         | 0                      |
| <b>Totals</b>  | <b>2015</b> | <b>89</b>                | <b>15</b>      | <b>1</b>     | <b>0</b>     | <b>0</b>                 | <b>16</b>                 | <b>87</b>              |
|                | <b>2016</b> | <b>87</b>                | <b>10</b>      | <b>0</b>     | <b>0</b>     | <b>0</b>                 | <b>15</b>                 | <b>82</b>              |
|                | <b>2017</b> | <b>82</b>                | <b>9</b>       | <b>14</b>    | <b>0</b>     | <b>1</b>                 | <b>27</b>                 | <b>49</b>              |

**Table 4.**

**STATUS OF COMPANY-OWNED OUTLETS  
FOR YEARS 2015 TO 2017**

| State         | Year                | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisees | Outlets Closed | Outlets Sold to Franchisees | Outlets at End of Year |
|---------------|---------------------|--------------------------|----------------|-------------------------------------|----------------|-----------------------------|------------------------|
| Alabama       | 2015                | 1                        | 0              | 0                                   | 0              | 0                           | 1                      |
|               | 2016                | 1                        | 0              | 0                                   | 0              | 0                           | 1                      |
|               | 2017                | 1                        | 0              | 0                                   | 1              | 0                           | 0                      |
| Arizona       | 2015                | 1                        | 0              | 0                                   | 0              | 0                           | 1                      |
|               | 2016 <sup>(1)</sup> | 1                        | 1              | 0                                   | 1              | 0                           | 1                      |
|               | 2017 <sup>(2)</sup> | 1                        | 0              | 1                                   | 0              | 0                           | 2                      |
| <b>Totals</b> | <b>2015</b>         | <b>2</b>                 | <b>0</b>       | <b>0</b>                            | <b>0</b>       | <b>0</b>                    | <b>2</b>               |
|               | <b>2016</b>         | <b>2</b>                 | <b>1</b>       | <b>0</b>                            | <b>1</b>       | <b>0</b>                    | <b>2</b>               |
|               | <b>2017</b>         | <b>2</b>                 | <b>0</b>       | <b>1</b>                            | <b>1</b>       | <b>0</b>                    | <b>2</b>               |

- (1) The Tempe, Arizona, location closed in August 2016 due to lease expiration, and our affiliate, Warner Kilt LLC, opened a new Restaurant in Tempe, Arizona, in August 2016.
- (2) We own 70% a majority of the membership interests in the entity that owns and operates a restaurant in Arizona.

**Table 5.**

**PROJECTED OPENINGS  
AS OF ~~DECEMBER 31, 2017~~ JULY 20, 2017 2018**

| State                          | Franchise Agreements Signed but Outlet Not Opened | Projected New Franchised Outlets in the Next Fiscal Year | Projected New Company Owned Outlets in the Next Fiscal Year |
|--------------------------------|---------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------|
| Arkansas                       | 1                                                 | <del>0</del> 1                                           | 0                                                           |
| California                     | 3                                                 | 1                                                        | 0                                                           |
| <del>Georgia</del>             | 0                                                 | <del>1</del>                                             | 0                                                           |
| <del>Mississippi</del>         | 0                                                 | <del>1</del>                                             | 0                                                           |
| <del>New Jersey</del> Kentucky | 1                                                 | 1                                                        | 0                                                           |
| <del>North Carolina</del>      | 0                                                 | <del>1</del>                                             | 0                                                           |
| <del>Oklahoma</del>            | 0                                                 | <del>1</del>                                             | 0                                                           |
| <del>Pennsylvania</del>        | 0                                                 | <del>1</del>                                             | 0                                                           |
| <del>Tennessee</del>           | <del>1</del>                                      | <del>1</del>                                             | 0                                                           |
| Texas                          | <del>4</del> 6                                    | 1                                                        | 0                                                           |
| <b>TOTALS</b>                  | <b><del>7</del> 11</b>                            | <b><del>9</del> 4</b>                                    | <b>0</b>                                                    |

A list of the names of all franchisees and the addresses and telephone numbers of their TILTED KILT Restaurants, are attached as Exhibit C to this Disclosure Document. A list of the names, city, state and current business telephone number (or, if unknown, the last known home telephone number) of every franchisee who has had a franchise agreement terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a franchise agreement during fiscal year 2017, or who has not communicated with us within 10 weeks of the date of this Disclosure Document is listed on

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

During the last three fiscal years, we have signed confidentiality clauses with current and former franchisees. In some instances, current and former franchisees may sign provisions restricting their ability to speak openly about their experience with the TILTED KILT franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

In 2009, we formed the FAC (Franchisee Advisory Council). The FAC has not incorporated or otherwise organized under state law. It does not have its own address, telephone number, email address or web address. No independent franchisee organizations have asked to be included in this disclosure document.

## **ITEM 21**

### **FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit E are our audited financial statements for our fiscal years ended December 31, 2015, 2016, and 2017. Also attached to this Disclosure Document as Exhibit E is our unaudited balance sheet as of June 30, 2018, and our unaudited income statement for the period from January 1, 2018, to June 30, 2018. Our fiscal year end is December 31.

## **ITEM 22**

### **CONTRACTS**

Attached to this Disclosure Document are the following franchise-related contracts:

|           |                                                     |
|-----------|-----------------------------------------------------|
| Exhibit B | Franchise Agreement                                 |
| Exhibit G | Confidentiality and Noncompetition Agreement        |
| Exhibit I | Sample Release                                      |
| Exhibit J | State Addenda and Riders to the Franchise Agreement |

## **ITEM 23**

### **RECEIPTS**

The last two pages of this Disclosure Document (following the exhibits and attachments) are documents acknowledging your receipt of this Disclosure Document (one copy for you and one copy to be signed and returned to us).

**EXHIBIT A  
(TO DISCLOSURE DOCUMENT)**

**LIST OF STATE AGENCIES/AGENTS FOR SERVICE OF PROCESS**

## LIST OF STATE AGENCIES

Listed here are the names, addresses and telephone numbers of the state agencies having responsibility for the franchising disclosure/registration laws. We may not yet be registered to sell franchises in any or all of these states. There may be states in addition to those listed below in which we have appointed an agent for service of process. There may also be additional agents appointed in some of the states listed.

### **California**

Department of Business Oversight  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344  
(213) 576-7505  
(866) 275-2677

1515 K Street, Suite 200  
Sacramento, CA 95814-4052  
(916) 445-7205  
(866) 275-2677

1350 Front Street  
San Diego, CA 92101  
(619) 525-4044  
(866) 275-2677

One Sansome Street, Ste. 600  
San Francisco, CA 94104  
(415) 972-8559  
(866) 275-2677

### **Florida**

Department of Agriculture and  
Consumer Services  
Division of Consumer Services  
227 N. Bronough Street  
City Centre Building, 7th Floor  
Tallahassee, FL 32301  
(904) 922-2770

### **Hawaii**

Business Registration Division  
Securities Compliance Branch  
Department of Commerce  
and Consumer Affairs  
P.O. Box 40  
Honolulu, Hawaii 96810  
(808) 586-2722

### **Illinois**

Office of Attorney General  
Franchise Division  
500 South Second Street  
Springfield, IL 62706  
(217) 782-4465

### **Indiana**

Indiana Secretary of State  
Securities Division  
302 West Washington Street  
Room E-111  
Indianapolis, IN 46204  
(317) 232-6681

### **Maryland**

Office of Attorney General  
Maryland Division of Securities  
200 St. Paul Place  
Baltimore, MD 21202-2020  
(410) 576-6360

### **Michigan**

Michigan Attorney General's Office  
Consumer Protection Division  
Attn: Franchise Section  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
525 West Ottawa Street  
Lansing, Michigan 48933  
(517) 373-7117

### **Minnesota**

Minnesota Department of Commerce  
Registration and Licensing  
Division  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101  
(651) 539-1600

### **Nebraska**

Department of Banking and Finance  
1200 N Street, Suite 311  
P.O. Box 95006  
Lincoln, NE 68509  
(402) 471-3445

### **New York**

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, NY 10005  
(212) 416-8236 Phone  
(212) 416-6042 Fax

### **North Dakota**

North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol, 5th Floor, Dept. 414  
Bismarck, ND 58505-0510  
(701) 328-4712

### **Oregon**

Department of Business Services  
Division of Finance & Corporate  
Securities  
350 Winter Street, NE, Room 410  
Salem, Oregon 97310-3881  
(503) 378-4387

### **Rhode Island**

Department of Business Regulations  
Division of Securities  
1511 Pontiac Avenue  
Cranston, Rhode Island 02920  
(401) 462-9500

### **South Dakota**

Division of Insurance  
Securities Regulation  
124 S. Euclid, Suite 104  
Pierre, SD 57501  
(605) 773-3563

### **Texas**

Secretary of State  
Statutory Document Section  
P.O. Box 13563  
Austin, TX 78711  
(512) 475-1769

### **Virginia**

State Corporation Commission  
Division of Securities and  
Retail Franchising  
1300 E. Main Street, 9<sup>th</sup> Floor  
Richmond, VA 23219  
(804) 371-9051

### **Washington**

Department of Financial Institutions  
Securities Division  
P.O. Box 9033  
Olympia, Washington 98501-9033  
(360) 902-8760

### **Wisconsin**

Securities and Franchise Registration  
Wisconsin Securities Commission  
345 West Washington Avenue, 4th  
Floor  
Madison, Wisconsin 53703  
(608) 266-3431

## LIST OF AGENTS FOR SERVICE OF PROCESS

### **California**

California Commissioner of  
Business Oversight  
California Dept. of Corporations  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, California 90013-2344  
(213) 576-7505  
(866) 275-2677

### **Hawaii**

Commissioner of Securities  
Department of Commerce and  
Consumer Affairs  
Business Registration Division  
Securities Compliance Branch  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813  
(808) 586-2722

### **Illinois**

Illinois Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-1090

### **Indiana**

Indiana Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-6531

### **Maryland**

Maryland Securities Commissioner  
at the Office of the Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202-2021  
(410) 576-6360

### **Michigan**

Michigan Department of  
Commerce,  
Corporations and Securities Bureau  
6546 Mercantile Way  
Lansing, Michigan 48909  
(517) 334-6212

### **Minnesota**

Minnesota Commissioner of  
Commerce  
Department of Commerce  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, Minnesota 55101  
(651) 296-6328

### **New York**

Attn.: New York Secretary of State  
New York Department of State  
One Commerce Plaza,  
99 Washington Avenue, 6th Floor  
Albany, NY 12231-0001  
(518) 473-2492

### **North Dakota**

North Dakota Securities  
Commissioner  
600 E. Boulevard Avenue  
State Capitol, 5<sup>th</sup> Floor  
Bismarck, North Dakota 58505-0510  
(701) 328-2910

### **Oregon**

Department of Business Services  
Division of Finance & Corporate  
Securities  
350 Winter Street, NE, Room 410  
Salem, Oregon 97310-3881  
(503) 378-4387

### **Rhode Island**

Director of Rhode Island  
Department of Business Regulation  
1511 Pontiac Avenue  
Cranston, Rhode Island 02920  
(401) 462-9645

### **South Dakota**

Division of Insurance  
Securities Regulation  
124 S. Euclid, Suite 104  
Pierre, South Dakota 57501  
(605) 773-3563

### **Virginia**

Clerk of the State Corporation  
Commission  
1300 East Main Street, 1<sup>st</sup> Floor  
Richmond, Virginia 23219  
(804) 371-9672

### **Washington**

Director  
Department of Financial Institutions  
Securities Division  
150 Israel Road, S.W.  
Tumwater, Washington 98501-9033

### **Wisconsin**

Wisconsin Commissioner of  
Securities  
345 W. Washington Ave., 4th Floor  
Box 1768  
Madison, Wisconsin 53703  
(608) 266-3431



**EXHIBIT B**  
**(TO DISCLOSURE DOCUMENT)**  
**FRANCHISE AGREEMENT**

**TILTED KILT FRANCHISE OPERATING, LLC**

**2018 FRANCHISE AGREEMENT**

**BETWEEN  
TILTED KILT FRANCHISE OPERATING, LLC  
AND**

\_\_\_\_\_

**Franchisee Name:** \_\_\_\_\_

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

**City/State:** \_\_\_\_\_

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**EXHIBITS**

- A. Addendum to Franchise Agreement
- B. Lease Rider and Special Stipulations
- C. Guaranty and Assumption of Franchisee's Obligations
- D. Statement of Ownership and Management
- E. Authorization Agreement for Prearranged Payments

## **TILTED KILT FRANCHISE OPERATING, LLC**

### **FRANCHISE AGREEMENT**

**THIS AGREEMENT** (the “**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), by and between **TILTED KILT FRANCHISE OPERATING, LLC**, a Wyoming limited liability company, located at 8915 S. Harl Avenue, Tempe, Arizona 85284 (the “**Franchisor**”) and \_\_\_\_\_ with its principal business address at \_\_\_\_\_ (the “**Franchisee**”), who, on the basis of the following understandings and agreements, agree as follows:

#### **1. PURPOSE**

1.1. The Franchisor has developed methods for establishing, operating and promoting sports and entertainment bars and restaurants that offer dinner entrées, traditional pub food, hamburgers, and salads, accompanied by full bar service, in a Celtic-themed atmosphere with numerous large-screen televisions featuring sports programming (“**TILTED KILT Restaurant**” or “**Restaurants**”). TILTED KILT Restaurants use the service mark “**TILTED KILT**” and related logos, service marks, trade names, trademarks and commercial symbols (“**Marks**”) and operate under the Franchisor’s distinctive entertainment and business format, systems methods, procedures, designs, layouts and specifications (“**Licensed Methods**”).

1.2. The Franchisor grants the right to others to develop and operate TILTED KILT Restaurants, in association with the Marks and pursuant to the Licensed Methods.

1.3. The Franchisee desires to establish a TILTED KILT Restaurant at a location identified herein or to be later identified, and the Franchisor desires to grant the Franchisee the right to operate a TILTED KILT Restaurant at such location under the terms and conditions which are contained in this Agreement.

#### **2. GRANT OF FRANCHISE**

**2.1. Grant of Franchise.** The Franchisor grants to the Franchisee, and the Franchisee accepts from the Franchisor, a franchise to establish and operate a TILTED KILT Restaurant using the Marks and Licensed Methods at the location described in Article 3 of this Agreement. The Franchisee agrees to use the Marks and Licensed Methods, as they may be changed, improved, and further developed by the Franchisor from time to time, only in accordance with the terms and conditions of this Agreement.

**2.2. Scope of Franchise Operations.** The Franchisee shall at all times comply with the Franchisee’s obligations hereunder and shall continuously use best efforts to promote and operate the TILTED KILT Restaurant. The Franchisee shall utilize the Marks and Licensed Methods to operate all aspects of the business franchised hereunder in accordance with the methods and systems developed and prescribed from time to time by the Franchisor, all of which are a part of the Licensed Methods. The Franchisee’s TILTED KILT Restaurant shall offer all menu items and other products and services as the Franchisor shall designate and shall be restricted, unless otherwise approved in writing by the Franchisor, from offering or selling any menu items and other products and services not previously approved by the Franchisor and from producing or distributing menu items, products and services for non-retail or off-site sale.



### 3. FRANCHISED LOCATION AND TERRITORIAL RIGHTS

**3.1. Franchised Location.** The Franchisee is granted the right to own and operate a TILTED KILT Restaurant at the address and location which shall be set forth in Exhibit A, attached hereto (“**Franchised Location**”). If, at the time of execution of this Agreement, the Franchised Location cannot be designated as a specific address because a location has not been selected and accepted, then the Franchisee shall take steps to choose and acquire a location for its TILTED KILT Restaurant within the “**Designated Area**,” set forth in Exhibit A. In such circumstances, once the Franchisee (or the Franchisee’s Principal Owner if the Franchisee is an entity) and the Franchisee’s General Manager (as defined in Section 10.1.c) has completed S.T.E.P. Training (defined in Section 6.1) to the Franchisor’s satisfaction, the Franchisee shall select and propose to the Franchisor for the Franchisor’s prior acceptance a specific location for the Franchised Location which, once accepted by the Franchisor, shall then be described in Exhibit A. The Franchisee acknowledges and agrees that nothing contained herein grants Franchisee any rights to the Designated Area. The Franchisee further acknowledges and agrees that Franchisee does not have any exclusive rights to the Designated Area and that other franchisees may also be looking for a TILTED KILT Restaurant location within the same Designated Area. During the term of this Agreement, the Franchised Location shall be used exclusively to operate a TILTED KILT Restaurant.

**3.2. Assigned Territory.** Subject to the Franchisor’s reservation of rights described in Section 3.4 below, the Franchisor shall not establish and operate, or franchise another person or entity to establish and operate, a TILTED KILT Restaurant within either (a) the geographic area located within a circle, the center of which is the main entrance of the Restaurant and the radius of which is one-half (½) mile from the center or (b) such other area specifically defined as the assigned territory in Exhibit A attached hereto (such geographic area, the “**Assigned Territory**”). If, as of the Effective Date, the Franchised Location has not been accepted by the Franchisor, then the Franchisor will determine the Assigned Territory in connection with its acceptance of the Franchised Location, and the parties will execute Exhibit A to reflect the Assigned Territory determined by the Franchisor.

**3.3. Limitation on Franchise Rights.** The rights that are granted to the Franchisee are for the specific Franchised Location and cannot be transferred to an alternative Franchised Location, or any other location, without the prior written approval of the Franchisor. The Franchisee shall not: operate another restaurant or business at the Franchised Location; offer menu items or other products or services which are part of the Licensed Methods at any site other than the Franchised Location unless otherwise approved in writing by the Franchisor; fill wholesale orders; sell products or services by mail order or through catalogs or the Internet; transship or reship products; or offer any other type of off-site service or sale of products using the Marks and Licensed Methods. The Franchisee shall not offer catering or delivery services without the Franchisor’s prior written approval, which approval can be withheld or withdrawn for any reason, in the Franchisor’s sole discretion, and, if approved, in accordance with the Franchisor’s standards and specifications for offering such services. The Franchisee also shall not use any third-party food delivery services, online ordering services, or other food aggregation services without the Franchisor’s prior written approval.

**3.4. Franchisor’s Reservation of Rights.** The Franchisee acknowledges that its franchise rights granted hereunder are non-exclusive and that the Franchisor, for itself and its affiliates and successors, retains the rights, among others: (1) to use, and to license others to use, the Marks and Licensed Methods in connection with the operation of a TILTED KILT Restaurant, at any location other than within the Franchisee’s Assigned Territory; (2) to use the Marks and any other marks to identify promotional and marketing efforts or related items, and to identify products and services distributed or otherwise made available through alternative channels of distribution (other than through TILTED KILT

Restaurants), at any location, including, but not limited to, wholesale distribution, catering, temporary events, Internet distribution, by mail order, catalog, telemarketing or other direct marketing sales, or retail store display; (3) to use and license the use of other marks (other than the Marks) in connection with the sale of products and services the same as, or similar to, those which the Franchisee will sell, or in connection with the operation of restaurants the same as, or similar to, or different from the TILTED KILT Restaurant, at any location and on any terms and conditions as the Franchisor determines; (4) to offer and sell any food and beverage services and products under the Marks at or through any permanent, temporary, or seasonal non-traditional food service facility, such as a stadium, sports and entertainment venue, convention center, casinos, entertainment or amusement park, or airport, or at special indoor or outdoor events in the Assigned Territory; and (5) to engage in any activity not specifically prohibited by this Agreement.

#### 4. INITIAL FRANCHISE FEE

**4.1. Initial Franchise Fee.** The Franchisee shall pay to the Franchisor an initial franchise fee (“**Initial Franchise Fee**”) in an amount set forth in Exhibit A, due and payable in a lump sum on the date of execution of this Agreement. The Franchisee acknowledges that the Franchisor has earned the Initial Franchise Fee upon receipt thereof and that the Initial Franchise Fee is not refundable to the Franchisee after it is paid.

#### 5. DEVELOPMENT OF FRANCHISED LOCATION

**5.1. Acceptance of Franchised Location.** The Franchisee shall submit to the Franchisor such reasonable due diligence information about the Franchisee’s proposed Franchised Location as the Franchisee deems relevant and/or as the Franchisor shall request, which may include, but is not limited to, a site selection form prescribed by Franchisor, a copy of the site plan, business plans, demographic studies, statistics, and information regarding the surrounding area. If the Franchisee does not have a Franchised Location on the Effective Date, then once the Franchisee (or the Franchisee’s Principal Owner if the Franchisee is an entity) and the Franchisee’s General Manager (as defined in Section 10.1.c) completes S.T.E.P. Training (defined in Section 6.1) to the Franchisor’s satisfaction, but no later than 90 days after the Effective Date, the Franchisee shall submit to the Franchisor for the Franchisor’s acceptance at least one (1) proposed Franchised Location. However, no later than 180 days from the Effective Date, the Franchisee shall have acquired real estate or a leased or subleased commercial real estate that is acceptable to Franchisor as well as being properly zoned for use as restaurant compatible with use as a TILTED KILT Restaurant. The Franchisee understands and acknowledges that finding a Franchised Location is the Franchisee’s sole responsibility and that acceptance by the Franchisor of a Franchised Location in no way constitutes a guarantee or representation of any kind, express or implied, as to the fitness and quality of the Franchised Location for a TILTED KILT Restaurant or as to the success or profitability of the TILTED KILT Restaurant.

**5.2. Acceptance of Franchised Location Acquisition or Lease.** The Franchisee is solely responsible for negotiating the terms of the purchase agreement or the lease for the Franchised Location and ascertaining whether such location, lease and purchase agreement are acceptable to the Franchisee. However, the Franchisee shall obtain the Franchisor’s prior written acceptance before executing any lease or purchase agreement for the Franchised Location. The Franchisee shall execute a lease that has been accepted by the Franchisor no later than 180 days from the Effective Date. The lease for the Franchised Location shall contain certain provisions that the Franchisor requires, including without limitation collateral assignment of the lease, pursuant to the form of lease rider attached as Exhibit B hereto (the “**Lease Rider**”). It is the Franchisee’s sole responsibility to obtain a fully executed Lease Rider in connection with executing the Franchisee’s lease. The Franchisor’s approval of the lease is

subject to the Franchisor's receipt of the Lease Rider in the form attached as Exhibit B, without modification or negotiation, executed by the Franchisee and the landlord. The Lease Rider is intended to provide the Franchisor certain protections under the Franchisee's lease, and may not benefit the Franchisee or the landlord. Once the Franchisee has executed a lease establishing the square footage of the TILTED KILT Restaurant, the Franchisee shall not increase or decrease the square footage dedicated to the Restaurant without the Franchisor's prior written approval, which may be withheld in the Franchisor's sole discretion. The Franchisee acknowledges that acceptance of a lease or purchase agreement for the Franchised Location by the Franchisor does not constitute a recommendation, endorsement or guarantee by the Franchisor of the suitability or profitability of the location, the lease or purchase agreement. Acceptance by the Franchisor of the terms of the purchase agreement or lease shall simply mean that the terms contained in the purchase agreement or lease as they relate to the Franchisor's rights are not unacceptable to Franchisor. Under no circumstances shall the acceptance by the Franchisor of the terms of the purchase agreement or lease be construed by the Franchisee to mean that the terms of the purchase agreement or lease are favorable to the Franchisee. Once the Franchisor has accepted the lease, the Franchisee will have the option of proceeding with or passing on the location; provided that the Franchisee must commence operation of the Restaurant in accordance with Section 5.8. The Franchisee acknowledges that it has been advised to obtain its own competent counsel to review the purchase agreement or lease before the Franchisee signs any purchase agreement or lease.

**5.3. Construction, Conversion and Design.** The Franchisee acknowledges that the improvements, layout, fixtures, equipment, equipment layout, trade dress, design, decoration and color scheme of a TILTED KILT Restaurant are an integral part of the Franchisor's proprietary Licensed Methods and accordingly, the Franchisee shall construct, convert, improve, design and decorate the Franchised Location in accordance with the Franchisor's plans and specifications and with the assistance of contractors, architects and suppliers designated by or otherwise approved by the Franchisor. The Franchisee shall obtain the Franchisor's written consent to any conversion, improvements, design or decoration of the premises before construction, remodeling or decorating begins, recognizing that all related costs are the Franchisee's sole responsibility. Following the completion of the initial improvements to the Franchised Location, the Franchisee must obtain the Franchisor's written consent before making any improvements or alterations to the Franchised Location which are not in accordance with plans and specifications previously approved in writing by the Franchisor.

**5.4. Signs.** The Franchisee shall purchase or otherwise obtain for use at the Franchised Location and in connection with the TILTED KILT Restaurant the maximum number and size signs allowed by applicable building codes, which signs shall comply with the standards and specifications of the Franchisor as set forth in the Manuals, as that term is defined in Section 8.1. It is the Franchisee's sole responsibility to ensure that any signs comply with applicable local ordinances, mall regulations, building codes and zoning regulations. Any modifications to the Franchisor's standards and specifications for signs which must be made due to local ordinances, codes or regulations shall be submitted to the Franchisor for prior written approval. The Franchisee acknowledges the Marks, or any other name, symbol or identifying marks on any signs shall only be used in accordance with the Franchisor's standards and specifications and only with the prior written approval of the Franchisor.

**5.5. Equipment and Inventory.** The Franchisee shall purchase or otherwise obtain for use or sale at the Franchised Location and in connection with the TILTED KILT Restaurant, restaurant equipment, inventory, office equipment, costumes or other employee attire, supplies, services and certain décor items of a type and in an amount which complies with the standards and specifications of the Franchisor. The Franchisee acknowledges that the type, quality, configuration, capability and/or performance of the restaurant equipment, inventory, office equipment, costumes or other employee attire, supplies, services and certain décor items used or offered through the TILTED KILT Restaurant are all

standards and specifications which are a part of the Licensed Methods and therefore such restaurant equipment, inventory, office equipment, costumes or other employee attire, supplies, certain décor items, services and other items designated by Franchisor must be purchased, leased or otherwise obtained in accordance with the Franchisor's standards and specifications and only from the Franchisor, its affiliates or suppliers or other sources approved by the Franchisor.

**5.6. Computer System.** The Franchisee shall equip the Restaurant with a point-of-sale system, computer hardware, software and other designated equipment as is consistent with the standards and specifications of the Franchisor (the "**Computer System**"). The Franchisee shall purchase, install and utilize in its Restaurant the Computer System which must be obtained from the supplier that Franchisor may designate from time to time. The Franchisee shall be responsible for all maintenance and upgrade costs associated with the Computer System. The Franchisee, at the Franchisee's sole cost, shall obtain high speed internet access such as DSL, T1 or other broadband options that meet the Franchisor's specifications and join an electronic network connection service and maintain communication lines for the connection services and for other communication lines as required by the Franchisor such as dedicated fax lines, internet connections and telephone lines. The Franchisee acknowledges and agrees that the Computer System will give the Franchisor, its affiliates, and vendors designated by the Franchisor independent, unlimited access to all information generated by the Computer System. The Franchisor has developed its own proprietary database for use in the TILTED KILT Restaurant. The Franchisee agrees to use all propriety information, including the proprietary database, in accordance with the Franchisor's then-current guidelines. The Franchisor reserves the right to: (i) require on 30 days' notice that the Franchisee purchase, install and implement new Computer System components and/or Computer Systems updates and revisions for use in the operation of the TILTED KILT Restaurant; (ii) charge the Franchisee a licensing fee for such software or other technology fee for use of its proprietary software or other technology; and (iii) derive revenue from Computer System or other technology maintenance and upgrade fees in relation to the Franchisor's proprietary software or other technology for use in the TILTED KILT Restaurant.

**5.7. Permits and Licenses.** The Franchisee agrees to obtain all such permits and licenses, including without limitation, liquor licenses, as may be required for the lawful construction and operation of the TILTED KILT Restaurant, together with all certifications from government authorities having jurisdiction over the site that all requirements for construction and operation have been met, including without limitation, zoning, access, sign, health, fire and safety requirements, building and other required construction permits, licenses to do business and fictitious name registrations (to "**THE TILTED KILT PUB & EATERY**"), licenses to serve liquor, sales tax permits, health and sanitation permits and ratings and fire clearances. The Franchisee agrees to obtain all customary contractors' sworn statements and partial and final lien waivers for construction, remodeling, decorating and installation of equipment at the Franchised Location. The Franchisee acknowledges and agrees that it shall be solely responsible for compliance with all applicable laws and regulations with respect to the construction of the Franchised Location, including, without limitation, compliance with the Americans With Disabilities Act. The Franchisee shall keep copies of all health department, fire department, building department and other similar state and local agency and entity certifications, liquor licenses, other licenses, and reports of inspections on file and available for review by the Franchisor. Copies of all subsequent inspection reports, warnings, certificates and ratings issued by any governmental entity during the term of this Agreement in connection with the conduct of the TILTED KILT Restaurant which indicates the Franchisee's failure to meet or maintain the highest governmental standards, or less than full compliance by the Franchisee with any applicable law, rule or regulation, shall be forwarded to the Franchisor within 5 days of the Franchisee's receipt thereof.

**5.8. Commencement of Operations.** Unless otherwise agreed to in writing by the Franchisor and the Franchisee, the Franchisee has 18 months from the Effective Date within which to: (1) secure all necessary financing for the Restaurant; (2) complete the training program described in Section 6.1 of this Agreement; (3) select, purchase or lease and build-out the Franchised Location; (4) purchase or lease and have installed such furniture, equipment, fixtures, signs, point-of-sale system and computer hardware and software as meets the standards and specifications of the Franchisor; (5) purchase an opening inventory of products and supplies; (6) obtain and provide evidence of insurance as described in Section 22.2 below; (7) conduct a Casting Call Event (described in Section 10.2 below; (8) obtain the Franchisor's written permission to open the Restaurant; and (9) commence operation of the TILTED KILT Restaurant. The Franchisee shall obtain the Franchisor's written approval prior to opening the Restaurant for business. Franchisee acknowledges and agrees that, in accordance with Section 19.1(aa), Franchisor may terminate this Agreement any time after the expiration of the 18-month period if Franchisee has not commenced operation of the Restaurant. Once the Franchisee has opened the Restaurant for business, the Franchisee must (i) operate the Restaurant continuously, during the hours of operation prescribed by the Franchisor, for the remainder of the term of this Agreement and (ii) not relocate the Restaurant.

## **6. TRAINING**

**6.1. Franchisee Training Program.** The Franchisee (or the Principal Owner (as defined in Section 10.1.l) if the Franchisee is an entity) and the General Manager (as defined in Section 10.1.c) must attend and complete the Franchisor's then-current Spectacular Training and Education Program ("**S.T.E.P. Training**") to the Franchisor's satisfaction before the 90-day deadline to submit a proposed Franchised Location pursuant to Section 5.1; provided, however if the Franchised Location is already selected and accepted as of the Effective Date, then the Franchisor's then-current S.T.E.P. Training must be completed to the Franchisor's satisfaction within 60 days after the Effective Date. S.T.E.P. Training will be held remotely via the Internet and at one of the Franchisor's designated training facilities. The Franchisee (or the Principal Owner), the General Manager of the Restaurant, and two additional individuals are eligible to participate in S.T.E.P. Training without charge of tuition or a fee. If the Restaurant to be operated pursuant to this Agreement is the Franchisee's or its Affiliate's (as defined in Section 10.1.l) second or subsequent TILTED KILT Restaurant, the Franchisor reserves the right to charge S.T.E.P. Training tuition for additional attendees and replacement managers at the Franchisor's then-current rate. The Franchisee shall be responsible for any and all traveling expenses, living expenses and wages incurred by the Franchisee and its employees in connection with attendance at the training program. Training participants will not receive compensation from the Franchisor while attending the Franchisor's training. At least two individuals must complete S.T.E.P. Training to the Franchisor's satisfaction prior to the Franchisee's commencement of operation of its TILTED KILT Restaurant. Additionally, at all times during the term of this Agreement, the Franchisee shall employ a General Manager and at least one other manager (which may include the Franchisee or the Principal Owner of the Franchisee), each of whom has completed S.T.E.P. Training to the Franchisor's satisfaction. The Franchisee acknowledges that although the training program includes some basic instruction on liquor training and service, the Franchisee is solely responsible for complying with all applicable state and local laws and regulations related to liquor licensing and serving alcoholic beverages. The Franchisee is also solely responsible for training its employees on handling liquor and serving alcoholic beverages.

**6.2. Length of Training.** S.T.E.P. Training shall consist of nineteen (19) days of combined classroom instruction and on-the-job training remotely via the Internet and at the Franchisor's designated training facility or another location designated by the Franchisor. The Franchisee (or its Principal Owner) and the General Manager and at least one other manager of the Restaurant shall also attend any

on-site training provided by the Franchisor at the Franchised Location at or around the time of commencement of Restaurant operations. The Franchisor reserves the right to expand S.T.E.P. Training without prior notice.

**6.3. Additional Training.** From time to time, the Franchisor (or third parties designated by the Franchisor) may present seminars, conventions or continuing development programs or conduct meetings for the benefit of the Franchisee. The General Manager and at least one other manager shall be required to attend any mandatory seminars, conventions, programs or meetings as may be offered by the Franchisor (or third parties designated by the Franchisor). The Franchisor shall give the Franchisee at least 30 days prior written notice of any seminar, convention or program that is deemed mandatory. The General Manager must attend any annual national convention as may be held by the Franchisor. The Franchisor shall also have the right to require the General Manager and designated managers and employees to attend a local or regional seminar up to two times per year. The Franchisee's General Manager and the Franchisee (or its Principal Owner) or at least one other manager if the Franchisee (or its Principal Owner) cannot attend, must attend either the Franchisor's national convention or the Franchisor's then-current S.T.E.P. Training at least once every 24 months; provided that the Franchisor reserves the right to require such individuals to attend both the convention and the training seminars. The Franchisor reserves the right to charge a reasonable tuition or fee, at the Franchisor's then published rates, for certain mandatory training offered by the Franchisor, and the Franchisee shall be responsible for all traveling and living expenses that are associated with attendance at the same.

## **7. DEVELOPMENT AND OPERATING ASSISTANCE**

**7.1. Franchisor's Development Assistance.** Upon the Franchisee's request, the Franchisor may also provide, to the extent as the Franchisor deems necessary and appropriate, assistance to the Franchisee with the opening of the TILTED KILT Restaurant by a representative or representatives, which the Franchisor will make available to the Franchisee at or around the commencement of operations of the Franchisee's first TILTED KILT Restaurant. The number of hours will be determined solely by the Franchisor and may depend on the availability of personnel and may or may not be consecutive hours. Before the opening of the Restaurant, the representative or representatives may assist (but not exert control over) the Franchisee with training the Franchisee's employees at a time scheduled by the Franchisor, unless in the Franchisor's determination, the Franchisee (or its Principal Owner) or the General Manager have had sufficient prior training or experience.

**7.2. Franchisor's Operating Assistance.** The Franchisor or its designated representatives may, as the Franchisor deems appropriate, in the Franchisor's sole discretion, during the Franchisee's operation of the TILTED KILT Restaurant, make available to the Franchisee the following services:

a. Provide the Franchisee access to advertising and promotional materials as may be developed by the Franchisor, the cost of which may be passed on to the Franchisee or charged to the Advertising Fund (defined in Section 13.3 below), at the Franchisor's option.

b. Subject to the Franchisor's availability, provide consultation by telephone, facsimile or electronic mail regarding the continued operation and management of a TILTED KILT Restaurant and advice regarding product quality control, menu items, customer relations, employee relations, product purchase, supply and sale and similar advice.

c. At the frequencies to be determined by the Franchisor, provide seminars or programs on new methods, marketing techniques, equipment and products. The seminars and programs may be provided in person, by telephone, by teleconference or conference call, by

Internet or webinars, by postings on a website or by any other electronic media designated by the Franchisor.

d. At the frequencies to be determined by the Franchisor, provide updates of information and programs regarding the franchised business, the TILTED KILT concept and the Licensed Methods, including, without limitation, information regarding improvements to existing menu items, costumes, trade dress, employee attire, products and merchandise or about new menu items, costumes, trade dress, employee attire, products or merchandise that may be developed and made available to TILTED KILT franchisees as a part of the Licensed Methods.

e. At the Franchisor's sole discretion, and subject to its availability, the Franchisor may make its employees or designated representatives available to the Franchisee for on-site advice and assistance in connection with the ongoing operation of the Restaurant. In the event that the Franchisee requests such additional assistance and the Franchisor agrees to provide the same, the Franchisor reserves the right to charge the Franchisee for all travel, lodging, living expenses, telephone charges and other identifiable expenses associated with such assistance, plus a fee based on the time spent by each employee on behalf of the Franchisee, which fee will be charged in accordance with the then-current daily or hourly rates being charged by Franchisor for assistance.

## **8. MANUALS**

**8.1. Manuals.** The Franchisor shall grant the Franchisee access to one or more manuals, technical bulletins, or other written materials (collectively referred to as the "**Manuals**") covering the Licensed Methods and other suggested procedures for developing and operating a TILTED KILT Restaurant. The Franchisor may provide the Manuals by any media that the Franchisor chooses in its sole discretion, whether by print, electronically, digitally or any other means. The Franchisee shall comply with the Manuals as an essential aspect of its obligations under this Agreement. Failure by the Franchisee to comply with the Manuals is a breach of this Agreement.

**8.2. Confidentiality of Contents of the Manuals.** The Franchisee shall use the Marks and Licensed Methods only as specified in the Manuals, the contents of which are proprietary and confidential. The Franchisee shall protect and maintain the confidentiality of the Manuals in accordance with Section 21.3 of this Agreement. The Manuals are the sole property of the Franchisor and shall be used by the Franchisee only during the term of this Agreement and in strict accordance with the terms and conditions hereof. The Franchisee shall not duplicate the Manuals nor disclose their contents to persons other than its employees or officers who have signed a confidentiality and noncompetition agreement in a form approved by the Franchisor. The Franchisee shall return the Manuals to the Franchisor upon the expiration, termination or assignment of this Agreement.

**8.3. Changes to the Manuals.** The Franchisor reserves the right to revise the Manuals from time to time as it deems necessary to update or change operating and marketing techniques or standards and specifications. The Franchisee, upon receipt of any updated information, shall update its copy of the Manuals as instructed by the Franchisor and shall conform its operations to the updated provisions within 30 days of receipt of each update. The Franchisee acknowledges that a master copy of the Manuals maintained by the Franchisor at its principal office shall be controlling in the event of a dispute relative to the content of any Manuals.

## 9. AREA REPRESENTATIVE SERVICES

**9.1. Responsibilities of Area Representative.** The Franchisor reserves the right to retain the services of an area representative (“**Area Representative**”) in the geographic area in which the Franchisee’s TILTED KILT Restaurant will be located. In such event, the Area Representative, on behalf of the Franchisor, will perform certain sales, site assistance and consulting services, as may be directed by the Franchisor, for the Franchisee and the Franchisee’s TILTED KILT Restaurant. The Franchisee agrees in advance to any such delegation and assignment by the Franchisor of any portion or all of the Franchisor’s obligations and rights under this Agreement; provided, however, the Franchisee acknowledges that it in no manner is or shall become a third party beneficiary of any agreement as may be in effect between the Franchisor and any Area Representative of the Franchisor. Unless the Franchisee or its Affiliate has executed an area representation agreement pursuant to which the Franchisee has entered into this Agreement, the Franchisee shall not engage the Area Representative (or its owners), Area Representative’s affiliates (or their owners), or any family member of any owner of the Area Representative or its affiliates in any other business relationship without first obtaining the Franchisor’s written consent.

## 10. THE FRANCHISEE’S DUTIES AND OBLIGATIONS REGARDING OPERATIONS

**10.1. Business Operations.** The Franchisee acknowledges that it is solely responsible for the successful operation of its TILTED KILT Restaurant and that the continued successful operation thereof is, in part, dependent upon the Franchisee’s compliance with this Agreement and the mandatory Licensed Methods set forth in the Manuals. In addition to all other obligations contained in this Agreement and the Licensed Methods set forth in the Manuals, the Franchisee shall comply with the following operational obligations.

a. **Quality of Operations.** The Franchisee shall maintain clean, efficient and high quality TILTED KILT Restaurant operations and shall operate the business in accordance with the Manuals and in such a manner as not to detract from or adversely reflect upon the name and reputation of the Franchisor and the goodwill associated with the Tilted Kilt name and the Marks.

b. **Compliance with Laws and Good Business Practices.** The Franchisee shall conduct itself and operate its TILTED KILT Restaurant in compliance with all applicable laws, regulations and other ordinances, including, without limitation, health department regulations, ordinances and regulations which prohibit or regulate smoking in a public place (including restaurants), liquor licensing, alcohol serving, and food handler’s licensing laws and other ordinances in such a manner so as to promote a good public image in the business community. In connection therewith, the Franchisee will be solely and fully responsible for obtaining any and all licenses to carry on business at the TILTED KILT Restaurant, including without limitation, the liquor licenses as may be necessary to offer full bar service. The Franchisee shall serve liquor on the Restaurant premises only and shall not permit take-out or other off-premises consumption of liquor by customers without first obtaining an off-premises license, insurance coverage for off-premises consumption, and prior written approval by Franchisor. The Franchisee shall promptly forward to the Franchisor copies of all health and sanitation department, fire department, building department and liquor license authorizations and other similar reports of inspection or authorization as and when they become available. The Franchisee shall provide the Franchisor a copy of any and all notices the Franchisee receives from any person, entity, or governmental authority claiming that the Franchisee (or its affiliates or



representatives) has violated any laws, regulations, permits, licenses, intellectual property rights, agreements, or committed any other breach, default, or violation in connection with the Franchisee's operation of the TILTED KILT Restaurant, including any default notices from any landlord or supplier. The Franchisee shall be solely responsible for any penalties or fines assessed for failure to abide by such laws and regulations.

c. **Management.** The Franchisee acknowledges that proper management of the TILTED KILT Restaurant is extremely important. The Franchisee (or the Principal Owner) is responsible for the management, direction and control of its TILTED KILT Restaurant. The Franchisee must identify on Exhibit D the individual who will have day-to-day management authority over the TILTED KILT Restaurant (the "**General Manager**"). If the General Manager has not yet been determined, the Franchisee shall notify the Franchisor of the identity of the General Manager as soon as determined. A TILTED KILT Restaurant shall have a General Manager at all times. The General Manager must complete S.T.E.P. Training to the Franchisor's satisfaction. The General Manager may or may not be the Franchisee (or an owner if the Franchisee is an entity). The General Manager must work full time at the Franchisee's TILTED KILT Restaurant and continuously exert his or her best efforts to promote and enhance the TILTED KILT Restaurant. Any change in the General Manager is subject to the Franchisor's prior written consent. Any new General Manager must complete S.T.E.P. Training to the Franchisor's satisfaction prior to assuming the role of General Manager. S.T.E.P. Training provides a General Manager with information and knowledge to effectively manage a TILTED KILT Restaurant. However, successful management of a TILTED KILT Restaurant depends on many factors, including experience, judgment, commitment, and a high level of dedication. Therefore, S.T.E.P. Training is by no means a guarantee that a S.T.E.P.-trained manager will provide successful management. The Franchisee must closely monitor and constantly evaluate the management qualities of the Franchisee's General Manager and management staff in order to establish and maintain management of the Franchisee's TILTED KILT Restaurant. Maintaining effective management of the TILTED KILT Restaurant is the Franchisee's responsibility.

d. **Approved Products, Services, and Activities.** The Franchisee shall offer only menu items and other products, services, and activities through its Restaurant which meet or exceed the minimum standards and specifications established by the Franchisor more fully described in the Manuals. The Franchisee shall offer all types of menu items and other products, services, and activities as from time to time may be prescribed by the Franchisor and shall not offer any other menu items, products, services, or activities, or operate or engage in any other type of business or profession, from or through the TILTED KILT Restaurant, that are not authorized in writing by the Franchisor, including, without limitation, filling "wholesale orders," defined below, or any off-premises, Internet, catalog or mail order sales, including without limitation, delivery and catering sales and related services. "**Wholesale Orders**" are defined as those orders or sales where the principal purpose of the purchase is for resale, not use, or any sale other than those sold over the counter at a price other than that price charged to the general public; provided, however, that volume discounted sales made on the premises at the Franchised Location to a single purchaser, not for resale, shall not be considered a "wholesale order."

e. **Gift Card and Exchange Program.** The Franchisee shall participate in all credit card programs, gift card programs, discount card programs, loyalty card programs, exchange coin, chip and note programs, electronic data capture programs or other similar programs required by the Franchisor. Franchisee shall not create or participate in any gift card

programs, credit card programs, discount programs, loyalty card programs, exchange coin, chip or note programs, barter programs or quid pro quo programs of any kind whatsoever without the prior written consent of the Franchisor.

f. **Payment of Obligations.** The Franchisee shall pay on a timely basis all amounts due and owing to the Franchisor pursuant to any separate agreements between the Franchisee and the Franchisor and all amounts due and owing by the Franchisee to all third parties, including affiliates of the Franchisor, the Franchisee's employees, landlords, vendors, and taxing authorities, with whom the Franchisee does business at or through the Restaurant. In connection with any amounts due and owing by the Franchisee to third parties, the Franchisee expressly acknowledges that a default by the Franchisee with respect to such indebtedness may be considered a default hereunder and the Franchisor may avail itself of all remedies provided for herein in the event of such default.

g. **Other Agreements.** The Franchisee shall comply with all agreements with third parties related to the TILTED KILT Restaurant, including, without limitation, all provisions of any premises lease, equipment lease, or agreement with suppliers.

h. **Employees.** The Franchisee and all employees of the Franchisee shall present a professional appearance, in accordance with the Licensed Methods, and shall render competent and courteous service to customers of the TILTED KILT Restaurant while working at the Franchised Location. The Franchisor reserves the right to require the Franchisee, at the Franchisee's expense, to purchase specified apparel described in the Manuals from suppliers approved by the Franchisor. The General Manager and the Franchisee's other managers, employees, and owners shall wear the specified apparel at all times while working at the Franchised Location. The Franchisor has the right, in its sole and absolute discretion, to change or modify costumes, attire, and the dress code from time to time.

The Franchisee acknowledges and agrees that the Franchisee is solely responsible for all decisions relating to employees, agents, and independent contractors that the Franchisee may hire to assist in the operation of the TILTED KILT Restaurant. The Franchisee agrees that any employee, agent, or independent contractor that the Franchisee hires will be the Franchisee's employee, agent, or independent contractor, and not the Franchisor's employee, agent, or independent contractor. The Franchisee also agreed that the Franchisee is exclusively responsible for the terms and conditions of employment of the Franchisee's employees, including recruiting, hiring, firing, training, compensation, work hours and schedules, work assignments, safety and security, discipline, and supervision. The Franchisee agrees to manage the employment functions of the TILTED KILT Restaurant in compliance with federal, state, and local employment laws.

i. **Remodeling and Upgrading.** The Franchisee shall renovate, refurbish, remodel or replace, at its own expense, the real and personal property and equipment used in the operation of the TILTED KILT Restaurant, when reasonably required by the Franchisor in order to comply with the image, standards of operation and performance capability established by the Franchisor from time to time. If the Franchisor changes its image or standards of operation, it shall give the Franchisee a reasonable period of time within which to comply with such changes.

j. **Training of Employees.** The Franchisee shall be responsible for sufficiently training all of its employees who work in any capacity in the TILTED KILT Restaurant and shall be fully responsible for all employees' compliance with the operational standards which are

part of the Licensed Methods and for compliance with all laws and regulations affecting Restaurant operations.

k. **Alcohol Training and Service.** Alcohol sales are a major component of the operation of a TILTED KILT Restaurant. The Franchisee is solely responsible for training its employees to handle and serve alcoholic beverages. The Franchisee must comply with all federal, state and local liquor laws. The Franchisee acknowledges that the Franchisor is not responsible for any training on how to serve alcoholic beverages and that the Franchisee is solely responsible for all of its employees who serve alcohol.

l. **Ownership of Restaurant.** The Franchisee shall at all times during the term of this Agreement own and control the TILTED KILT Restaurant authorized hereunder. Upon request of the Franchisor, the Franchisee shall promptly provide satisfactory proof of such ownership to the Franchisor. The Franchisee represents that the Statement of Ownership, attached hereto as Exhibit D and by this reference incorporated herein, is true, complete, accurate and not misleading, and, in accordance with the information contained in the Statement of Ownership, the sole ownership of the TILTED KILT Restaurant is held by the Franchisee. The Franchisee shall promptly provide the Franchisor with a written notification if the information contained in the Statement of Ownership changes at any time during the term of this Agreement and shall comply with the applicable transfer provisions contained in Article 17 herein. In addition, if the Franchisee is an entity, all of the owners of the Franchisee shall sign the Personal Guaranty attached hereto as Exhibit C. The Franchisee must identify on Exhibit D, one of its owners who is a natural person with the greatest percentage of ownership interest and voting power in the Franchisee, as compared to the remaining owners (the “**Principal Owner**”). The Franchisor shall have the right and is hereby authorized by the Franchisee to consider the Principal Owner as the chief executive officer who is authorized to represent the Franchisee in such capacity. The Franchisee may not change the identity of the Principal Owner without the Franchisor’s prior written consent. If the Franchisee is an entity, the Franchisee agrees that the Principal Owner is authorized to deal with the Franchisor on the Franchisee’s behalf in respect to all matters whatsoever which may arise with respect to this Agreement and the operation of the Restaurant and any decision made by the Principal Owner will be final and binding on the Franchisee and the Franchisor will be entitled to rely solely upon the decision of the Principal Owner in any such dealings, without the necessity of any discussions with any other party named in this Agreement or any other owner of the Franchisee, and the Franchisor will not be held liable for any actions taken by the Franchisee or otherwise, based upon any decisions or actions of the Principal Owner. Where used in this Agreement with respect to the Franchisee, an “**Affiliate**” is an entity (including but not limited to a corporation, limited liability company, partnership, trust, or other form of business entity) in which the Franchisee and/or its owners (i) own 30% or more of the ownership interests and/or voting rights or (ii) have the right and power to control and determine the entity’s management and policies.

m. **Pricing.** The Franchisor may periodically set a maximum or minimum price that the Franchisee may charge for products and services offered by TILTED KILT Restaurants. If the Franchisor imposes a maximum price for any product or service, the Franchisee may charge any price for the product or service up to and including the maximum price the Franchisor imposes, but may not charge any price in excess of the maximum price set by the Franchisor. If the Franchisor imposes a minimum price for any product or service, the Franchisee may charge any price for product or service down to and including the minimum price the Franchisor imposes but may not charge any price below the minimum price set by the Franchisor. For any product or service for which the Franchisor does not impose a maximum or

minimum price, the Franchisor may require the Franchisee to comply with an advertising policy adopted by the Franchisor which will prohibit the Franchisee from advertising any price for a product or service that is different than the Franchisor's suggested retail price. Although the Franchisee must comply with any advertising policy the Franchisor adopts, the Franchisee will not be prohibited from selling any product or service at a price above or below the suggested retail price unless the Franchisor imposes a maximum price or minimum price for such product or service. The Franchisee also agrees to participate in all "limited time offering" promotions, as well as any other promotions, implemented by the Franchisor.

n. **Hours of Operation.** The Franchisee shall at all times during the term of this Agreement keep its TILTED KILT Restaurant open during the business hours as may be designated by the Franchisor from time to time in the Manuals, except as such designated business hours are superseded by applicable law, and shall maintain sufficient supplies of menu items, food and ingredients, beer, liquor and beverages, paper goods and branded products and merchandise and employ adequate personnel at all times so as to operate the Restaurant at its maximum capacity and efficiency.

o. **Information Security.** The Franchisee must implement all administrative, physical, and technical safeguards necessary to protect any information that can be used to identify an individual, including names, addresses, telephone numbers, e-mail addresses, employee identification numbers, signatures, passwords, financial information, credit card information, government-issued identification numbers and credit-report information ("**Personal Information**") in accordance with applicable law and industry best practices. It is entirely Franchisee's responsibility (even if the Franchisor provides the Franchisee with any assistance or guidance in that regard) to confirm that the safeguards the Franchisee uses to protect Personal Information comply with all applicable laws and industry best practices related to the collection, access, use, storage, disposal, and disclosure of Personal Information. If the Franchisee becomes aware of a suspected or actual breach of security or unauthorized access involving Personal Information, the Franchisee will notify the Franchisor immediately and specify the extent to which Personal Information was compromised or disclosed.

**10.2. Casting Call Event.** Before the Restaurant opens for business, the Franchisee must hold a casting call event (a "**Casting Call Event**") in order to recruit staff to work at the Restaurant. The Casting Call Event shall be marketed by using media such as radio, billboards, banners and digital media print ad. If the Franchisee does not have a certificate of occupancy to use the Restaurant for the Casting Call Event, the Franchisee must secure an appropriate space approved by the Franchisor to conduct the Franchisee's Casting Call Event. Additionally, the Franchisee must purchase from the Franchisor the approved Cassie Initiate décor package as well as obtain the necessary office supplies and all required casting and recruiting print materials for General Managers and prospective applicants.

## **11. PURCHASES OF PRODUCTS**

**11.1. Inventory.** Prior to commencement of operation of the TILTED KILT Restaurant, the Franchisee shall purchase and stock the Restaurant with inventory in such mix and quantities as the Franchisor may determine, based on the customer demographics, regional consumer preferences and other factors such as the size, seating and location of the Restaurant. The Franchisee shall, during the term of the Franchise Agreement, maintain product inventory levels and product inventory mix sufficient to meet customer demands and in compliance with the Franchisor's standards and specifications as may be described in the Manuals from time to time.

**11.2. Limitations on Supply Obligations.** With respect to any purchases of products from the Franchisor or its affiliated companies or from required, approved or recommended suppliers, product delivery is subject to and conditioned upon availability. Nothing in this Agreement shall be construed by the Franchisee to be a promise or guarantee as to the continued existence of a particular product, nor shall any provision herein imply or establish an obligation on the part of the Franchisor and its affiliates to sell products to the Franchisee if the Franchisee is in arrears on any payment to the Franchisor and its affiliates or otherwise in default under this Agreement. The Franchisor may, at any time, require payments to be made at time of order or in cash on delivery (“COD”). In addition, penalties and interest for late payments for products and other items purchased from the Franchisor and its affiliates will apply on the same terms as for Royalties, described in Section 12.3 below.

**11.3. No Product Warranties.** The products purchased by the Franchisee from the Franchisor or its affiliated companies shall be subject only to manufacturers’ warranties. THE FRANCHISOR AND ITS AFFILIATED COMPANIES MAKE NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE PRODUCTS PURCHASED BY THE FRANCHISEE.

**11.4. Changes in Product; Terms of Sale.** It is understood that the Franchisor and its affiliates shall have the right, at any time and without notice, to add items to, or withdraw items from, the list of products; to add to or delete from the list of required, approved and/or recommended suppliers of product; to revise any product; and to change the prices, discounts, or terms of sale of any product, provided, however, no such changes in prices, discounts or terms shall affect accepted orders pending with the Franchisor and its affiliates at the time of change. No such changes will give the Franchisee the right to recover damages against, or be reimbursed by, the Franchisor or its affiliates for any losses suffered by the Franchisee, nor will the Franchisee be entitled to require the Franchisor and its affiliates to accept return of any of the products rendered obsolete by such changes. The Franchisee shall comply with the then-current terms and conditions of sale of the Franchisor or its affiliates for the purchase of inventory, equipment and other items through the Franchisor or its affiliates.

## **12. ROYALTIES**

**12.1. Weekly Royalty.** The Franchisee shall pay to the Franchisor a weekly royalty (“Royalty”) equal to 6% of the total amount of its “Gross Sales” (defined in Section 12.2 below), generated from or through its TILTED KILT Restaurant.

**12.2. Gross Sales.** “Gross Sales” shall mean and include the aggregate amount of all sales of products, services, merchandise, or activities of every kind or nature sold at, from, through or otherwise in connection with the operation of the Restaurant, whether for cash or credit, including, without limitation, revenue from admissions, event charges, cover charges, vending machines, jukeboxes and gaming devices, lottery tickets, video games and coin-operated games, less returns for which refunds are made (not to exceed sale price), and excluding (i) all federal, state or municipal sales or service taxes collected from customers and paid to the appropriate taxing authority, and (ii) other discounts (including the amount of employee discounts) and exclusions as may be authorized in writing by the Franchisor. “Gross Sales” shall include gift card redemptions; condemnation awards; all insurance proceeds received by the Franchisee for loss or interruption of business due to a casualty or similar event at the Franchised Location; and the fair market value of any services or products received by the Franchisee in barter or exchange for its services and products; provided, however, that the Franchisee shall not barter or exchange any products or services without the Franchisor’s prior written approval. The Franchisee agrees that all comps, or parts or all of a meal offered to customers on the house, in excess of 2% of

Gross Sales shall be included in Gross Sales, and Royalties and other fees shall be paid on such dollar value except during the first 90 days after commencement of operations of the Restaurant.

**12.3. Royalty Payments.** Royalty payments shall be made weekly and sent to the Franchisor by electronic funds transfer on the day of the week the Franchisor shall designate from time to time (“**Due Date**”) based on Gross Sales for the immediately preceding week. No later than the Due Date of each week, the Franchisee shall report to the Franchisor by electronic means or in written form, as may be reasonably directed by the Franchisor, with such information and pursuant to such standard transmittal procedures regarding the Franchisee’s Gross Sales and such additional information as may be requested by the Franchisor. In the event that the Franchisee fails to provide the Franchisor with the reports referenced in the previous sentence on the Due Date of each week, the Franchisee shall owe a \$100.00 late fee for each week such reports are late to be automatically assessed and debited or paid along with the payment of Royalties. The Franchisor shall have the right to verify such Royalty payments from time to time as it deems necessary, in any reasonable manner. In the event that the Franchisee fails to have sufficient funds in the Main Operating Account (as defined in Section 12.5) or otherwise fails to pay any Royalties as of the Due Date, the Franchisee shall, in addition to such Royalties, owe a \$100.00 late fee to be automatically assessed and debited or paid along with the late debit or payment of Royalties. In addition, the Franchisor shall have the right to charge interest on any payments made after the Due Date at the highest applicable legal rate for open account business credit, not to exceed 1½% per month. The Franchisee acknowledges that this Section 12.3 shall not constitute the Franchisor’s or its affiliates’ agreement to accept such payments after they are due or a commitment to extend credit to or otherwise finance operation of the Restaurant. In no event shall the Franchisee be required to pay a late payment and/or interest at a rate greater than the maximum interest rate permitted by applicable law.

**12.4. Change in Law.** If a law is enacted during the term of this Agreement which prohibits or restricts in any way the Franchisee’s ability to pay and the Franchisor’s ability to collect Royalties or other amounts based on Gross Sales derived from the sale of alcoholic products, then the Franchisor reserves the right to modify the Franchisee’s payment obligations under this Agreement and revise the applicable provisions hereunder in order to provide the same basic economic effect to both the Franchisor and the Franchisee as currently provided in this Agreement. In such event, the Franchisee agrees to execute the appropriate document(s) in the form the Franchisor prescribes to give effect to or take account of such revisions.

**12.5. Application of Payments.** The Franchisee agrees to deposit all receipts from the operation of the TILTED KILT Restaurant into one business checking account at a U.S. national bank or other financial institution insured by the Federal Deposit Insurance Corporation (“**Main Operating Account**”). Franchisee authorizes the Franchisor and its affiliates to debit the Franchisee’s Main Operating Account automatically for all amounts due under this Agreement or otherwise, including but not limited to, Royalty, Advertising Contributions (as defined in Section 13.3), and LAG contributions (as defined in Section 13.4) (the “**EFT Authorization**”). Franchisee agrees to execute all documents required by Franchisor for the EFT Authorization, including the Authorization Agreement for Preauthorized Payments (Direct Debits) attached as Exhibit E hereto, and shall remain in full force and effect during the term of this Agreement. The Franchisor will debit the Main Operating Account via the EFT Authorization for these amounts on the Due Date (or the subsequent business day if the Due Date is a national holiday or a weekend day). The Franchisee agrees to ensure that funds are available in the Main Operating Account to cover the Franchisor’s withdrawals. The Franchisee shall not close the Main Operating Account or deposit any receipts from the operation of the TILTED KILT Restaurant

into any other checking account without the Franchisor's express written consent, and any such action shall be deemed a breach of this Agreement.

Despite any designation made by the Franchisee, the Franchisor may apply any of the Franchisee's payments, and any credits the Franchisor receives on the Franchisee's behalf from third party suppliers to any of the Franchisee's past due indebtedness to the Franchisor. The Franchisor may set off any amounts the Franchisee or its owners owe to the Franchisor or its affiliates against any amounts the Franchisor or its affiliates owe the Franchisee or its owners.

The Franchisor may require the Franchisee to pay any amounts due under this Agreement or otherwise by means other than automatic debit (e.g., by check or credit card) whenever the Franchisor deems appropriate, and the Franchisee agrees to comply with the Franchisor's payment instructions.

### **13. ADVERTISING**

**13.1. Approval of Advertising.** The Franchisee shall obtain the Franchisor's prior written approval of all written advertising or other marketing or promotional programs regarding the TILTED KILT Restaurant, including, without limitation, "Yellow Pages" and other directory listing advertising, newspaper ads, flyers, brochures, magazines, coupons, direct mail pieces, specialty and novelty items and radio, television and Internet advertising. The Franchisee shall also obtain the Franchisor's prior written approval before using any promotional materials as may be provided by vendors. The proposed written advertising or a description of the marketing or promotional program shall be submitted to the Franchisor at least 30 days prior to publication, broadcast or use. If the Franchisor does not provide written notice of approval within 30 days, the Franchisor shall be deemed to have denied approval of the proposed materials. The Franchisee acknowledges that advertising and promoting the TILTED KILT Restaurant in accordance with the Franchisor's standards and specifications is an essential aspect of the Licensed Methods, and the Franchisee agrees to comply with all advertising standards and specifications. The Franchisee shall display all required promotional materials, signs, point of purchase displays and other marketing materials in its TILTED KILT Restaurant and in the manner prescribed by the Franchisor.

**13.2. Minimum Advertising Expenditure.** The Franchisee shall spend a minimum average per calendar quarter of 4% ("**Minimum Advertising Expenditure**") of the total amount of its quarterly Gross Sales on local advertising, **LESS** any amounts contributed to the Advertising Fund and to any Local Advertising Group. The Franchisee will submit to the Franchisor an accounting of the amounts spent on its Minimum Advertising Expenditure within 15 days following the end of each calendar quarter, if requested. If the Franchisee's lease requires it to advertise locally, the Franchisor may, in its sole discretion, count such expenditures toward the Franchisee's Minimum Advertising Expenditure required by this Section 13.2. The Franchisee shall obtain the Franchisor's prior written approval of all written and Electronic Advertising (defined in Section 13.6) and promotional materials before publication. The Franchisee must participate in promotions as required by the Franchisor.

**13.3. National Advertising and Marketing Contribution.** The Franchisee shall contribute to a national advertising and marketing fund established by the Franchisor ("**Advertising Fund**") a fee of up to 2% of the total amount of the Franchisee's Gross Sales ("**Advertising Contribution**") in the percentage established by the Franchisor from time to time. As set forth in Section 13.2, any payments made to the Advertising Fund pursuant to this Section 13.3 shall be deducted from the Franchisee's Minimum Advertising Expenditure obligation. The Advertising Contribution shall be paid to the Franchisor in addition to Royalties, and the following terms and conditions shall apply:

a. The Advertising Contribution is payable in the same manner as the Royalty payments pursuant to Sections 12.3 and 12.5;

b. The Franchisor may change the amount of the Advertising Contribution (but not to exceed 2% of the Franchisee's Gross Sales) by providing the Franchisee with at least 60 days prior written notice.

c. The Franchisor shall have the right to verify Advertising Contribution payments from time to time as it deems necessary, in any reasonable manner.

d. The Advertising Contributions will be subject to the same late charges and interest as the Royalties, in an amount and manner set forth in Section 12.3.

e. Upon the request of the Franchisee, the Franchisor will make available to the Franchisee, no later than 120 days after the end of each fiscal year, an unaudited financial statement that shows how the Advertising Fund has been spent.

f. The Franchisor shall direct all advertising and marketing programs financed by the Advertising Fund, with sole discretion over the creative concepts, materials and endorsements used therein, geographic, market and media placement and allocation, and the administration thereof. The Franchisee agrees that the Advertising Fund may be used to pay the costs of preparing, producing or placing video, audio and written advertising materials and other commercial advertising; agency costs and commissions; sponsoring radio programs; administering multi-regional advertising programs, including, without limitation, purchasing direct mail and other media advertising and employing advertising agencies and in-house staff to assist therewith; gift card programs, secret shopper programs, and sponsorships; supporting public relations; market research; brand recognition; administering online, website, and other electronic advertising and marketing campaigns (including search engine, social media, email, and display ad campaigns); developing and maintaining application software designed to run on computers and similar devices, including tablets, smartphones and other mobile devices, as well as any evolutions or "next generations" of any such devices; and other advertising and marketing activities.

g. The Advertising Fund shall be accounted for separately from the Franchisor's other funds and shall not be used to defray any of the Franchisor's general operating expenses, except for such reasonable administrative costs, salaries and overhead as the Franchisor may incur in activities related to the administration of the Advertising Fund and its advertising and marketing programs, including, without limitation, conducting market research, incurring related accounting and legal expenses, preparing material and collecting and accounting for Advertising Fund contributions. The Franchisor may spend in any fiscal year an amount greater or less than the aggregate contribution of all TILTED KILT Restaurants to the Advertising Fund in that year and the Advertising Fund may borrow from the Franchisor or other lenders to cover deficits or cause the Advertising Fund to invest any surplus for future use. Any interest earned on monies contributed to the Advertising Fund will be first used to pay costs. The Advertising Fund may be incorporated or operated through an entity separate from the Franchisor at such time as the Franchisor deems appropriate, and such successor entity shall have all rights and duties of the Franchisor pursuant to this Section 13.3.

h. The Franchisee understands and acknowledges that the Advertising Fund is intended to maximize recognition of the Marks and patronage of TILTED KILT Restaurants. Although the Franchisor will endeavor to utilize the Advertising Fund to develop advertising and



marketing materials and programs and to place advertising that will benefit all TILTED KILT Restaurants, the Franchisor undertakes no obligation to ensure that expenditures by the Advertising Fund in or affecting any geographic area are proportionate or equivalent to the contributions by TILTED KILT Restaurants operating in that geographic area or that any TILTED KILT Restaurant will benefit directly or in proportion to its contribution from the development of advertising and marketing materials or the placement of advertising. The Advertising Fund is not a trust fund, and the Franchisor does not owe the Franchisee a fiduciary duty with respect to the maintenance, direction or administration of the Advertising Fund. Except as expressly provided in this Section 13.3, the Franchisor assumes no direct or indirect liability or obligation to the Franchisee with respect to the maintenance, direction or administration of the Advertising Fund.

i. The Franchisor reserves the right to terminate the Advertising Fund, upon 30 days' written notice to the Franchisee. If the Advertising Fund is terminated, the Franchisor will (at its option) either spend the remaining Advertising Fund assets in accordance with this Section 13.3 or distribute the unspent assets to contributors (including the Franchisor and its affiliates, if applicable) then contributing to the Advertising Fund in proportion to their contributions during the preceding twelve (12) month period. The Franchisor shall have the right to reinstate the Advertising Fund upon the same terms and conditions set forth herein upon 30 days' prior written notice to the Franchisee.

**13.4. Local Advertising Groups.** The Franchisor reserves the right, upon 30 days prior written notice to the Franchisee, to create a local advertising group ("LAG") for the benefit of TILTED KILT franchisees located within a particular geographic area. If a LAG is established for the area where the Franchisee is located, the Franchisee will be required to participate in the LAG for the purpose of selecting and participating in regional marketing and promotion programs for TILTED KILT Restaurants. The Franchisee will be required to remain a member of and be bound by the decisions of the majority of the members of the LAG regarding expenditures, assessments and dues of the LAG, to the extent that they are approved by the Franchisor. The Franchisor may, in its sole discretion, allocate all or a portion of the Minimum Advertising Expenditure described in Section 13.2 as a required advertising contribution to the LAG; provided, however, that any payments made to the LAG pursuant to this Section 13.4 and any required Advertising Contribution shall be deducted from the Franchisee's Minimum Advertising Expenditure obligation, and, combined, shall not exceed the Franchisee's Minimum Advertising Expenditure obligation. The LAG contribution is payable in the same manner as the Royalty payments pursuant to Sections 12.3 and 12.5. To the extent approved by the Franchisor, each LAG has the right, by majority vote, to require its members to pay dues to the LAG of up to 4% of Gross Sales, reduced by the then-current Advertising Contribution. The failure of the Franchisee to participate in the LAG or pay any dues required by the LAG, may, at the option of the Franchisor, be deemed to be a breach of this Agreement. The Franchisor has the right, in its sole discretion, to determine the composition of all geographic territories and market areas for the implementation of the LAGs and to require that the Franchisee participate in such regional advertising programs as and when they may be established by the Franchisor. If a LAG is formed for a particular region by the Franchisor, the Franchisor, to the extent reasonably calculable, will only use contributions from TILTED KILT franchisees within such region for the particular regional advertising program. The Franchisor reserves the right to seek reimbursement from the LAG for reasonable administrative costs, travel, expenses, salaries and overhead as the Franchisor may incur in activities related to the implementation and administration of the LAG and marketing programs. The Franchisor also reserves the right, in Franchisor's sole discretion, to form, determine the bylaws for, modify, or dissolve the LAG at any

time upon written notice to Franchisee. In its sole discretion, Franchisor may also enable the LAG to self-administer the local advertising programs.

**13.5. Grand Opening Program.** The Franchisee shall conduct a grand opening advertising and promotional program (the “**Grand Opening Program**”) for the TILTED KILT Restaurant at a time to be mutually agreed upon by the Franchisor and the Franchisee at or around the time that the Restaurant opens, but starting at least 4 weeks prior to the grand opening of the Restaurant and continuing for at least 60 days following the grand opening of the Restaurant. The Franchisee shall spend a minimum dollar amount as set forth in Exhibit A for the Grand Opening Program. The Franchisee shall provide the Franchisor with a summary of the Grand Opening Program expenditures within 60 days after completion of the Grand Opening Program, at the Franchisor’s request. The Franchisee’s Grand Opening Program will utilize the marketing and public relations programs and media and advertising materials that the Franchisor has developed.

**13.6. Electronic Advertising.** The Franchisee must not: (a) use the Marks as part of any website, domain name, email address, social media account, username, other online presence or presence on any electronic medium of any kind (“**Online Presence**”); or (b) develop, create, distribute, disseminate or use any Internet advertising or Online Presence, or any multimedia, telecommunication, mass e-mail, facsimile or audio/visual advertising, promotional or marketing materials, directly or indirectly related to the TILTED KILT Restaurant, the Marks or the Licensed Methods (“**Electronic Advertising**”), without the Franchisor’s prior written consent, which may be withheld in the Franchisor’s sole discretion. The Franchisor reserves the right, upon 30 days’ prior written notice, to require the Franchisee to participate in any Electronic Advertising required by the Franchisor. If permitted or required by the Franchisor, all Electronic Advertising shall be conducted only in accordance with the Franchisor’s guidelines set forth in the Manuals or otherwise in writing from time to time (including the Franchisor’s guidelines for posting any messages or commentary on other third-party Online Presences). The Franchisor will own the rights to all Online Presences, and the Franchisee agrees to take whatever action (including signing assignment or other documents) the Franchisor requests to evidence the Franchisor’s ownership of such Online Presences, or to help the Franchisor obtain exclusive rights in such Online Presences. The Franchisor shall retain the exclusive right to develop and control the content of all Electronic Advertising for the TILTED KILT Restaurants. The Franchisor may require the Franchisee to link its website to a website as may be maintained by the Franchisor and may also charge the Franchisee a reasonable fee to establish and maintain such link. Any amounts that the Franchisee is required to spend on Electronic Advertising shall be credited toward the Franchisee’s Minimum Advertising Expenditures.

**13.7. TILTED KILT Costumes or Employee Attire.** All marketing and promotion by the Franchisee which depicts or utilizes the TILTED KILT costumes or other employee attire must conform to the Franchisor’s standards and specifications and the requirements described in Section 13.1 herein. The Franchisee shall not wear or allow anyone else to wear or utilize the TILTED KILT costumes or any other employee attire except while being worn or utilized in full conformance with the Franchisor’s standards and specifications for authorized TILTED KILT Restaurant services at the Franchised Location or permitted off-site catering. The Franchisee shall obtain the prior written consent of the Franchisor, which consent may be withheld in the Franchisor’s sole discretion, for any use of the TILTED KILT costumes or other employee attire not at the Franchised Location or for permitted off-site catering services. In addition, the Franchisee shall comply with the standards and specifications and limitations that the Franchisor may impose from time to time with respect to the TILTED KILT costumes or other employee attire, and the persons who wear them.

## 14. QUALITY CONTROL

**14.1. Compliance with Licensed Methods.** The Franchisee acknowledges and agrees that operating and maintaining the Restaurant according to the Licensed Methods is essential to preserving the goodwill of the Marks and all TILTED KILT Restaurants. Therefore, the Franchisee agrees that it shall, at all times, maintain and operate the Restaurant in compliance with all of the Franchisor's mandatory Licensed Methods, as they may be modified and supplemented from time to time by the Franchisor, even if the Franchisee believes that a particular Licensed Method is not in the best interests of the Franchisee or the system of TILTED KILT Restaurants. The Franchisor's periodic modification of the Licensed Methods, which may accommodate regional or local variations, may obligate the Franchisee to invest additional capital in the TILTED KILT Restaurant and incur higher operating costs.

**14.2. Standards and Specifications.** The Franchisor will make available to the Franchisee standards and specifications for products and services offered at or through the TILTED KILT Restaurant and for the Franchised Location, décor, equipment, furniture, fixtures, inventory policies, menus, food, packaging, paper products, employee attire, cast members, supplies, forms, advertising material and other items used in connection with the Restaurant. The Franchisor reserves the right to change standards and specifications for services and products offered at or through the TILTED KILT Restaurant and for the Franchised Location, equipment, furniture, fixtures, inventory policies, menus, food, packaging, paper products, employee attire, cast members, supplies, forms, advertising material and other items used in connection with the Restaurant, upon 30 days prior written notice to the Franchisee. The Franchisee shall, throughout the term of this Agreement, remain in compliance and strictly adhere to all of the Franchisor's current standards and specifications for the TILTED KILT Restaurant as prescribed from time to time.

**14.3. Inspections.** The Franchisor shall have the right to examine the Franchised Location and the TILTED KILT Restaurant and the operations thereof, including the appearance of the staff, inventory, products, equipment, furniture, fixtures, materials, supplies or services used or sold there, to ensure compliance with all standards and specifications set by the Franchisor. The Franchisor shall conduct such inspections during regular business hours, at a frequency which the Franchisor shall determine, and the Franchisee may be present at such inspections. The Franchisor, however, reserves the right to conduct the inspections without prior notice to the Franchisee. During the inspections conducted by the Franchisor, the Franchisor shall have the right to: (i) videotape or take pictures of the Franchised Location; (ii) interview employees and customers of the Restaurant; (iii) take samples of products sold at the Restaurant for testing and analysis; (iv) require the Franchisee to immediately remove any unauthorized products from the Franchised Location; (v) require the Franchisee to immediately cease any sale of unauthorized menu items, products or services; and (vi) require the Franchisee to immediately cease any unauthorized activity. The Franchisor shall have the right to use such photographs and videotaped material in such a manner as it reasonably deems appropriate.

**14.4. Restrictions on Products and Services.** The Franchisee must offer and sell all products and services required by the Franchisor, including any limited time offerings. The Franchisee is prohibited from offering or selling any products or services not authorized by the Franchisor as being a part of the Licensed Methods. If the Franchisee proposes to offer, conduct or utilize any products, services, materials, forms, items, supplies or services for use in connection with or sale through the TILTED KILT Restaurant which are not previously approved by the Franchisor as meeting its specifications, the Franchisee shall first notify the Franchisor in writing requesting approval. The Franchisor may, in its sole discretion, for any reason whatsoever, elect to withhold such approval; however, in order to make such determination, the Franchisor may require submission of specifications, information, or samples of such products, services, materials, forms, items or supplies. The Franchisee

shall pay the reasonable costs of investigation in determining whether such products, services, materials, forms, items or supplies meet its specifications. The Franchisor will advise the Franchisee within a reasonable time whether such products, services, materials, forms, items or supplies meet its specifications.

**14.5. Approved Suppliers.** The Franchisor and its affiliates reserve the right to approve, from time to time, contractors, manufacturers, vendors, distributors, suppliers, producers (collectively referred to herein as “suppliers”), terms, and distribution methods for any goods and services, which include, but are not limited to, insurance, products, equipment, supplies, and materials. The Franchisee shall purchase all goods and services required for the operation of its TILTED KILT Restaurant from such approved suppliers (which may be only one supplier for any given good or service) under terms and in the manner approved by the Franchisor or any of its affiliates. The Franchisor may approve only one exclusive supplier for any product or service (which may be the Franchisor or its affiliates). If the Franchisor designates one or more exclusive suppliers for a particular good or service, the Franchisee may not purchase such good or service from any other supplier. The Franchisee acknowledges and agrees that the Franchisor and/or its affiliates may derive revenue based on the Franchisee’s purchases (including, without limitation, from charging the Franchisee for products and services the Franchisor or its affiliates provide to the Franchisee and from promotional allowances rebates, volume discounts and other payments made to the Franchisor or its affiliates by suppliers that the Franchisor designates or approves for some or all of its franchisees). The Franchisor and/or any of its affiliates may use such revenue or profit without restriction.

**14.6. Request to Change Supplier.** If the Franchisor has designated one or more exclusive supplier(s) of a good or service, the Franchisee may not use or request to use an alternative supplier for such good or service. However, if an exclusive supplier(s) has not been designated and if the Franchisee desires to purchase or use products, equipment, supplies, materials, or services from suppliers other than those previously approved by the Franchisor and its affiliates, the Franchisee shall give the Franchisor a written request to change supplier before purchasing any goods or services from non-approved suppliers. The Franchisor shall notify the Franchisee in writing of the approval or rejection of the proposed supplier within a reasonable time after the Franchisor receives the request to approve a proposed supplier. In order to make such determination, the Franchisor and its affiliates may investigate the proposed supplier and require that samples from the proposed supplier be delivered for testing prior to approval and use. The Franchisor may charge the Franchisee a fee not to exceed the actual cost of the test. The Franchisee acknowledges and agrees that the Franchisor and its affiliates may, for any reason whatsoever at its or their sole discretion, elect to withhold approval of the supplier. Unless and until the Franchisor approves the proposed supplier in writing, the proposed supplier shall be considered unapproved. The Franchisee further acknowledges and agrees that the Franchisor and its affiliates are likely to reject the Franchisee’s request for a new supplier without conducting any investigation if the Franchisor and its affiliates already have designated an exclusive supplier for the goods and/or services proposed to be offered by the new supplier as permitted in Section 14.5. The Franchisor and its affiliates may from time to time inspect any supplier’s facilities and products to ensure proper production, processing, storing, and transportation of goods and services to be purchased from the supplier by the Franchisee. Permission for such inspection shall be a condition of the continued approval of such supplier.

**14.7. Mystery Shopping Service.** The Franchisor may itself, or through a designee or a third-party secret shopping service, evaluate the operation and quality of the Restaurant, including such things as meal quality, drink quality, inventory availability, customer service, cleanliness, merchandising, franchise compliance, proper use of computers and registers, and compliance with the Licensed Methods. The Franchisor may use such service evaluations to inspect the Restaurant at any time at the

Franchisor's expense, without prior notification to the Franchisee. The Franchisor may make the results of any such service evaluation available to the Franchisee, in the Franchisor's sole discretion.

## 15. MARKS, TRADE NAMES AND PROPRIETARY INTERESTS

**15.1. Marks.** The Franchisee acknowledges that the Franchisor and its affiliates have the sole right to license and control the Franchisee's use of the "TILTED KILT", "TILTED KILT PUB & EATERY" and "A COLD BEER NEVER LOOKED SO GOOD" service marks and other of the Marks, and that such Marks shall remain under the sole and exclusive ownership and control of the Franchisor. The Franchisee and its owners acknowledge that they have not acquired any right, title or interest in such Marks except for the Franchisee's right to use such marks in the operation of its TILTED KILT Restaurant as it is governed by this Agreement. Except as permitted in the Manuals, the Franchisee shall not use any of the Marks as part of an electronic mail address or on any sites on the Internet; provided that the Franchisee may use the Marks on a social media website in accordance with the Franchisor's then current guidelines. The Franchisee shall not use or register any of the Marks as part of a domain name on the Internet.

**15.2. No Use of Other Marks.** No service marks other than "TILTED KILT" and "TILTED KILT PUB & EATERY" or such other Marks as may be specified by the Franchisor shall be used in the identification, marketing, promotion or operation of the TILTED KILT Restaurant.

**15.3. Licensed Methods.** The Franchisee acknowledges that the Franchisor and its affiliates own and control the distinctive plan for the establishment, operation and promotion of the TILTED KILT Restaurant and all related licensed methods of doing business, previously defined as the "**Licensed Methods**", which include, but are not limited to, the Franchisor's standards and specifications for the franchised site, premises, leasehold improvements, construction plans for the premises, interior finish, equipment, supplies, materials, inventory type and control, technical equipment standards, order fulfillment methods, customer relations, marketing techniques, written promotional materials, advertising, costumes, trade dress, employee attire, accounting systems, recipes, menu items and food and drink preparation methods, all of which constitute confidential trade secrets of the Franchisor. The Franchisee acknowledges that the Franchisor has valuable rights in and to the trade secrets and other proprietary information comprising the Licensed Methods. The Franchisee and its owners further acknowledge that they have not acquired any right, title or interest in the Licensed Methods except for the Franchisee's right to use the Licensed Methods in the operation of the TILTED KILT Restaurant as it is governed by this Agreement and that the Franchisee (and its owners) are obligated to maintain the confidentiality of the Licensed Methods in accordance with Section 21.3. The Franchisee's changes or improvements to the Licensed Methods shall inure to the exclusive benefit of the Franchisor.

**15.4. Mark Infringement.** The Franchisee shall notify the Franchisor in writing immediately if the Franchisee should become aware of any person, other than a Franchisee or Area Representative, using the Franchisor's Marks or any mark that might be confused with the Franchisor's Marks. The Franchisee acknowledges that the Franchisor shall have the right, in its sole discretion, to determine whether any action will be taken on account of any possible infringement or illegal use. The Franchisor and its affiliates shall have the sole right to determine whether to commence or prosecute such action in the Franchisor's own name and may join the Franchisee as a party to the action if the Franchisor determines it to be reasonably necessary for the continued protection and quality control of the Marks and Licensed Methods. The Franchisor shall bear the reasonable cost of any such action, including attorneys' fees. The Franchisee must fully cooperate with the Franchisor in any such litigation.

**15.5. Franchisee's Business Name.** The Franchisee acknowledges that the Franchisor and affiliates of the Franchisor have a prior and superior claim to the "TILTED KILT" Restaurant trade name. The Franchisee shall not use the words "TILTED KILT" in the legal name of its corporation, partnership or any other business entity used in conducting the business provided for in this Agreement. The Franchisee also agrees not to register or attempt to register a trade name using the words "TILTED KILT" in the Franchisee's name or that of any other person or business entity, without prior written consent of the Franchisor. The Franchisee shall not identify itself as being "Tilted Kilt" or as being associated with the Franchisor in any manner other than as a franchisee or licensee or as being associated with any affiliate of the Franchisor. The Franchisee shall, in all advertising and promotion and promotional materials, display its business name only in obvious conjunction with the phrase "TILTED KILT Licensee" or "TILTED KILT Franchisee" or with such other words and in such other phrases to identify itself as an independent owner of the TILTED KILT Restaurant, as may from time to time be prescribed in the Manuals. However, this Section 15.5 does not preclude the Franchisee from filing a fictitious business name or "DBA" as required by applicable state law.

**15.6. Change of Marks.** In the event that the Franchisor decides to modify or discontinue use of any proprietary Marks, or to develop additional or substitute marks, the Franchisee shall, within a reasonable time after receipt of written notice of such a modification or discontinuation from the Franchisor, take such action, at the Franchisee's sole expense, as may be necessary to comply with such modification, discontinuation, addition or substitution.

**15.7. Creative Ownership.** All copyrightable works created by the Franchisee or any of its owners, officers or employees in connection with the Restaurant shall be the sole property of the Franchisor. The Franchisee assigns all proprietary rights, including copyrights, in these works to the Franchisor without additional consideration. The Franchisee hereby assigns and will execute such additional assignments or documentation to effectuate the assignment of all intellectual property, inventions, copyrights and trade secrets developed in part or in whole in relation to the Restaurant, during the term of this Agreement, as the Franchisor may deem necessary in order to enable it, at its expense, to apply for, prosecute and obtain copyrights, patents or other proprietary rights in the United States and in foreign countries or in order to transfer to the Franchisor all right, title, and interest in said property. The Franchisee shall promptly disclose to the Franchisor all inventions, discoveries, improvements, creations, patents, copyrights, trademarks and confidential information relating to the Restaurants and the Licensed Methods which it or any of its owners, officers or employees has made or may make solely, jointly or commonly with others and shall promptly create a written record of the same. In the event any such intellectual property rights or other rights described above are deemed by a court of competent jurisdiction not to be owned by the Franchisor, the Franchisee hereby grants to the Franchisor an irrevocable, perpetual, royalty free, world-wide license to use and sublicense such intellectual property rights and such other developed rights described in this Section 15.7.

## **16. REPORTS, RECORDS AND FINANCIAL STATEMENTS**

**16.1. Franchisee Reports.** The Franchisee shall establish and maintain, at its own expense, bookkeeping, accounting and data processing systems that conform to the specifications that the Franchisor may prescribe from time to time. Each transaction of the Restaurant shall be processed in the manner prescribed by the Franchisor. The Franchisor shall have the right of access to all data with respect to the Restaurant. The Franchisor reserves the right to require that the Franchisee provide access to the data to the Franchisor by installing a modem and/or joining and paying for an electronic network connection service which meets the Franchisor's standards and specifications. The Franchisee shall

supply to the Franchisor such types of reports in a manner and form as the Franchisor may from time to time require, including:

- a. by a designated day of each week a report on the Restaurant's Gross Sales for the previous week;
- b. financial statements for designated four-week periods prepared in accordance with generally accepted accounting principles ("GAAP"), consistently applied, using the forms and chart of accounts as prescribed by the Franchisor, which shall include a profit and loss statement and balance sheet for the TILTED KILT Restaurant, mailed or otherwise forwarded to the Franchisor by no later than the 15th day following the end of the four-week period, based on operating results of said four-week period, which shall be submitted in a form approved by the Franchisor if requested;
- c. within 15 days after the end of each calendar quarter, a report on the Franchisee's local advertising expenditures, as further described in Section 13.2 and, if applicable, Section 13.4 of this Agreement, and in the Franchisor's recommended format if requested;
- d. within 90 days after the end of the Franchisee's fiscal year, a balance sheet and profit and loss statement prepared in accordance with GAAP and in a format prescribed by TKFO, consistently applied, for the Restaurant for such year if requested;
- e. within 10 days after such returns are filed, exact copies of federal and state income, sales and any other tax returns and such other forms, records, books and other information as the Franchisor may periodically require; and
- f. any other data, information and supporting records reasonably requested by the Franchisor from time to time, including without limitation, daily, weekly or monthly reports of inventory and sales by category.

**16.2. Financial Records Use and Access.** To determine whether the Franchisee is complying with this Agreement, the Franchisor shall have the right at any time during business hours, and without prior notice to the Franchisee, to (a) inspect and photograph the Restaurant; (b) interview and photograph the Franchisee and the employees and customers of the Restaurant; (c) conduct, supervise or observe a physical inventory of the Franchised Location; and (d) review all records relating to third party suppliers. The Franchisor shall also have the right to inspect the records prepared and maintained by the Franchisee. The Franchisee shall fully cooperate with representatives of the Franchisor making any such inspection or conducting, supervising or observing any such inventory, or otherwise taking action authorized to be taken by the Franchisor pursuant to this Section 16.2. The Franchisee hereby consents and agrees that the Franchisor may from time to time contact third party vendors to obtain information regarding the Franchisee's account with such vendor. The Franchisor reserves the right to disclose and use data derived from all information received from the Franchisee or third party vendors and may also identify the location of the Restaurant together with the data.

**16.3. Books and Records.** The Franchisee shall maintain all books and records for its TILTED KILT Restaurant in a manner as reasonably prescribed by the Franchisor, shall prepare all annual balance sheets and profit and loss statements in accordance with GAAP, consistently applied, and shall preserve these records for at least 5 years after the fiscal year to which they relate.

**16.4. Audit of Books and Records.** The Franchisee shall permit the Franchisor to inspect and audit the books and records of the TILTED KILT Restaurant at any reasonable time, at the Franchisor's expense. If any audit discloses a deficiency in amounts for payments owed to the Franchisor pursuant to this Agreement, then such amounts shall become immediately payable to the Franchisor by the Franchisee, with interest from the date such payments were due at the lesser of 1½% per month or the maximum rate allowed by law. In the event such inspection or audit is made necessary by the Franchisee's failure to furnish required reports, supporting records or other information, or to furnish such information on a timely basis for two or more consecutive reporting periods, or if the Franchisee has received advance notice from the Franchisor and fails to have the books and records including, without limitation, tax returns, weekly register reading, product mix reports, customer reports, vendor invoices and liquor commission reports and other requested information available for such audit or otherwise fails to cooperate therewith or if an understatement of Gross Sales for the period of any audit is determined by any such audit or inspection to be greater than 2%, the Franchisee shall reimburse the Franchisor for the cost of such audit or inspection, including, without limitation, the charges of attorneys and any independent accountants and the travel expenses, room and board and compensation of the Franchisor's employees.

## **17. TRANSFER**

**17.1. Transfer by Franchisee.** The Franchisee understands and acknowledges that the rights and duties this Agreement creates are personal to the Franchisee (or to its owners, if the Franchisee is an entity) and that the Franchisor has granted the Franchisee a franchise in reliance upon the Franchisor's perceptions of the Franchisee's (or its owners') individual or collective character, skill, aptitude, attitude, business ability, and financial capacity. Accordingly, none of the following may be transferred or assigned, or attempted to be transferred or assigned, including by listing any of the following for sale on any sales directory or platform, without the Franchisor's prior written approval: (i) this Agreement (or any interest in this Agreement); (ii) the Restaurant (or any right to receive all or a portion of the Restaurant's profits or losses or capital appreciation related to the Restaurant); (iii) substantially all of the assets of the Restaurant; (iv) any ownership interest in the Franchisee (regardless of its size); (v) any interest or right in the ownership interest of or lease governing the Franchised Location; or (vi) any ownership interest in any of the Franchisee's owners (if such owners are legal entities). A transfer of the Restaurant's ownership, possession, or control, or substantially all of its assets, may be made only with a transfer of this Agreement. Any transfer without the Franchisor's approval is a breach of this Agreement and has no effect. In this Agreement, the term "transfer" includes a voluntary, involuntary, direct, or indirect assignment, sale, gift, or other disposition. An assignment, sale, gift or other disposition includes the following events:

- (a) transfer of ownership of capital stock, a partnership or membership interest, or another form of ownership interest;
- (b) merger or consolidation or issuance of additional securities or other forms of ownership interest;
- (c) any sale of a security convertible to an ownership interest;
- (d) transfer of an interest in the Franchisee, this Agreement, the Restaurant or substantially all of its assets, or the Franchisee's owners in a divorce, insolvency, or dissolution proceeding or otherwise by operation of law;
- (e) if the Franchisee, one of its owners, or an owner of one of Franchisee's owners dies, a transfer of an interest in the Franchisee, this Agreement, the Restaurant or substantially all of its



assets, or the Franchisee's owner by will, declaration of or transfer in trust, or under the laws of intestate succession; and

(f) pledge of this Agreement (to someone other than the Franchisor) or of an ownership interest in the Franchisee or the Franchisee's owners as security, foreclosure upon the Restaurant, or the Franchisee's transfer, surrender, or loss of the possession, control, or management of the Restaurant.

Additionally, the Franchisee may not pledge this Agreement (to someone other than the Franchisor) or an ownership interest in the Franchisee or its owners as security for any loan or other financing, unless (1) the Franchisor grants its prior written consent and (2) the lender agrees that its claims will be subordinate to all amounts the Franchisee owes at any time to the Franchisor or its affiliates.

If the Franchisee intends to list the Restaurant for sale with any broker or agent, the Franchisee shall do so only after obtaining the Franchisor's written approval of the broker or agent and of the listing agreement. The Franchisee may not use or authorize the use of any Mark in advertising the transfer or other disposition of the Restaurant or of any ownership interest in the Franchisee without the Franchisor's prior written consent. The Franchisee shall not use or authorize the use of, and no third party shall on the Franchisee's behalf use, any written materials to advertise or promote the transfer of the Restaurant or of any ownership interest in the Franchisee without the Franchisor's prior written approval of such materials.

**17.2. Pre-Conditions to Franchisee's Transfer.** If the Franchisee and its owners are in full compliance with this Agreement and the Restaurant is open for business, then, subject to the other provisions of this Section 17, the Franchisor will approve a transfer that meets all of the requirements in this Section 17.2. A non-controlling ownership interest in the Franchisee (determined as of the date on which the proposed transfer will occur) may be transferred if the proposed transferee and its direct and indirect owners (if the transferee is an entity) are of good character and meet Franchisor's then applicable standards for Restaurant franchise owners (including no ownership interest in or performance of services for a Competitive Business). For any proposed transfer (including a transfer of this Agreement, a transfer of a "controlling ownership interest" (defined below) in the Franchisee or one of its owners, or a transfer which is one of a series of transfers, regardless of the time period over which these transfers take place, which in the aggregate transfers this Agreement or a controlling ownership interest in the Franchisee or one of its owners) all of the following conditions must be met before or concurrently with the effective date of the transfer:

a. Payment of all amounts due and owing pursuant to this Agreement by the Franchisee to the Franchisor or its affiliates or to third parties holding a security interest in any asset of the franchised business;

b. Agreement by the proposed transferee to satisfactorily complete the training program described in Section 6.1 of this Agreement, which training may be completed by the transferee either prior to or immediately after assignment of this Agreement, at the directive of the Franchisor;

c. Execution of a Franchise Agreement by the transferee in a form then currently offered by the Franchisor, which shall supersede this Agreement in all respects, and which shall include but not be limited to, the Franchisor's then-current form of Guaranty and Assumption of Obligations, which must be executed by each of the transferee's owners. If a new Franchise

Agreement is signed, the terms thereof may differ from the terms of this Agreement; provided, however, the transferee will not be required to pay any additional initial franchise fee;

d. Provision by the Franchisee of written notice to the Franchisor 45 days' prior to the proposed effective date of the transfer, such notice to contain information reasonably detailed to enable the Franchisor to evaluate the terms and conditions of the proposed transfer;

e. The proposed transferee shall have provided information to the Franchisor sufficient for the Franchisor to assess the proposed transferee's business experience, aptitude and financial qualification, and the Franchisor shall have ascertained that the proposed transferee meets such qualifications;

f. The Franchisee and the proposed transferee agree, at their sole expense, to upgrade and/or remodel the TILTED KILT Restaurant including, without limitation, the décor, the furniture, fixtures and equipment, the computer hardware and software utilized at the Restaurant and in connection with its operations to conform with the then-current Licensed Methods for new TILTED KILT Restaurants then being developed;

g. Execution by Franchisee (and its owners) of a general release, in a form satisfactory to the Franchisor, of any and all known and unknown claims of any kind against the Franchisor, its affiliates and their respective officers, directors, employees and agents;

h. Payment by the Franchisee or the proposed transferee of \$15,000;

i. Agreement by the Franchisee (or transferring owner) to abide by the post-termination covenant not to compete set forth in Section 21.2 below; and

j. Consent by the Franchisee for Franchisor to give the transferee copies of any reports that the Franchisee has given the Franchisor or any other information regarding the Franchisee's TILTED KILT Restaurant.

A "controlling ownership interest" in the Franchisee or one of its owners (if an entity) means a percentage of the voting shares or other voting rights that is equal to or greater than one hundred percent (100%) divided by the total number of owners.

**17.3. Franchisor's Approval of Transfer.** The Franchisor has 45 days from the date of the written notice of the proposed transfer to approve or disapprove in writing, of the Franchisee's proposed transfer. The Franchisor's failure to provide written approval or disapproval shall be deemed the Franchisor's disapproval of the proposed transfer. The Franchisee acknowledges that the proposed transferee shall be evaluated for approval by the Franchisor based on the same criteria as is currently being used to assess new franchisees of the Franchisor and that such proposed transferee shall be provided, if appropriate, with such disclosures as may be required by state or federal law. The Franchisor shall have the right to approve the material terms and conditions of the transfer, including, without limitation, the right to confirm that the price and terms of payment are not so burdensome as to affect adversely the transferee's operation of the Restaurant. Transfer permission shall not be unreasonably withheld. If the Franchisee (and/or the transferring owners) finance any part of the sale price of the transferred interest, if any, unless waived in writing by the Franchisor, the Franchisee and/or its owners must agree that all obligations of the transferee under or pursuant to any promissory notes, agreements or security interests reserved by the Franchisee or its owners in the assets of the Restaurant or the Franchised Location shall be subordinate to the transferee's obligations to pay Royalties,

Advertising Contributions, inventory payments or amounts due to the Franchisor and its affiliates and to otherwise comply with this Agreement. In no event may the Franchisee, its owners or any third party take a security interest in the franchise agreement between the Franchisor and the transferee. Additionally, the Franchisor shall have the right to interview the proposed transferee as part of the Franchisor's approval process and the Franchisee agrees that the Franchisor shall have the right to discuss matters related to the performance of the Franchised Location with such proposed transferee.

**17.4. Right of First Refusal.** In the event the Franchisee wishes to transfer its rights under this Agreement or any interest in it, or any part or portion of any business entity that owns it, or all or a substantial portion of the assets of the TILTED KILT Restaurant, the Franchisee agrees to grant to the Franchisor a 45-day right of first refusal to purchase such rights, interest or assets on the same terms and conditions as are contained in the written offer to purchase submitted to the Franchisee by the proposed purchaser/transferee; provided, however, the following additional terms and conditions shall apply:

a. The Franchisee shall notify the Franchisor of such offer by sending a written notice to the Franchisor (which notice may be the same notice as required by Section 17.2.d. above), enclosing a copy of the written offer or purchase contract from the proposed transferee;

b. The 45-day right of first refusal period will run concurrently with the period in which the Franchisor has to approve or disapprove the proposed transferee; provided, however, if additional information or documentation is reasonably requested within this timeframe, the 45-day period will be automatically stayed and will commence running again upon receipt by the Franchisor of the requested information or documentation;

c. Such right of first refusal is effective for each proposed transfer and any material change in the terms or conditions of the proposed transfer shall be deemed a separate offer on which a new 45-day right of first refusal shall be given to the Franchisor;

d. If the consideration or manner of payment offered by a third party is such that the Franchisor may not reasonably be required to furnish the same, then the Franchisor may purchase the interest which is proposed to be sold for the reasonable cash equivalent. In determining the "cash equivalent," there shall be no consideration given to tax benefits or tax consequences to the Franchisee. If the parties cannot agree within a reasonable time on the cash consideration, an independent appraiser shall be designated by the Franchisor, whose determination will be binding upon the parties. All expenses of the appraiser shall be paid for equally between the Franchisor and the Franchisee;

e. If the Franchisor exercises its right of first refusal, the closing on the purchase of such exercise shall be the later of (i) the proposed closing date set forth in the original offeror's offer to purchase; or (ii) 60 days after the date that the Franchisor notifies the Franchisee of its election to exercise its right of first refusal;

f. If the Franchisor chooses not to exercise its right of first refusal, the Franchisee shall be free to complete the sale, transfer or assignment, subject to compliance with Sections 17.2 and 17.3 above. Absence of a reply to the Franchisee's notice of a proposed transfer within the 45 day period is deemed a waiver of such right of first refusal; and

g. Without any obligation to co-sign or guarantee any obligation, the Franchisor shall have the right to assign its right of first refusal to another party including, but not limited to, any affiliate or other franchisee of the Franchisor.

**17.5. Specific Types of Transfers.** The Franchisee acknowledges that the Franchisor's right to approve or disapprove of a proposed sale or transfer, and all other requirements and rights related to such proposed sale or transfer, as provided for above, shall apply (1) if the Franchisee is a partnership or other business association, to the addition or deletion of a partner or members of the association or the transfer of any partnership or membership among existing partners or members; (2) if the Franchisee is a corporation or limited liability company, to any proposed transfer or assignment of 5% or more of the ownership interest of the Franchisee, whether such transfer occurs in a single transaction or several transactions; and (3) if the Franchisee is an individual, to the transfer from such individual or individuals to a corporation controlled by them, in which case the Franchisor's approval will be conditioned upon: (i) the continuing personal guarantee of the individual (or individuals) for the performance of obligations under this Agreement; (ii) the issuance and/or transfer of shares which would cause a change in ownership of 5% or more of the stock in the corporation being conditioned on the Franchisor's prior written approval; (iii) a limitation on the corporation's business activity to that of operating the TILTED KILT Restaurant and related activities; and (iv) any other conditions reasonably required by the Franchisor. With respect to a proposed transfer as described in subsection (3) of this Section, neither the Franchisor's right of first refusal to purchase, as set forth above, nor the transfer fee chargeable to the Franchisee for a transfer, shall apply under these circumstances; provided, however, the Franchisor reserves the right to require the Franchisee to reimburse the Franchisor for any direct costs the Franchisor incurs in connection with documenting and otherwise processing such transfer, including reasonable legal fees.

**17.6. Assignment by the Franchisor.** This Agreement is fully assignable by the Franchisor and shall inure to the benefit of any assignee or other legal successor in interest, and the Franchisor shall in such event be fully released from the same.

**17.7. Franchisee's Death or Disability.** Upon the death or permanent disability of the Franchisee (or the Principal Owner or other individual controlling the Franchisee entity), the executor, administrator, conservator, guardian or other personal representative of such person shall transfer such person's interest in this Agreement or such interest in the Franchisee entity to an approved third party. Such disposition of this Agreement or such interest (including, without limitation, transfer by bequest or inheritance) shall be completed within a reasonable time, not to exceed 180 days from the date of death or permanent disability, and shall be subject to all terms and conditions applicable to transfers contained in this Article 17; provided, however, that for purposes of this Section 17.7, there shall be no transfer fee charged by the Franchisor. Failure to transfer the interest in this Agreement or such interest in the Franchisee entity within said period of time shall constitute a breach of this Agreement. For the purposes hereof, the term "**permanent disability**" shall mean a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent the Franchisee or the owner of a controlling interest in the Franchisee entity from supervising the management and operation of the TILTED KILT Restaurant for a period of 120 days from the onset of such disability, impairment or condition.

## 18. TERM AND EXPIRATION

**18.1. Term.** The term of this Agreement is for a period of 20 years from the date of this Agreement, unless sooner terminated as provided herein.

**18.2. Rights Upon Expiration.** At the end of the initial term hereof the Franchisee shall have the option to renew its franchise rights for the term of the Franchisor's then current form of Franchise Agreement, which could be more or less than 20 years, by acquiring successor franchise rights, if the Franchisor does not exercise its right not to offer a successor franchise in accordance with Section 18.4 and if the Franchisee (and its owners):

a. At least 30 days prior to expiration of the term, executes the form of Franchise Agreement then in use by the Franchisor;

b. Has complied with all provisions of this Agreement during the current term, including the payment on a timely basis of all Royalties, Advertising Contributions and other fees due hereunder. "**Compliance**" shall mean, at a minimum, that the Franchisee has not received any written notification from the Franchisor of breach hereunder more than one (1) time during the term hereof;

c. Upgrades and/or remodels the TILTED KILT Restaurant including, without limitation, the décor, the furniture, fixtures and equipment, the computer hardware and software utilized at the Restaurant and its operations at the Franchisee's sole expense (the necessity of which shall be in the sole discretion of the Franchisor) to conform with the then-current Manuals;

d. Executes a general release, in a form satisfactory to the Franchisor, of any and all known and unknown claims of any kind whatsoever against the Franchisor and its affiliates, and their respective officers, directors, employees and agents arising out of or relating to this Agreement; and

e. Pays a successor franchise fee of 25% of the then-current initial franchise fee for a single (first) franchise.

**18.3. Exercise of Option for Successor Franchise.** If the Franchisee chooses to exercise Franchisee's option to renew, the Franchisee shall exercise its option for a successor franchise by giving written notice of such exercise to the Franchisor at least 120 days, but not earlier than 180 days, prior to the scheduled expiration of this Agreement. The Franchisee's successor franchise rights shall become effective by signing the Franchise Agreement then currently being offered to new franchisees of the Franchisor.

**18.4. Conditions of Refusal.** The Franchisor shall not be obligated to offer the Franchisee a successor franchise upon the expiration of this Agreement if the Franchisee fails to comply with any of the above conditions of renewal.

## 19. DEFAULT AND TERMINATION

**19.1. Termination by Franchisor - Effective Upon Notice.** The Franchisor shall have the right, at its option, to terminate this Agreement and all rights granted the Franchisee hereunder, without affording the Franchisee any opportunity to cure any default (subject to any state laws to the contrary,

where state law shall prevail), effective upon receipt of notice by the Franchisee, addressed as provided in Section 25.14 upon the occurrence of any of the following events:

- a. **Abandonment.** If the Franchisee ceases to operate the TILTED KILT Restaurant or otherwise abandons the TILTED KILT Restaurant for a period of 3 consecutive days, or any shorter period that indicates an intent by the Franchisee to discontinue operation of the TILTED KILT Restaurant, unless and only to the extent that full operation of the TILTED KILT Restaurant is suspended or terminated due to fire, flood, earthquake or other similar causes beyond the Franchisee's control;
- b. **Training.** If the Franchisee (or its Principal Owner) and its required staff fail to complete the training program to the Franchisor's satisfaction pursuant to the timing requirements under Article 6;
- c. **Untrained Manager(s).** If an individual serves in the role of General Manager without having completed S.T.E.P. Training to the Franchisor's satisfaction, or if there are ever fewer than two managers employed by the Franchisee at the Restaurant who have completed S.T.E.P. Training to the Franchisor's satisfaction;
- d. **Insolvency; Assignments.** If the Franchisee becomes insolvent or is adjudicated a bankrupt; or if any action is taken by the Franchisee, or by others against the Franchisee under any insolvency, bankruptcy or reorganization act (this provision may not be enforceable under federal bankruptcy law, 11 U.S.C. §§ 101 et seq.); or if the Franchisee makes an assignment for the benefit of creditors or a receiver is appointed by the Franchisee;
- e. **Unsatisfied Judgments; Levy; Foreclosure; Tax Liens.** If any material judgment (or several judgments which in the aggregate are material) is obtained against the Franchisee and remains unsatisfied or of record for 30 days or longer (unless a supersedeas or other appeal bond has been filed); or if execution is levied against the Franchisee's business or any of the property used in the operation of the TILTED KILT Restaurant and is not discharged within 5 days; or if the real or personal property of the Franchisee's business shall be sold after levy thereupon by any sheriff, marshal or constable; or if a governmental agency files a lien against the Franchisee or the real or personal property of the Franchisee's business for unpaid taxes and such lien is not removed for 30 days or longer;
- f. **Arrest or Criminal Conviction.** If the Franchisee, a General Manager or any owner, partner, member, or majority stockholder of the Franchisee is arrested for or convicted of a felony, a crime involving moral turpitude, or any crime or offense that is reasonably likely, in the sole opinion of the Franchisor, to materially and unfavorably affect the Licensed Methods, Marks, goodwill or reputation thereof;
- g. **Failure to Report Sales.** If the Franchisee fails to report any sales of products, services, merchandise, event charge or cover charges of any kind or nature sold from, at or in connection with the operation of the Restaurant as described in Section 12.2;
- h. **Failure to Make Payments.** If the Franchisee fails to pay any Royalties, Advertising Contributions required under Article 13, inventory payments, or any other amounts due to the Franchisor, its affiliates, suppliers, vendors, or any third party related to the TILTED KILT Restaurant (including, without limitation, any amounts which may be due as a result of

any subleases or lease assignments between the Franchisee and the Franchisor) within 10 days after receiving notice that such fees or amounts are overdue;

i. **Misuse of Marks.** If the Franchisee misuses or fails to follow the Franchisor's directions and guidelines concerning use of the Franchisor's Marks and fails to correct the misuse or failure within 10 days after notification from the Franchisor;

j. **Unauthorized Disclosure.** If the Franchisee or any of its owners, directors, officers, agents or employees intentionally or negligently discloses to any unauthorized person the contents of or any part of the Manuals or any other trade secrets or confidential information of the Franchisor;

k. **Repeated Noncompliance.** If the Franchisee has received two previous notices of default from the Franchisor and is again in default of this Agreement within a 12 month period, regardless of whether the previous defaults were cured by the Franchisee;

l. **Unauthorized Transfer.** If the Franchisee sells, transfers or otherwise assigns an interest in the franchise or the Franchisee entity, this Agreement, the TILTED KILT Restaurant or a substantial portion of the assets of the TILTED KILT Restaurant owned by the Franchisee without complying with the provisions of Article 17;

m. **Health or Safety Violations.** If the Franchisee is found to be in violation of any applicable health, safety, sanitation, liquor or handicapped access laws, regulations or codes, by any governmental official, and fails to cure any such violation within 72 hours after receiving notice thereof, regardless of any longer period of time that any governmental authority or agency may have given the Franchisee to cure such violation;

n. **Immediate Health or Safety Concern.** If the Franchisee creates or allows to exist any condition in or at the Franchised Location that the Franchisor reasonably determines to present an immediate health or safety concern for the Restaurant's customers or employees;

o. **Refusal to Allow Inspection.** If the Franchisee refuses to allow the Franchisor (or its designee) to inspect the TILTED KILT Restaurant, the Franchised Location, or the Franchisee's books, records, or accounts upon the Franchisor's demand;

p. **Refusal or Failure to Submit Certificates of Insurance.** If the Franchisee fails, refuses, or neglects promptly to submit certificates of insurance to the Franchisor within the time required by the Franchisee to do so;

q. **Failure to Operate in Compliance with Standards and Specifications.** If the Franchisee fails to operate the Restaurant within the standards and specification set forth in the Manuals;

r. **Title VII Violation.** If the Franchisee (or any of its owners), the General Manager or any other manager of the Restaurant is determined to be in violation of Title VII of the Civil Rights Act of 1964 (or any successor law) or any similar state law in a civil action or administrative proceeding;

s. **Fair Labor Standards Act (FLSA) Violations.** If the Franchisee (or any of its owners), the General Manager, or any other manager of the Restaurant is determined to be in

violation of the Fair Labor Standards Act or analogous state Wage and Hour law (or any successor laws) in a civil action or administrative proceeding;

t. **Misrepresentation.** If Franchisee (or any of its owners) have made or makes any material misrepresentation or omission in acquiring the franchise or operating the TILTED KILT Restaurant;

u. **Unethical or Dishonest Conduct.** If the Franchisee (or any of its owners) engage in any dishonest or unethical conduct which, in the Franchisor's opinion, adversely affects the reputation of the TILTED KILT Restaurant or the goodwill associated with the Marks;

v. **Termination of Other Agreements.** If any other agreement between the Franchisor (or its affiliate) and the Franchisee (or its Affiliate) is terminated, including, without limitation, any area representation agreement or area development agreement;

w. **Right to Occupy Premises.** If the Franchisee loses the right to occupy the Franchised Location;

x. **Purchase from Non-Approved Vendors or Suppliers.** If the Franchisee fails to comply with Section 14.5 by purchasing goods and/or services from non-designated or non-approved vendors or suppliers and fails to cure such noncompliance within 10 days after receiving notice thereof from the Franchisor;

y. **Non-Compliance with Costume or Other Employee Attire Requirements.** If the Franchisee fails to comply with the standards and specifications regarding costumes and other employee attire set forth in Section 13.7 and fails to cure such noncompliance within 10 days after receiving notice thereof from the Franchisor;

z. **Competitive Activity.** If the Franchisee (or any of its owners, officers or its or their immediate family members) violates the covenant restricting competitive activity set forth in Section 21.1 of this Agreement; or

aa. **Fail to Commence Operations.** If the Franchisee fails to meet the required deadline to commence operation of the TILTED KILT Restaurant as set forth in Section 5.8 of this Agreement.

**19.2. Termination by Franchisor - Thirty Days' Notice.** The Franchisor shall have the right to terminate this Agreement (subject to any state laws to the contrary, where state law shall prevail), effective upon written notice, if the Franchisee breaches any provision of this Agreement other than those listed in Section 19.1 (including, without limitation, failure to comply with Licensed Methods and the Manuals) and fails to cure the default within 30 days after receipt of written notice.

**19.3. Assumption of Management.** The Franchisor (or a third party designated by the Franchisor) has the right (but not the obligation), under circumstances described below, to enter the Franchised Location and assume the management of the TILTED KILT Restaurant for a period of time the Franchisor deems appropriate. If the Franchisor (or a third party) assumes the management of the TILTED KILT Restaurant under subparagraphs (a) or (b) below, the Franchisee agrees to pay the Franchisor (in addition the Royalties, Advertising Contributions, and other amounts due under this Agreement) an amount equal to 10% of Gross Sales, plus the Franchisor's (or the third party's) out-of-pocket costs and expenses, after the Franchisor assumes management. If the Franchisor (or a third



party) assumes the management of the TILTED KILT Restaurant, the Franchisee acknowledges that the Franchisor (or the third party) will have a duty to utilize only reasonable efforts and will not be liable to the Franchisee or its owners for any debts, losses, or obligations that the TILTED KILT Restaurant incurs, or to any of the Franchisee's creditors for any goods and/or services the TILTED KILT Restaurant purchases while the Franchisor (or the third party) manages it.

The Franchisor (or a third party) may assume the management of the TILTED KILT Restaurant under the following circumstances: (a) if the Franchisee abandons or fails to actively operate the TILTED KILT Restaurant; (b) if the Franchisee fails to comply with any provision of this Agreement or the Licensed Methods and does not cure the failure within the time period the Franchisor specifies in its notice to the Franchisee; or (c) if this Agreement expires or is terminated and the Franchisor is deciding whether to exercise its option to purchase the TILTED KILT Restaurant under Section 19.4 or has decided to exercise such purchase option and desires to assume management of the Restaurant prior to the closing.

**19.4. Right to Purchase.** Upon termination or expiration of this Agreement for any reason, the Franchisor shall have the option to purchase the TILTED KILT Restaurant or any portion of the assets of the Restaurant, including but not limited to any or all signs, furniture, fixtures, equipment, décor, doors and/or windows with logos or marks or any other property used in the TILTED KILT Restaurant, which may include, at the Franchisor's option, all of the Franchisee's interest, if any, in and to the real estate upon which the TILTED KILT Restaurant is located, and all buildings and other improvements thereon, including leasehold interests, at fair market value, less any amount apportioned to the goodwill of the TILTED KILT Restaurant which is attributable to the Franchisor's Marks and Licensed Methods, and less any amounts owed to the Franchisor by the Franchisee. The following additional terms shall apply to the Franchisor's exercise of this option:

a. The Franchisor's option hereunder shall be exercisable by providing the Franchisee with written notice of its intention to exercise the option before or within 30 days after the date of termination or expiration. The Franchisor shall have an unrestricted right to assign this option to purchase without the requirement that the Franchisor co-sign or guarantee any obligation.

b. In the event that the Franchisor and the Franchisee cannot agree on the fair market value of the TILTED KILT Restaurant (or the assets that the Franchisor has elected to purchase), then the fair market value shall be determined in good faith by an independent third-party appraisal. The Franchisor and the Franchisee shall mutually agree upon an appraiser. If the Franchisor and the Franchisee cannot agree on one appraiser, then the Franchisor and the Franchisee shall each select one independent, qualified appraiser, and the two so selected shall select a third appraiser, all 3 to determine the fair market value of the TILTED KILT Restaurant (or the assets that the Franchisor has elected to purchase). If the difference between the appraisal of the Franchisee's appraiser and the independent appraiser is greater than the difference between the appraisal of the Franchisor's appraiser and the independent appraiser, the Franchisee shall pay all costs and expenses of the three appraisers. Otherwise, all expenses of the third appraiser shall be equally shared by the Franchisor and the Franchisee, and the Franchisor and the Franchisee shall each be responsible for the expenses incurred by their respective appraisers.

c. The Franchisor and the Franchisee agree that the terms and conditions of this right and option to purchase may be recorded, if deemed appropriate by the Franchisor, in the

real property records. The Franchisor and the Franchisee further agree to execute such additional documentation as may be necessary and appropriate to effectuate such recording; and

d. The Franchisor shall set the closing for the purchase of the TILTED KILT Restaurant (or that portion of assets that the Franchisor has chosen to purchase) to take place no later than 60 days after the termination or nonrenewal date. At the Franchisor's option, the Franchisee shall continue the Restaurant operations by extension of this Agreement through the closing date. The Franchisor will pay the purchase price in full at the closing, or, at its option, in 72 equal consecutive monthly installments with interest at a rate of five percent (5%) per annum. The Franchisee must sign all documents of assignment and transfer as are reasonably necessary for purchase of the TILTED KILT Restaurant or its assets by the Franchisor.

**19.5. Obligations of Franchisee Upon Termination or Expiration.** The Franchisee is obligated upon termination or expiration of this Agreement to immediately:

a. Pay to the Franchisor all Royalties, Advertising Contributions, other fees, and any and all amounts or accounts payable then owed the Franchisor or its affiliates pursuant to this Agreement, or pursuant to any other agreement, whether written or oral, including subleases and lease assignments, between the parties;

b. Cease to identify itself as a TILTED KILT franchisee, refrain from identifying itself as a former TILTED KILT franchisee or identifying a prior TILTED KILT Restaurant as a former TILTED KILT Restaurant, and cease use of any of the Franchisor's trade secrets, recipes, signs, symbols, devices, trade names, trademarks or other materials;

c. If the Franchisor does not exercise its option to purchase the business and continue operations of the Restaurant described in Section 19.4 above, cease to identify the Franchised Location as being, or having been, associated with the Franchisor and, if deemed necessary by the Franchisor, paint or otherwise change the interior and exterior of the Restaurant to distinguish it from a TILTED KILT Restaurant and immediately cease using any proprietary mark of the Franchisor or any mark in any way associated with the Marks and Licensed Methods;

d. In a manner approved by the Franchisor, and at Franchisee's sole expense, deliver all branded doors, branded windows, décor, signs, sign-faces, supplies, advertising materials, forms and other materials bearing any of the Marks, including but not limited to any Collateral (defined in Section 24.1) containing the Marks, or otherwise identified with the Franchisor and obtained by and in connection with this Agreement to the Franchisor;

e. Immediately cease the use of any and all of the Franchisor's proprietary property and immediately deliver to the Franchisor the Manuals and all other information, software, documents and copies thereof which are proprietary to the Franchisor, including but not limited to all customer information contained in computer databases or otherwise. Upon termination or expiration of this Agreement or abandonment of the Restaurant as described in Section 19.1(a), the Franchisor has the right to immediately terminate the Franchisee's access to the Franchisor's or its affiliates' proprietary property by removing or deleting the Restaurant's database without being liable to the Franchisee (including, but not limited to, any consequential damages to the point-of-sale system or any computer programs or systems);

f. Promptly take such action as may be required to cancel all fictitious or assumed names or equivalent registrations relating to its use of any Marks which are under the exclusive control of the Franchisor or, at the option of the Franchisor, assign the same to the Franchisor;

g. Notify the telephone company and all telephone directory publishers of the termination or expiration of the Franchisee's right to use any telephone number and any regular, classified or other telephone directory listings associated with any Mark and to authorize transfer thereof to the Franchisor or its designee. The Franchisee acknowledges that, as between the Franchisee and the Franchisor, the Franchisor has the sole rights to and interest in all telephone, telecopy or facsimile machine numbers and directory listings associated with any Mark. The Franchisee authorizes the Franchisor, and hereby appoints the Franchisor and any of its officers as the Franchisee's attorney-in-fact, to direct the telephone company and all telephone directory publishers to transfer any telephone, telecopy or facsimile machine numbers and directory listings relating to the TILTED KILT Restaurant to the Franchisor or its designee, should the Franchisee fail or refuse to do so, and the telephone company and all telephone directory publishers may accept such direction or this Agreement as conclusive of the Franchisor's exclusive rights in such telephone numbers and directory listings and the Franchisor's authority to direct their transfer;

h. Cease using or operating any Online Presence related to the TILTED KILT Restaurant or the Marks and take any action as may be required to disable such Online Presence or transfer exclusive control and access of such Online Presence to the Franchisor as the Franchisor determines in its sole discretion; and

i. Abide by all restrictive covenants set forth in Article 21 of this Agreement and, if exercised by the Franchisor, the Franchisor's option to purchase described in Section 19.4 of this Agreement.

**19.6. Remedy Upon Termination.** In the event this Agreement is terminated by the Franchisor prior to its expiration as set forth in Sections 19.1 and 19.2 or if the Franchisee terminates this Agreement prior to its expiration without cause, the parties agree that it would be difficult if not impossible to determine the amount of damages that the Franchisor would suffer due to the loss or interruption of the revenue stream the Franchisor otherwise would have derived from the Franchisee's continued payment of Royalties and that the Advertising Fund and LAG would have otherwise derived from the Franchisee's continued contributions to those funds, less any cost savings, through the remainder of the term of this Agreement (the "**Damages**"). Therefore, the parties agree that a reasonable estimate of the Damages is, and the Franchisee agrees to pay the Franchisor as compensation for the Damages, an amount equal to the then net present value of the Royalty fees, Advertising Fund contributions and LAG contributions that would have become due had the Agreement not been terminated for the period of time (the "**Measurement Period**") equal to the lesser of (a) the date of termination to the scheduled expiration date of this Agreement or (b) five (5) years. For this purpose, Damages shall be calculated by multiplying (1) the number of calendar months in the Measurement Period by (2) the aggregate percentages of the Royalty fees, Advertising Fund contributions, and LAG contributions by (3) the average monthly Gross Sales of the TILTED KILT Restaurant during the 12 full calendar months immediately preceding the termination date; however, if as of the termination date, the TILTED KILT Restaurant has not been operating for at least 12 months, Damages will be calculated based on the average monthly Gross Sales during the Franchisor's previous fiscal year immediately preceding the termination date of all Restaurants operating under the Marks during the entirety of that fiscal year. The Franchisor and the Franchisee agree that the calculation described in this Section is a

calculation only of the Damages and that nothing herein shall preclude or limit the Franchisor from proving and recovering any other damages caused by the Franchisee's breach of the Agreement.

**19.7. Franchisor's Right to Cure.** In the event the Franchisee fails to cure any failure to comply with the terms of this Agreement following the date of written notice from the Franchisor of such failure and within the period for cure, the Franchisor shall have the right, but not the obligation, to cure such failure and the Franchisee shall promptly reimburse the Franchisor for all costs and expenses incurred by the Franchisor to effect such cure.

## **20. BUSINESS RELATIONSHIP**

**20.1. Independent Businesspersons.** The parties acknowledge that each of them are independent businesspersons, that their only relationship is by virtue of this Agreement and that no fiduciary relationship is created hereunder. Neither party is liable or responsible for the other's debts or obligations, nor shall either party be obligated for any injury or damages to any person or property directly or indirectly arising out of the operation of the other party's business authorized by or conducted pursuant to this Agreement. Neither the Franchisor nor the Franchisee will hold themselves out to be the agent, employer or partner of the other and neither the Franchisor nor the Franchisee has the authority to bind or incur liability on behalf of the other.

**20.2. Payment of Third Party Obligations.** The Franchisor shall have no liability for the Franchisee's obligations to pay any third parties, including without limitation, any product vendors, or any sales, use, service, occupation, excise, gross receipts, income, property or other tax levied upon the Franchisee, the Franchisee's property, the TILTED KILT Restaurant or upon the Franchisor in connection with the sales made or business conducted by the Franchisee (except any taxes the Franchisor is required by law to collect from the Franchisee with respect to purchases from the Franchisor).

**20.3. Indemnification.** The Franchisee shall indemnify, defend and hold harmless the Franchisor, its subsidiaries, parents and affiliates, and their respective shareholders, directors, officers, managers, members, employees, agents, successors and assignees (the "**Indemnified Parties**"), against, and to reimburse them for all claims, obligations and damages described in this Section 20.3, any and all third party obligations described in Section 20.2 and any and all claims and liabilities directly or indirectly arising out of the operation of the TILTED KILT Restaurant or arising out of the use of the Marks and Licensed Methods in any manner not in accordance with this Agreement. For purposes of this indemnification, claims shall mean and include all obligations, actual and consequential damages and costs reasonably incurred in the defense of any claim against the Indemnified Parties, including, without limitation, reasonable accountants', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses. The Franchisor shall have the right to defend any such claim against it. This indemnity shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

## 21.

### RESTRICTIVE COVENANTS

**21.1. Non-Competition During Term.** The Franchisee acknowledges that, in addition to the license of the Marks hereunder, the Franchisor has also licensed commercially valuable information which comprises and is a part of the Licensed Methods, including without limitation, operations, marketing, advertising and related information and materials and that the value of this information derives not only from the time, effort and money which went into its compilation, but from the usage of the same by all the franchisees of the Franchisor using the Marks and Licensed Methods. Therefore, other than the TILTED KILT Restaurant licensed herein or authorized by separate agreement with the Franchisor, neither the Franchisee nor any of the Franchisee's officers, directors, shareholders, members, managers or partners, nor any member of his or their immediate families, shall during the term of this Agreement:

- a. have any direct or indirect controlling interest as a disclosed or beneficial owner in a "Competitive Business" as defined below;
- b. perform services as a director, officer, manager, employee, consultant, lessor, representative, agent or otherwise for a Competitive Business; or
- c. divert or attempt to divert any business related to, or any customer or account of the TILTED KILT Restaurant, the Franchisor's business or any other TILTED KILT franchisee's business, by direct inducement or otherwise, or divert or attempt to divert the employment of any employee of the Franchisor or another franchisee licensed by the Franchisor to use the Marks and Licensed Methods, to any Competitive Business by any direct inducement or otherwise.

The term "**Competitive Business**" as used in this Agreement shall mean any business (i) offering dine-in services, traditional pub fare (including, without limitation, hamburgers, chicken wings, and/or chicken tenders), and alcoholic beverages or (ii) granting franchises or licenses for the operation of a business described in subsection (i) of this definition. Notwithstanding the foregoing, the Franchisee shall not be prohibited from (i) owning securities in a Competitive Business if such securities are listed on a stock exchange or traded on the over-the-counter market and represent 5% or less of that class of securities issued and outstanding; or (ii) operating another non-competing business ("**Other Business**") the Franchisor has approved in writing as set forth in Exhibit A attached hereto.

**21.2. Post-Termination Covenant Not to Compete.** Upon expiration or termination of this Agreement for any reason, the Franchisee and its officers, directors, shareholders, members, managers and/or partners agree that, for a period of 2 years commencing on the effective date of termination or expiration, or the date on which the Franchisee ceases to conduct business, whichever is later, neither Franchisee nor its officers, directors, shareholders, members, managers and/or partners shall have any direct or indirect interest (through a member of any immediate family of the Franchisee or its owners or otherwise) as a disclosed or beneficial owner, investor, partner, director, officer, employee, consultant, lessor, representative or agent or in any other capacity in any Competitive Business, defined in Section 21.1 above, located or operating within a 5 mile radius of the Franchised Location. The restrictions of this Section 21.2 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 that represent 5% or less of the number of shares of that class of securities issued and outstanding. The Franchisee and its officers, directors, shareholders, members, managers and/or partners acknowledge that they possess skills and abilities of a general nature and have other opportunities for exploiting such skills. Consequently, enforcement of the

covenants made in this Section 21.2 will not deprive them of their personal goodwill or ability to earn a living.

**21.3. Confidentiality of Proprietary Information.** The Franchisee shall treat all information it receives which comprises or is a part of the Licensed Methods licensed hereunder as proprietary and confidential and will not use such information in an unauthorized manner or disclose the same to any unauthorized person without first obtaining the Franchisor's prior written consent. The Franchisee acknowledges that the Licensed Methods have valuable goodwill attached to them, that the protection and maintenance thereof is essential to the Franchisor and that any unauthorized use or disclosure of the Licensed Methods will result in irreparable harm to the Franchisor. The Franchisee acknowledges and agrees that the "Licensed Methods" shall include any and all data stored using the Computer System.

**21.4. Nondisclosure and Noncompetition Agreement.** The Franchisor reserves the right to require that the Franchisee cause each of its officers, directors, partners, shareholders, members, managers, employees, agents, and independent contractors, and, if the Franchisee is an individual, immediate family members, to execute a Nondisclosure and Noncompetition Agreement containing the covenants described in this Article 21, in a form approved by the Franchisor. The Franchisee acknowledges that any form of Nondisclosure and Noncompetition Agreement that the Franchisor approves or provides to the Franchisee may or may not be enforceable in a particular jurisdiction. The Franchisee agrees that the Franchisee is solely responsible for obtaining its own professional advice with respect to the adequacy of the terms and provisions of any Nondisclosure and Noncompetition Agreement that the Franchisee's officers, directors, partners, shareholders, members, managers, employees, agents, independent contractors, and, immediate family members sign.

**21.5. Non-Solicitation.** During the term of this Agreement and for a period of 12 months following termination or expiration of this Agreement, the Franchisee shall not solicit the employment of any individuals who are then-currently, or were previously, employed by the Franchisor or other franchisees of the Franchisor.

**21.6. Non-Disparagement.** During the term of this Agreement and after its termination (for any reason) or expiration, Franchisee agrees not to (and to use its best efforts to cause its shareholders, members, officers, directors, principals, agents, partners, employees, representatives, attorneys, spouses, Affiliates, successors and assigns not to) disparage or otherwise speak or write negatively, directly or indirectly, of the Franchisor, its affiliates, any of its or its affiliates' owners, directors, officers, employees, representatives or affiliates, the "TILTED KILT" brand, the Licensed Methods, any TILTED KILT Restaurant, any business using the Marks, or take any other action which would subject the TILTED KILT brand to ridicule, scandal, reproach, scorn, or indignity, or which would negatively impact the goodwill of Franchisor or the TILTED KILT brand.

**21.7. Interpretation.** All parties to this Agreement acknowledge that this Article has been fully negotiated and has been entered into freely. If any provision of this Article 21 shall be held to be invalid by any tribunal, the terms of said invalid provision shall be modified to the least possible extent so as to make the provision valid. This Article shall not be interpreted against either party as drafter.

**22.1. Insurance Coverage.** The Franchisee shall procure: (i) commercial general liability insurance for the Franchised Location and its operations with a limit of not less than \$3,000,000 combined single limit, or such greater limit as may be required as a part of any lease agreement for the Franchised Location; (ii) liquor liability insurance of not less than \$3,000,000 or the state required coverage, whichever is higher; (iii) automobile liability insurance including owned and non-owned automobile insurance, covering all employees of the Restaurant with authority to operate a motor vehicle in an amount not less than \$3,000,000 or, with the Franchisor's prior written consent, such lesser amount as may be available at a commercially reasonable rate, but in no event less than any statutorily imposed minimum coverage; (iv) unemployment and worker's compensation insurance with a broad form all-states endorsement coverage sufficient to meet the requirements of the laws or coverage in an amount not less than \$1,000,000; (v) all-risk personal property insurance in an amount equal to at least 100% of the replacement costs of the contents and tenant improvements located at the Restaurant; (vi) employment practices liability insurance ("EPLI") (including third party) with a limit of not less than \$1,000,000, a deductible/SIR of \$25,000, and a \$100,000 sublimit for defense of the Franchisor, covering: (1) acts and omissions of third parties (including punitive damages), (2) Fair Labor Standards Act and wage and hour claims with a minimum \$150,000 sublimit, (3) Immigration Reform and Control Act (IRCA) claims with a minimum \$25,000 defense sublimit, and (4) claims arising from acts of terrorism (to include punitive damages); and (vii) such other types of insurance and minimum coverage amounts as the Franchisor specifies from time to time. Notwithstanding the foregoing requirements, the Franchisee must maintain insurance in amounts and types sufficient to meet all federal, state and local requirements applicable to operating a TILTED KILT Restaurant. The Franchisee acknowledges and agrees that the Franchisor may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverage at any time to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances. All of the required policies of insurance shall name the Franchisor and, if applicable, the Area Representative, as an additional insured, using the form of endorsement that the Franchisor has approved, and shall provide for a 30-day advance written notice to the Franchisor of cancellation, termination or any amendment. The dollar amounts of insurance coverage required in this Section 22.1 are only minimums and are not representations or warranties of any kind that such coverage is sufficient for the operation of a TILTED KILT Restaurant – the Franchisee needs to make an independent determination as to whether increased amounts or additional types of insurance are appropriate or required by applicable law. The Franchisor's minimum requirements represent only the minimum coverage that the Franchisor deems acceptable to protect its interests. The Franchisor is not responsible if the Franchisee sustains losses that exceed the Franchisee's insurance coverage under any circumstances.

No insurance coverage that the Franchisee or any other party maintains will be deemed a substitute for the Franchisee's indemnification obligations to the Franchisor or its affiliates under Section 20.3 or otherwise.

**22.2. Proof of Insurance Coverage.** The Franchisee will provide proof of insurance to the Franchisor prior to commencement of operations at its TILTED KILT Restaurant and upon the Franchisor's request. This proof will show that the insurer has been authorized to inform the Franchisor in the event any policies lapse or are cancelled. Noncompliance with the insurance provisions set forth in this Article 22 shall be deemed a material breach of this Agreement; in the event of any lapse in insurance coverage, in addition to all other remedies, the Franchisor shall have the right to either: (a) demand that the Franchisee cease operations of the TILTED KILT Restaurant until coverage is reinstated, or (b) pay any delinquencies in premium payments and charge the same back to the

Franchisee or secure an appropriate insurance coverage policy on the Franchisee's behalf and charge the Franchisee the policy premiums and the Franchisee's costs of securing the policy.

## **23. ARBITRATION**

**23.1. Arbitration.** The Franchisor and the Franchisee agree that all controversies, disputes, or claims between the Franchisor and its affiliates (and their respective shareholders, members, officers, directors, agents, and/or employees), on the one hand, and the Franchisee (and /or its owners, guarantors, Affiliates, and/or employees), on the other hand, arising out of or related to:

- a. this Agreement or any other agreement between the Franchisor (or any of its affiliates) and the Franchisee (or any of its owners or Affiliates);
- b. the Franchisor's relationship with the Franchisee;
- c. the scope or validity of this Agreement or any other agreement between the Franchisee (or any of its owners or Affiliates) and the Franchisor (or any of its affiliates) or any provision of any of such agreements (including the validity and scope of the arbitration obligation under this Section 23.1, which the Franchisor and the Franchisee acknowledge is to be determined by an arbitrator, not a court); or
- d. any Licensed Method;

must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association ("AAA"). The arbitration proceedings will be conducted by one arbitrator and, except as this Section 23.1 otherwise provides, according to the then-current Commercial Arbitration Rules of the AAA. All proceedings will be conducted at a suitable location chosen by the arbitrator in or within a 50-mile radius of the Franchisor's then-current principal place of business (currently, Tempe, Arizona). All matters relating to arbitration will be governed by the United States Federal Arbitration Act (9 U.S.C. §§ 1 et seq.). The decision of the arbitrator shall be final and binding upon each party and may be enforced in any court of competent jurisdiction.

The arbitrator has the right to award or include in his or her award any relief which he or she deems proper, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator may not declare any of the trademarks owned by the Franchisor or the Franchisor's affiliates generic or otherwise invalid or, except as expressly provided in Section 25.12, award any punitive, exemplary, or multiple damages against any party to the arbitration proceeding (the Franchisor and the Franchisee hereby waiving to the fullest extent permitted by law, except as expressly provided in Section 25.12, any right to or claim for any punitive, exemplary or multiple damages against the other).

The Franchisor and the Franchisee agree to be bound by the provisions of any applicable contractual or statutory limitations provision, whichever expires earlier. The Franchisor and the Franchisee further agree that, in any arbitration proceeding, each party must submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding. Any claim which is not submitted or filed as required will be forever barred. The arbitrator may not consider any settlement discussions or offers that might have been made by either the Franchisee or the Franchisor.

The Franchisor and the Franchisee agree that arbitration will be conducted on an individual basis and that an arbitration proceeding between the Franchisor and its affiliates, and/or their respective



shareholders, officers, directors, agents, and employees, on the one hand, and the Franchisee (or its owners, guarantors, Affiliates, and employees) may not be: (i) conducted on a class-wide basis; (ii) commenced, conducted or consolidated with any other arbitration proceeding; or (iii) brought on the Franchisee's (or its owners', guarantors', Affiliates', and employees') behalf by any association or agent. Notwithstanding the foregoing or anything to the contrary in this Section 23.1 or 25.13, if any court or arbitrator determines that all or any part of the preceding sentence is unenforceable with respect to a dispute, controversy or claim that otherwise would be subject to arbitration under this Section, then all parties agree that this arbitration clause shall not apply to that dispute, controversy or claim and that such dispute, controversy or claim shall be resolved in a judicial proceeding in accordance with the dispute resolution provisions of this Agreement.

Despite the Franchisor and the Franchisee's agreement to arbitrate, the Franchisor and the Franchisee each have the right in a proper case to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction; provided, however, that the Franchisor and the Franchisee must contemporaneously submit their dispute for arbitration on the merits as provided in this Section 23.1.

The Franchisee and the Franchisor agree that, in any arbitration arising as described in this Section, requests for documents shall be limited to documents that are directly relevant to significant issues in the case or to the case's outcome; shall be restricted in terms of time frame, subject matter and persons or entities to which the requests pertain; and shall not include broad phraseology such as "all documents directly or indirectly related to." The Franchisee and the Franchisor further agree that no interrogatories or requests to admit shall be propounded. With respect to any electronic discovery, the Franchisee and the Franchisor agree that:

- a. production of electronic documents need only be from sources used in the ordinary course of business. No such documents shall be required to be produced from back-up servers, tapes or other media;
- b. production of electronic documents shall normally be made on the basis of generally available technology in a searchable format which is usable by the party receiving the documents and convenient and economical for the producing party. Absent a showing of compelling need, the parties need not produce metadata, with the exception of header fields for email correspondence;
- c. the description of custodians from whom electronic documents may be collected shall be narrowly tailored to include only those individuals whose electronic documents may reasonably be expected to contain evidence that is material to the dispute; and
- d. where the costs and burdens of electronic discovery are disproportionate to the nature of the dispute or to the amount in controversy, or to the relevance of the materials requested, the arbitrator shall either deny such requests or order disclosure on condition that the requesting party advance the reasonable cost of production to the other side, subject to allocation of costs in the final award as provided herein.

In any arbitration arising out of or related to this Agreement, each side may take no more than three depositions. Each side's depositions are to consume no more than a total of 15 hours, and each deposition shall be limited to 5 hours. There are to be no speaking objections at the depositions, except to preserve privilege.

The provisions of this Section 23.1 are intended to benefit and bind certain third party non-signatories and will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

Any provisions of this Agreement below that pertain to judicial provisions shall be subject to the agreement to arbitration contained in this Section 23.1.

**23.2. Governing Law/Consent to Jurisdiction.** Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.), the Federal Arbitration Act, or other federal law, this Agreement shall be interpreted under the laws of the state of Arizona and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Arizona, which laws shall prevail in the event of any conflict of law, provided that any law regulating the sale of franchises or governing the relationship of a franchisor and its franchisee will not apply unless its jurisdictional requirements are met independently without reference to this paragraph. SUBJECT TO SECTION 23.1, THE FRANCHISOR AND THE FRANCHISEE (AND EACH OWNER) AGREE THAT ALL ACTIONS ARISING UNDER THIS AGREEMENT OR OTHERWISE AS A RESULT OF THE RELATIONSHIP BETWEEN THE FRANCHISOR AND THE FRANCHISEE MUST BE COMMENCED EXCLUSIVELY IN STATE OR FEDERAL COURT CLOSEST TO WHERE FRANCHISOR'S PRINCIPAL OFFICE THEN IS LOCATED (CURRENTLY LOCATED IN TEMPE, ARIZONA), AND THE FRANCHISOR AND THE FRANCHISEE (AND EACH OWNER) IRREVOCABLY CONSENT TO THE JURISDICTION OF THOSE COURTS AND WAIVE ANY OBJECTION TO EITHER THE JURISDICTION OF OR FORUM IN THOSE COURTS.

**23.3. Injunctive Relief.** The Franchisor and the Franchisee will each have the right in a proper case to obtain injunctive relief (subject to the parties' obligation to arbitrate the underlying claim under Section 23.1) in addition to such further or other relief as may be available at law or in equity. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond. The Franchisee further agrees that the Franchisee's only remedy if an injunction is entered against the Franchisee will be the dissolution of that injunction, if warranted, upon due hearing (all claims for damages by injunction being expressly waived hereby).

## **24. SECURITY INTEREST**

**24.1. Security Interest.** To secure payment and performance of the Obligations, defined in Section 24.2 below, the Franchisee grants to the Franchisor a continuing security interest in the following "**Collateral**" which shall consist of all of the following properties, assets and rights of Franchisee: all goods (including inventory, equipment, furniture and signs), accounts, fixtures, and contract rights (including interests under all real and personal property leases) of or relating to the Restaurant, wherever located, now owned or hereafter acquired, and in all improvements, attachments, additions, accessions, replacements and substitutions thereto and proceeds and products therefrom, including but not limited to, cash derived from the operation of the Restaurant.

**24.2. Obligations.** "**Obligations**" shall mean:

a. All obligations, including payments for inventory, equipment and supplies, obligations and payments under this Agreement and other agreements between the Franchisor, its affiliates and the Franchisee and other amounts and obligations owed to the Franchisor.

b. All expenditures of any kind or nature made by the Franchisor to preserve the Collateral, including, but not limited to, all amounts paid to discharge taxes, liens, security

interests and any other encumbrances against the Collateral, and to repair any damage to the Collateral or otherwise preserve or maintain the Collateral and all insurance thereon.

c. All expenditures made or incurred by the Franchisor pursuant to the provisions of any credit agreements, any promissory notes and this Agreement.

d. All other indebtedness, obligations and liabilities of the Franchisee to the Franchisor, its affiliates or other third parties, direct or indirect, absolute or contingent, due or to become due, whether now existing or hereafter arising.

**24.3. Authorization to File Financing Statements.** The Franchisee hereby irrevocably authorizes the Franchisor at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto and to furnish any information relating to such filings to the Franchisor promptly upon the Franchisor's request. The Franchisee further agrees, at the request and option of the Franchisor, to take any and all other actions the Franchisor may determine to be necessary or useful for the attachment, perfection and first priority of, and the ability of the Franchisor to enforce, the Franchisor's security interest in any and all of the Collateral.

**24.4. Possession of Collateral.** Upon default and termination of the Franchisee's rights under this Agreement, the Franchisor shall have the immediate right to possession and use of the Collateral.

**24.5. Remedies.** Upon the occurrence of any event of default set forth above or upon the occurrence of any other default in payment or performance of any Obligations for which this security interest is granted, the Franchisor shall have, in addition to all other rights and remedies, the remedies of a secured party under the Uniform Commercial Code as then in effect in the state in which the Restaurant is located ("UCC"), regardless of whether the UCC applies to the security transactions covered by this Agreement, including without limitation the right to accelerate the maturity of the obligations, without notice or demand, and to take possession of the Collateral and any proceeds thereof wherever located. The Franchisee shall assemble the Collateral and make the Collateral and all records relating thereto available to the Franchisor at a place to be designated by the Franchisor that is reasonably convenient for both parties. If notice is required, the Franchisor shall give to the Franchisee at least 5 business days prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition is to be made. The Franchisee hereby acknowledges that 5 business days prior written notice of such sale or sales shall be reasonable notice. During the time that the Franchisor is in possession of the Collateral, and to the extent permitted by law, the Franchisor shall have the right to hold, use, operate, manage and control all or any part of the Collateral; to make all such repairs, replacements, alterations, additions and improvements to the Collateral as it may deem proper; and to demand, collect and retain all earnings, proceeds from such use and all other costs, expenses, charges, damage or loss by reason of such use.

## **25. MISCELLANEOUS PROVISIONS**

**25.1. National Consumer Price Index.** Commencing on the fifth (5th) anniversary of the Effective Date, and for each five-year period thereafter, the Franchisor may adjust any amount in this Agreement that is set forth in dollars and/or cents in proportion to the five-year change in the National Consumer Price Index – All Urban Consumers as reported each calendar year in the U.S. Department of Labor (or successor index or agency thereto) using 2011 as the base year, and as so adjusted will apply to all amounts stated herein as dollars and/or cents.

**25.2. Modification.** The Franchisor and/or the Franchisee may modify this Agreement only upon execution of a written agreement between the two parties. The Franchisee acknowledges that the Franchisor may modify its standards, specifications and operating and marketing procedures set forth in the Manuals unilaterally under any conditions and to the extent in which the Franchisor, in its sole discretion, deems necessary.

**25.3. Entire Agreement.** This Agreement, including all exhibits and addenda, contains the entire agreement between the parties and supersedes any and all prior agreements concerning the subject matter hereof. The Franchisee agrees and understands that the Franchisor shall not be liable or obligated for any oral representations or commitments made prior to the execution hereof or for claims of negligent or fraudulent misrepresentation based on any such oral representations or commitments and that no modifications of this Agreement shall be effective except those in writing and signed by both parties. The Franchisor does not authorize and will not be bound by any representation of any nature other than those expressed in this Agreement and in the most recent franchise disclosure document provided by the Franchisor or its representatives. Nothing in this Agreement or in any related agreement, however, is intended to disclaim the representations Franchisor made in the franchise disclosure document that the Franchisor furnished to the Franchisee. The Franchisee further acknowledges and agrees that no representations have been made to it by the Franchisor regarding projected sales volumes, market potential, revenues, or profits of the Franchisee's TILTED KILT Restaurant, other than as stated in this Agreement or in the most recent franchise disclosure document provided by the Franchisor or its representatives.

**25.4. Delegation by the Franchisor.** From time to time, the Franchisor shall have the right to delegate the performance of any portion or all of its obligations and duties hereunder to third parties, whether the same are agents of the Franchisor or Area Representatives or independent contractors which the Franchisor has contracted with to provide such services. The Franchisee agrees in advance to any such delegation by the Franchisor of any portion or all of its obligations and duties hereunder.

**25.5. Effectiveness.** Notwithstanding the Effective Date set forth in the introductory paragraph of this Agreement, this Agreement shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer or manager of the Franchisor.

**25.6. Opportunity for Review.** The Franchisee acknowledges that it had a copy of the TILTED KILT Franchise Disclosure Document for a period of time not less than 14 calendar days during which time the Franchisee has had the opportunity to submit same for professional review and advice of the Franchisee's choosing prior to freely executing this Agreement.

**25.7. Costs and Attorneys' Fees.** If either party initiates a judicial or other proceeding, the prevailing party in such proceeding shall be entitled to reimbursement of its costs and expenses, including reasonable attorneys' fees.

**25.8. No Waiver.** No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by the Franchisor or the Franchisee shall be considered to imply or constitute a further waiver by the Franchisor or the Franchisee of the same or any other condition, covenant, right or remedy.

**25.9. No Right to Set Off.** The Franchisee shall not be allowed to set off amounts owed to the Franchisor for Royalties, Advertising Contributions, fees or other amounts due hereunder, against any monies owed to the Franchisee, nor shall the Franchisee in any event withhold such amounts due to

any alleged nonperformance by the Franchisor hereunder, which right of set off is hereby expressly waived by the Franchisee.

**25.10. Class Action Bar. THE PARTIES AGREE THAT CLAIMS OF ANY OTHER PARTY OR PARTIES SHALL NOT BE JOINED WITH ANY CLAIMS ASSERTED IN ANY ACTION OR PROCEEDING BETWEEN THE FRANCHISOR AND THE FRANCHISEE. NO CLAIMS MAY BE BROUGHT ON THE FRANCHISEE'S OR ITS OWNERS' BEHALF BY ANY ASSOCIATION OR AGENT.**

**25.11. Limitation of Claims. EXCEPT FOR CLAIMS ARISING FROM FRANCHISEE'S NON-PAYMENT OR UNDERPAYMENT OF AMOUNTS THE FRANCHISEE OWES THE FRANCHISOR OR ITS AFFILIATE, ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FRANCHISOR'S RELATIONSHIP WITH THE FRANCHISEE WILL BE BARRED UNLESS A JUDICIAL OR ARBITRATION PROCEEDING IS COMMENCED WITHIN 1 YEAR FROM THE DATE ON WHICH THE PARTY ASSERTING THE CLAIM KNEW OR SHOULD HAVE KNOWN OF THE FACTS GIVING RISE TO THE CLAIMS.**

**25.12. Waiver of Punitive Damages and Jury Trial. EXCEPT FOR THE FRANCHISEE'S OBLIGATION TO INDEMNIFY THE FRANCHISOR FOR THIRD PARTY CLAIMS UNDER SECTION 20.3, AND EXCEPT FOR PUNITIVE, EXEMPLARY OR MULTIPLE DAMAGES AVAILABLE TO EITHER PARTY UNDER UNITED STATES FEDERAL LAW, THE FRANCHISOR AND THE FRANCHISEE (AND ITS OWNERS) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE, EXEMPLARY OR MULTIPLE DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN THE FRANCHISOR AND THE FRANCHISEE, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.**

**THE FRANCHISOR AND THE FRANCHISEE WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER PARTY.**

**25.13. Invalidity/Substitution of Valid Provisions.** If any provision of this Agreement is held invalid by any tribunal in a final decision from which no appeal is or can be taken, such provision shall be deemed modified to eliminate the invalid element and, as so modified, such provision shall be deemed a part of this Agreement as though originally included. The remaining provisions of this Agreement shall not be affected by such modification.

If any covenant which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of area, business activity prohibited, and/or length of time, but would be enforceable if modified, the Franchisor and the Franchisee agree that the covenant will be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction whose law determines the covenant's validity.

If any applicable and binding law or rule of any jurisdiction requires more notice than this Agreement requires of termination of this Agreement or of the Franchisor's refusal to enter into a successor franchise agreement, or some other action that this Agreement does not require, or if under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement is invalid, unenforceable, or unlawful, the notice and/or other action required by the law or rule will be substituted

for the comparable provisions of this Agreement, and the Franchisor may modify the invalid or unenforceable provision to the extent required to be valid and enforceable or delete the unlawful provision in its entirety. The Franchisee agrees to be bound by any promise or covenant imposing the maximum duty the law permits which is subsumed within any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement.

**25.14. Notices.** All notices required to be given under this Agreement shall be given in writing, by certified mail, return receipt requested, by an overnight delivery service providing documentation of receipt, or by hand delivery, at the address set forth in the first paragraph of this Agreement or at such other addresses as the Franchisor or the Franchisee may designate from time to time, and/or with respect to any notices the Franchisor provides to the Franchisee, at the TILTED KILT Restaurant's address, and shall be effectively given three (3) business days following deposit in the United States mail, postage prepaid, one (1) business day following deposit with an overnight delivery service, or when delivered by hand as may be applicable.

**25.15. Survival of Provisions.** All obligations of the Franchisor and the Franchisee (and their respective owners) that expressly or by their nature extend beyond termination or expiration of this Agreement shall continue in full force and effect subsequent to and notwithstanding the termination or expiration of this Agreement and until they are satisfied in full or by their nature expire (including, without limitation, the post-termination restrictive covenant, dispute resolution, notice, and confidentiality provisions).

**25.16. Payment of Taxes.** The Franchisee shall reimburse the Franchisor, or its affiliates and designees, promptly and when due, the amount of all sales taxes, use taxes, personal property taxes and similar taxes imposed upon, required to be collected or paid by the Franchisor, or its affiliates or designees, on account of services or goods furnished by the Franchisor, its affiliates or designees, to the Franchisee through sale, lease or otherwise (except for any taxes the Franchisor or its affiliates are required by law to collect from the Franchisee with respect to products purchased from the Franchisor and its affiliates), or on account of collection by the Franchisor of the initial franchise fee, Royalties, Advertising Contribution or any other payments made by the Franchisee to the Franchisor required under the terms of this Agreement.

**25.17. Cumulative Rights.** The rights and remedies of the Franchisor and the Franchisee hereunder are cumulative and no exercise or enforcement by the Franchisor or the Franchisee of any right or remedy hereunder shall preclude the exercise or enforcement by the Franchisor or the Franchisee of any other right or remedy hereunder which the Franchisor or the Franchisee is entitled by law to enforce.

**25.18. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. This Agreement and all other documents related to this Agreement may be executed by manual or electronic signature. Either party may rely on the receipt of a document executed or delivered electronically, as if an original had been received.

**25.19. Acknowledgements.** BEFORE SIGNING THIS AGREEMENT, THE FRANCHISEE SHOULD READ IT CAREFULLY WITH THE ASSISTANCE OF LEGAL COUNSEL. THE FRANCHISEE ACKNOWLEDGES AND AGREES THAT:

(A) THE SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED HEREIN INVOLVES SUBSTANTIAL RISKS AND DEPENDS UPON THE FRANCHISEE'S

ABILITY AS AN INDEPENDENT BUSINESS PERSON AND ITS ACTIVE PARTICIPATION IN THE DAILY AFFAIRS OF THE BUSINESS.

(B) NO ASSURANCE OR WARRANTY, EXPRESS OR IMPLIED, HAS BEEN GIVEN AS TO THE POTENTIAL SUCCESS OF SUCH BUSINESS VENTURE OR THE EARNINGS LIKELY TO BE ACHIEVED, EXCEPT AS MAY BE STATED IN THIS AGREEMENT OR IN THE MOST RECENT FRANCHISE DISCLOSURE DOCUMENT PROVIDED TO THE FRANCHISEE BY THE FRANCHISOR.

(C) THE CORNERSTONE OF THE TILTED KILT CONCEPT IS THE “TILTED KILT GIRLS,” FEMALE SERVERS CHOSEN FOR THEIR ATTRACTIVENESS, INTELLIGENCE, AND OUTGOING PERSONALITIES. TILTED KILT GIRLS ARE ATTIRED IN SPECIALLY-DESIGNED COSTUMES. THE FRANCHISOR BELIEVES THAT THE PRACTICE OF LIMITING TILTED KILT GIRLS TO WOMEN IS PROTECTED BY FREE SPEECH RIGHTS AND FALLS UNDER THE BONA FIDE OCCUPATIONAL QUALIFICATION DEFENSE UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED (42 U.S.C. §§ 2000e *ET SEQ.*). HOWEVER, A CHALLENGE BASED ON AN ALLEGATION OF DISCRIMINATORY HIRING PRACTICES IS A BUSINESS RISK ASSOCIATED WITH THE TILTED KILT CONCEPT. BY SIGNING THIS AGREEMENT, THE FRANCHISEE ACKNOWLEDGES AND EXPRESSLY AGREES TO ASSUME SUCH BUSINESS RISK.

(D) NO STATEMENT, REPRESENTATION OR OTHER ACT, EVENT OR COMMUNICATION, EXCEPT AS SET FORTH IN THIS AGREEMENT AND IN THE MOST RECENT FRANCHISE DISCLOSURE DOCUMENT SUPPLIED TO THE FRANCHISEE IS BINDING ON THE FRANCHISOR IN CONNECTION WITH THE SUBJECT MATTER OF THIS AGREEMENT.

*[signature page follows]*

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

**TILTED KILT FRANCHISE OPERATING, LLC, FRANCHISEE**

a Wyoming limited liability company

\_\_\_\_\_

(Print Name)

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

\_\_\_\_\_

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

Individually

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

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

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

**OR:**

(if a corporation, partnership or LLC)

\_\_\_\_\_

Company Name

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

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

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

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

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_



**EXHIBIT A**

**TO THE FRANCHISE AGREEMENT BETWEEN  
TILTED KILT FRANCHISE OPERATING, LLC**

**AND** \_\_\_\_\_

**DATED** \_\_\_\_\_

1. **Franchised Location.** The “**Franchised Location**,” set forth in Section 3.1 of the Franchise Agreement shall be: \_\_\_\_\_  
\_\_\_\_\_;  
\_\_\_\_\_

**OR**

**Designated Area.** The Franchisor and the Franchisee acknowledge that the Franchised Location cannot be designated in Section 1 herein as a specific address because the Franchised Location has not been selected and approved. Therefore, the Franchisee shall choose and acquire the Franchised Location for its TILTED KILT Restaurant within the following geographic area (“**Designated Area**”): \_\_\_\_\_  
\_\_\_\_\_.

2. **Assigned Territory.** Notwithstanding Section 3.2 of the Franchise Agreement, the “**Assigned Territory**” shall be \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. **Catering.** Catering service provided by the Franchisee, referred to in Section 3.3 of the Agreement, is/ is not approved by the Franchisor, within the following geographic area: \_\_\_\_\_  
\_\_\_\_\_.

4. **Initial Franchise Fee.** The Franchisee shall pay to the Franchisor an Initial Franchise Fee of \$\_\_\_\_\_, due and payable in the manner set forth in Section 4.1 of the Agreement.

5. **Advertising Contribution.** The Franchisee’s Advertising Contribution, referred to in Section 13.3 of the Agreement, shall initially be set at \_\_\_\_% of Gross Sales; provided, however, the Franchisor reserves the rights to increase the percentage and collect up to the full Advertising Contribution of 2% of Gross Sales upon 30 days prior written notice to the Franchisee.

6. **Grand Opening Program.** The minimum dollar amount for the Grand Opening Program pursuant to Section 13.5 of the Agreement shall be: \$\_\_\_\_\_.

7. **Other Business.** The “**Other Business**”, if any, referred to in Section 21.1 of the Agreement, \_\_\_\_\_ shall \_\_\_\_\_ be \_\_\_\_\_ described \_\_\_\_\_ as: \_\_\_\_\_

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**8. Acknowledgement.** By executing this Exhibit and/or the Rider hereto, the Franchisee acknowledges that the Franchisor's acceptance of a site does not constitute a representation or warranty of any kind, express or implied, as to the suitability of the site for a TILTED KILT Restaurant or for any other purpose and that the Franchisee's acceptance of a franchise for the operation of a TILTED KILT Restaurant at the site is based on its own independent investigation of the suitability of the site.

Fully executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**TILTED KILT FRANCHISE OPERATING, LLC**

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

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

**FRANCHISEE**

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

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

**EXHIBIT B**

**TO THE FRANCHISE AGREEMENT BETWEEN  
TILTED KILT FRANCHISE OPERATING, LLC**

**AND** \_\_\_\_\_

**DATED** \_\_\_\_\_

**RIDER AND SPECIAL STIPULATIONS**

TO LEASE AGREEMENT DATED \_\_\_\_\_  
BY AND BETWEEN

\_\_\_\_\_, AS "LANDLORD"  
AND

\_\_\_\_\_, AS "TENANT" FOR THE DEMISED  
PREMISES ("PREMISES") DESCRIBED THEREIN

---

This Rider and the provisions hereof are hereby incorporated into the body of the lease to which this Rider is attached (the "**Lease**"), and the provisions hereof shall be cumulative of those set forth in the Lease, but to the extent of any conflict between any provisions of this Rider and the provisions of the Lease, this Rider shall govern and control.

1. Consent to Collateral Assignment to Franchisor; Disclaimer. Landlord acknowledges that Tenant intends to operate a TILTED KILT Restaurant in the Premises, and that Tenant's rights to operate a TILTED KILT Restaurant and to use the TILTED KILT name, trademarks and service marks are solely pursuant to a franchise agreement ("**Franchise Agreement**") between Tenant and Tilted Kilt Franchise Operating, LLC ("**Franchisor**"). Tenant's operations at the Premises are independently owned and operated. Landlord acknowledges that Tenant alone is responsible for all obligations under the Lease unless and until Franchisor or another franchisee expressly assumes such obligations and takes actual possession of the Premises, in which case the Franchisor or other franchisee shall not be liable for any payments due from Tenant that accrued prior to the assignment. Notwithstanding any provisions of this Lease to the contrary, Landlord hereby consents, without payment of a fee and without the need for further Landlord consent, to (i) the collateral assignment of Tenant's interest in this Lease to Franchisor to secure Tenant's obligations to Franchisor under the Franchise Agreement, and/or (ii) Franchisor's succeeding to Tenant's interest in the Lease as a result of Franchisor's exercise of rights remedies under such collateral assignment or as a result of Franchisor's termination of, or exercise of rights or remedies granted in or under, any other agreement between Franchisor and Tenant.

2. Use of Premises. Without limitation of uses permitted under the Lease, but in expansion thereof, the Premises may be used for the purpose of conducting the business of an entertainment bar and eat-in/take-out/delivery restaurant selling, *inter alia*, traditional pub food, hamburgers, salads, alcohol, other food items and beverages, related products and services sold in TILTED KILT Restaurants, and other fare under the TILTED KILT trade name and for retail sales and other ancillary purposes associated therewith.

3. Notice and Cure Rights to Franchisor. Landlord agrees to accept cure tendered by Franchisor as if the same was tendered by Tenant, but Franchisor has no obligation to cure such default. The initial address for notices to Franchisor is as follows:

Tilted Kilt Franchise Operating, LLC  
Attention: Legal Department  
8915 S. Harl Avenue  
Tempe, AZ 85284

With a copy to:

Mike Lynch  
Tilted Kilt Franchise Operating, LLC  
8915 S. Harl Avenue  
Tempe, AZ 85284

4. Third-Party Beneficiary. For so long as Franchisor holds a collateral assignment of the Lease, Franchisor is a third-party beneficiary of the Lease, including, without limitation, this Rider, and as a result thereof, shall have all rights (but not the obligation) to enforce the same.

5. Amendments. Tenant agrees that the Lease may not be terminated, modified or amended without Franchisor's prior written consent, nor shall Landlord accept surrender of the Premises without Franchisor's prior written consent. Tenant agrees to promptly provide Franchisor with copies of all proposed modifications or amendments and true and correct copies of the signed modifications and amendments.

6. Successors and Assigns. All of Franchisor's rights, privileges, and interests under this Rider and the Lease shall inure to the benefit of Franchisor's successors and assigns. All provisions in this Rider applicable to Tenant and Landlord shall be binding on any successor or assign of Tenant or Landlord under the Lease.

7. Counterparts. This Rider may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Rider may be executed by manual or electronic signature. Either party may rely on the receipt of a document executed or delivered electronically, as if an original had been received.

AGREED and executed and delivered under seal by the parties hereto as of the day and year of the Lease.

**LANDLORD:** \_\_\_\_\_

**TENANT:** \_\_\_\_\_

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

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

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

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

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

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

[CORPORATE SEAL]

[CORPORATE SEAL]

**TO THE FRANCHISE AGREEMENT BETWEEN  
TILTED KILT FRANCHISE OPERATING, LLC**

**DATED**

THIS GUARANTY AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS ("GUARANTY") IS GIVEN THIS \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_, by

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement of even date herewith (the "Agreement") by TILTED KILT FRANCHISE OPERATING, LLC (the "Franchisor"), and \_\_\_\_\_ ("Franchisee"), each Guarantor 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 Guarantor 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 or she may have to require that an action be brought against Franchisee or any other person as a condition of liability.

(a) his or her 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 owners of Franchisee;

(b) 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;

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

(d) 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

Agreement by a trustee of Franchisee. Neither 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;

(e) 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;

(f) 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;

(g) Guarantor is bound by the restrictive covenants, confidentiality provisions, and indemnification provisions contained in the Agreement; and

(h) upon Franchisor's request, he or she must submit to Franchisor suitable credit and financial information to allow Franchisor to make a reasonable decision as to Guarantor's creditworthiness and financial position including, without limitation, a personal net worth statement and such other information which would reasonably be considered relevant to Franchisor in determining whether or not Guarantor has the ability to satisfy his or her obligations under this Guaranty.

Each Guarantor that is a business entity, retirement or investment account, or trust acknowledges and agrees that if Franchisee (or any of its affiliates) is delinquent in payment of any amounts guaranteed hereunder, that no dividends or distributions may be made by such Guarantor (or on such Guarantor's account) to its owners, accountholders or beneficiaries or otherwise, for so long as such delinquency exists, subject to applicable law.

Guarantor agrees to be personally bound by the arbitration obligations under Section 23.1 of the Agreement, including, without limitation, the obligation to submit to binding arbitration the claims described in Section 23.1 of the Agreement in accordance with its terms.

Each Guarantor represents and warrants that, 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.

*[Signature page follows]*

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

**GUARANTOR(S):**

|                                  |
|----------------------------------|
| Signature: _____                 |
| Print Name: _____                |
| Address: _____<br>_____          |
| % Ownership in Franchisee: _____ |

|                                  |
|----------------------------------|
| Signature: _____                 |
| Print Name: _____                |
| Address: _____<br>_____          |
| % Ownership in Franchisee: _____ |

|                                  |
|----------------------------------|
| Signature: _____                 |
| Print Name: _____                |
| Address: _____<br>_____          |
| % Ownership in Franchisee: _____ |

|                                  |
|----------------------------------|
| Signature: _____                 |
| Print Name: _____                |
| Address: _____<br>_____          |
| % Ownership in Franchisee: _____ |

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.

|                                          |
|------------------------------------------|
| _____<br>Name of Guarantor               |
| _____<br>Name of Guarantor's Spouse      |
| _____<br>Signature of Guarantor's Spouse |

|                                          |
|------------------------------------------|
| _____<br>Name of Guarantor               |
| _____<br>Name of Guarantor's Spouse      |
| _____<br>Signature of Guarantor's Spouse |

|                                          |
|------------------------------------------|
| _____<br>Name of Guarantor               |
| _____<br>Name of Guarantor's Spouse      |
| _____<br>Signature of Guarantor's Spouse |

|                                          |
|------------------------------------------|
| _____<br>Name of Guarantor               |
| _____<br>Name of Guarantor's Spouse      |
| _____<br>Signature of Guarantor's Spouse |

**EXHIBIT D**

**TO THE FRANCHISE AGREEMENT BETWEEN  
TILTED KILT FRANCHISE OPERATING, LLC**

**AND** \_\_\_\_\_

**DATED** \_\_\_\_\_

**STATEMENT OF OWNERSHIP**

**Franchisee:** \_\_\_\_\_

**Trade Name** (if different from above): \_\_\_\_\_

**1. Form of Owner.**

(a) **Individual Proprietorship.** The Franchisee(s) (is) (are) as follows:

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

(b) **Corporation, Limited Liability Company, or Partnership.** (CIRCLE ONE)  
The Franchisee was incorporated or formed on \_\_\_\_\_, under the laws of  
the State of \_\_\_\_\_. The Franchisee has not conducted business under any name  
other than its corporate, limited liability company, or partnership name and  
\_\_\_\_\_ (INSERT ANY ASSUMED NAME  
OR DBA THAT FRANCHISEE HAS USED). The following is a list of Franchisee's directors,  
if applicable, and officers as of the Effective Date shown above:

| <b><u>Name of Each Director/Officer</u></b> | <b><u>Position(s) Held</u></b> |
|---------------------------------------------|--------------------------------|
| _____                                       | _____                          |
| _____                                       | _____                          |
| _____                                       | _____                          |
| _____                                       | _____                          |
| _____                                       | _____                          |
| _____                                       | _____                          |



2. **Owners.** The following list includes the full name of each individual who is one of Franchisee's owners, or an owner of one of Franchisee's owners, and fully describes the nature of each owner's interest (attach additional pages if necessary).

|     | <b><u>Owner's Name</u></b> | <b><u>Percentage/Description of Interest</u></b> |
|-----|----------------------------|--------------------------------------------------|
| (a) | _____                      | _____                                            |
| (b) | _____                      | _____                                            |
| (c) | _____                      | _____                                            |
| (d) | _____                      | _____                                            |

3. **Name and Address of Principal Owner.**

(a) Name: \_\_\_\_\_

(b) Postal Address: \_\_\_\_\_  
\_\_\_\_\_

(c) E-mail Address: \_\_\_\_\_

(d) Telephone Number \_\_\_\_\_

(e) Fax Number: \_\_\_\_\_

4. **Name and Address of General Manager.**

(a) Name: \_\_\_\_\_

(b) Postal Address: \_\_\_\_\_  
\_\_\_\_\_

(c) E-mail Address: \_\_\_\_\_

(d) Telephone Number: \_\_\_\_\_

(e) Fax Number: \_\_\_\_\_

*[Signature Page Follows]*

**TILTED KILT FRANCHISE OPERATING, LLC, FRANCHISEE**

a Wyoming limited liability company

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

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

\_\_\_\_\_  
Individually

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

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

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

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

**OR:**

(if a corporation, partnership or LLC)

\_\_\_\_\_  
Company Name

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

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

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

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

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

**EXHIBIT E**

**TO THE FRANCHISE AGREEMENT BETWEEN  
TILTED KILT FRANCHISE OPERATING, LLC**

**AND** \_\_\_\_\_

**DATED** \_\_\_\_\_

**AUTHORIZATION AGREEMENT FOR PREAUTHORIZED PAYMENTS**

**(DIRECT DEBITS)**

The undersigned depositor ("**Depositor**") hereby (1) authorizes Tilted Kilt Franchise Operating, LLC ("**Company**") to initiate debit entries and/or credit correction entries to the undersigned's checking and/or savings account indicated below and (2) authorizes the depository designated below ("**Depository**") to debit such account pursuant to Company's instructions.

\_\_\_\_\_  
Depository

\_\_\_\_\_  
Branch

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Bank Transit/ABA Number

\_\_\_\_\_  
Account Number

This authority is to remain in full force and effect until Depository has received joint written notification from Company and Depositor of the Depositor's termination of such authority in such time and in such manner as to afford Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, Depository shall provide Company and Depositor with 30 days' prior written notice of the termination of this authority. If an erroneous debit entry is initiated to Depositor's account, Depositor shall have the right to have the amount of such entry credited to such account by Depository, if (a) within 15 calendar days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to such entry or (b) 45 days after posting, whichever occurs first, Depositor shall have sent to Depository a written notice identifying such entry, stating that such entry was in error and requesting Depository to credit the amount thereof to such account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

\_\_\_\_\_  
DEPOSITOR (Print Name)

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

Its: \_\_\_\_\_

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



**EXHIBIT C**  
**(TO DISCLOSURE DOCUMENT)**  
**LIST OF RESTAURANTS**

**List of Restaurants**  
**(12/31/2017)**

| LOCATION                            | FRANCHISEE                   | ADDRESS                                  | CITY             | STATE | ZIP   | PHONE          |
|-------------------------------------|------------------------------|------------------------------------------|------------------|-------|-------|----------------|
| TILTED KILT PHOENIX <sup>±(1)</sup> | PDT TK, LLC                  | 2 E JEFFERSON #22-217                    | PHOENIX          | AZ    | 85003 | (602) 293-3888 |
| TILTED KILT SCOTTSDALE**            | ACC ENTERPRISES, LLC         | 7077 E BELL RD                           | SCOTTSDALE       | AZ    | 85254 | (480) 922-8424 |
| TILTED KILT TEMPE <sup>±±(2)</sup>  | WARNER KILT, LLC             | 1617 W WARNER RD                         | TEMPE            | AZ    | 85284 | (480) 592-0103 |
| TILTED KILT CHINO                   | RDA GROUP, LLC               | 3919 GRAND AVE                           | CHINO            | CA    | 91710 | (909) 591-5200 |
| TILTED KILT MORENO VALLEY           | FOZE AND RENEE ENNABE        | 12580 DAY STREET                         | MORENO VALLEY    | CA    | 92553 | (951) 807-2630 |
| TILTED KILT ORANGE                  | OC RESTAURANT GROUP, LLC     | 1625 W KATELLA AVE                       | ORANGE           | CA    | 92867 | (714) 633-5458 |
| TILTED KILT RANCHO CUCAMONGA        | WINFUND MANAGEMENT, LLC      | 12806 E FOOTHILL BLVD                    | RANCHO CUCAMONGA | CA    | 91739 | (919) 790-8898 |
| TILTED KILT TEMECULA                | TEMECULA KILT, LLC           | 26520 YNEZ RD                            | TEMECULA         | CA    | 92591 | (951) 553-7644 |
| TILTED KILT THOUSAND OAKS           | CHILFRUITS, INC              | 1345 THOUSAND OAKS BLVD                  | THOUSAND OAKS    | CA    | 91362 | (805) 777-7418 |
| TILTED KILT VICTORVILLE             | TK MANAGEMENT, LLC           | 12409 MARIPOSA ROAD                      | VICTORVILLE      | CA    | 92395 | (760) 952-3000 |
| TILTED KILT COLORADO SPRINGS        | SPRINGS IN MY KILT, LLC      | 7601 COMMERCE CENTER DR                  | COLORADO SPRINGS | CO    | 80919 | (719) 354-4780 |
| TILTED KILT GREELEY**               | TKG, LLC                     | 610 9TH AVE                              | GREELEY          | CO    | 80631 | (970) 353-5458 |
| TILTED KILT BOCA RATON              | SAMKIN TK, LLC               | 3320 AIRPORT RD SUITE #1                 | BOCA RATON       | FL    | 33431 | (561) 338-5458 |
| TILTED KILT JACKSONVILLE**          | JAX KILT, LLC                | 9720 DEER LAKE COURT                     | JACKSONVILLE     | FL    | 32246 | (904) 379-8612 |
| TILTED KILT OCALA                   | TK OF OCALA, LLC             | 3155 EAST SILVER SPRINGS BLVD            | OCALA            | FL    | 34470 | (352) 351-5458 |
| TILTED KILT ATLANTA                 | TK ATLANTA, LLC              | 2960 COBB PKWY                           | ATLANTA          | GA    | 30339 | (678) 741-5292 |
| TILTED KILT BOLINGBROOK             | TKB GROUP, LLC               | 1055 SOUTH WEBER RD                      | BOLINGBROOK      | IL    | 60440 | (630) 759-8458 |
| TILTED KILT CHICAGO                 | TK CHICAGO LOOP, LLC         | 17 N WABASH, 2ND FLOOR                   | CHICAGO          | IL    | 60602 | (312) 269-5580 |
| TILTED KILT OAK BROOK               | TK OBT, LLC                  | 17W460 22 <sup>ND</sup> OAKBROOK TERRACE | OAK BROOK        | IL    | 60181 | (630) 953-5458 |
| TILTED KILT SCHAUMBURG              | KILT OF SCHAUMBURG, INC      | 1140 E HIGGINS RD                        | SCHAUMBURG       | IL    | 60173 | (847) 413-2000 |
| TILTED KILT SKOKIE                  | PETANI, LLC                  | 7070 CARPENTER RD                        | SKOKIE           | IL    | 60077 | (847) 673-7070 |
| TILTED KILT WOODRIDGE               | TKW GROUP, LLC               | 6320 ROUTE 53                            | WOODRIDGE        | IL    | 60517 | (630) 969-5458 |
| TILTED KILT GONZALEZ**              | S&P RESTAURANTS OF LOUISIANA | 2828 SOUTH OUTFITTERS DRIVE              | GONZALEZ         | LA    | 70737 | (225) 450-3496 |
| TILTED KILT BILLERICA               | TK BOSTON, LLC               | 15 MIDDLESEX TURNPIKE                    | BILLERICA        | MA    | 01821 | (978) 663-5458 |
| TILTED KILT FREDERICK               | TK FREDERICK, LLC            | 5605 SPECTRUM DRIVE                      | FREDERICK        | MD    | 21703 | (301) 644-0644 |
| TILTED KILT WHITE MARSH**           | DELMAR KILT, LLC             | 8133 HONEYGO BLVD                        | WHITE MARSH      | MD    | 21236 | (410) 497-0792 |
| TILTED KILT SOUTH PORTLAND          | TK JAD, LLC                  | 200 GORMAN ROAD                          | SOUTH PORTLAND   | ME    | 04106 | (207) 613-9715 |
| TILTED KILT STERLING HEIGHTS**      | KARRUMI BROTHERS, LLC        | 44935 HAYES RD                           | STERLING HEIGHTS | MI    | 48313 | (586) 799-4135 |
| TILTED KILT CHARLOTTE               | EBNW CAPITAL VENTURES, INC   | 13230 CAROWINDS BLVD.                    | CHARLOTTE        | NC    | 28273 | (704) 733-9072 |
| TILTED KILT WILMINGTON              | WILMINGTON TK, INC           | 11 VAN CAMPEN BLVD                       | WILMINGTON       | NC    | 28403 | (910) 399-5737 |
| TILTED KILT NASHUA                  | K ROSE PUB, LLC              | 345 AMHERST STREET                       | NASHUA           | NH    | 3063  | (603) 204-5531 |
| TILTED KILT BLOOMFIELD**            | ALPHA RESTAURANTS, LLC       | 80 WASHINGTON ST                         | BLOOMFIELD       | NJ    | 07003 | (973) 893-5243 |
| TILTED KILT EAST BRUNSWICK          | TK RESTAURANT GROUP, LLC     | 755 STATE HWY 18 STE 533C                | EAST BRUNSWICK   | NJ    | 08816 | (732) 992-8532 |

| LOCATION                    | FRANCHISEE                                | ADDRESS                              | CITY          | STATE | ZIP   | PHONE          |
|-----------------------------|-------------------------------------------|--------------------------------------|---------------|-------|-------|----------------|
| TILTED KILT METUCHEN        | FRANK CURATOLO INDUSTRIES, LLC            | 61 US HWY. #1 SOUTH                  | METUCHEN      | NJ    | 08840 | (631) 972-8543 |
| TILTED KILT SICKLERVILLE    | AARK HOSPITALITY SICKLERVILLE TK, INC     | 645 CROSS KEYS ROAD                  | SICKLERVILLE  | NJ    | 08081 | (856) 267-5644 |
| TILTED KILT WAYNE           | TK WAYNE 46, LLC                          | 334 US HWY 46                        | WAYNE         | NJ    | 07470 | (973) 890-4859 |
| TILTED KILT LAS VEGAS       | LAS VEGAS KILT, LLC                       | 3545 LAS VEGAS BLVD SOUTH SUITE L-26 | LAS VEGAS     | NV    | 89109 | (702) 826-2100 |
| TILTED KILT FARMINGDALE     | AARK HOSPITALITY FARMINGDALE TK, LLC      | 2020 ROUTE 110                       | FARMINGDALE   | NY    | 11735 | (631) 465-9101 |
| TILTED KILT POUGHKEEPSIE**  | TKPK SPORTS BAR, LLC                      | 1955 SOUTH RD                        | POUGHKEEPSIE  | NY    | 12601 | (845) 297-9696 |
| TILTED KILT STATEN ISLAND** | AARK HOSPITALITY STATEN ISLAND BC TK, LLC | 2900 VETERANS ROAD WEST              | STATEN ISLAND | NY    | 10309 | (856) 267-5644 |
| TILTED KILT CLEVELAND       | TK OF NORTHERN OHIO, LLC                  | 21 PROSPECT AVE                      | CLEVELAND     | OH    | 44115 | (216) 771-5458 |
| TILTED KILT ALLENTOWN       | LEHIGH VALLEY KILT, INC                   | 2835 LEHIGH STREET                   | ALLENTOWN     | PA    | 18103 | (610) 791-2100 |
| TILTED KILT DICKSON CITY    | AARK HOSPITALITY DICKSON CITY TK, LLC     | 4011 COMMERCE BLVD                   | DICKSON CITY  | PA    | 18519 | (570) 382-3543 |
| TILTED KILT CLARKSVILLE     | TK OF CLARKSVILLE, INC                    | 1361 CIRCLE CREST LOOP               | CLARKSVILLE   | TN    | 42038 | (931) 645-5458 |
| TILTED KILT KILLEEN         | TK KILLEEN INVESTMENTS, LLC               | 2900 CENTRAL TEXAS EXPRESSWAY        | KILLEEN       | TX    | 76543 | (254) 634-3663 |
| TILTED KILT LAREDO          | TK RIM, LLC                               | 2414B JACAMAN ROAD                   | LAREDO        | TX    | 78041 | (210) 854-2272 |
| TILTED KILT LEAGUE CITY**   | CHARIOT RESTAURANT GROUP, LLC             | 2481 SOUTH GULF FREEWAY              | LEAGUE CITY   | TX    | 77573 | (281) 309-0471 |
| TILTED KILT MCALLEN         | TK RIM, LLC                               | 4073 US HWY 83                       | MCALLEN       | TX    | 78501 | (956) 687-5458 |
| TILTED KILT MIDLAND         | TEXSANJ, LLC                              | 1119 DEAUVILLE BLVD                  | MIDLAND       | TX    | 79706 | (432) 332-5458 |
| TILTED KILT SAN ANTONIO     | DEVIKA INVESTMENTS, INC                   | 2070 E LOOP 1604                     | SAN ANTONIO   | TX    | 78232 | (210) 497-2800 |
| TILTED KILT RICHMOND        | MONUMENT HOSPITALITY IV, LLC              | 2070 WATERSIDE RD                    | RICHMOND      | VA    | 23875 | (909) 899-3500 |

\* ~~We~~(1) The franchisor owns 70% a portion of the membership interests in the entity that owns and operates this Restaurant.

\*\* (2) Owned and operated by an affiliate of the franchisor.

\*\* Indicates a Restaurant that has closed in the period from January 1, 2018, to July 11, 2018.

**List of Franchise Agreements Signed but Restaurants Not Yet Open (as of 12/31/2017/20/2018)**

| LOCATION                                           | FRANCHISEE                               | ADDRESS                             | CITY                 | STATE         | ZIP              | PHONE                     |
|----------------------------------------------------|------------------------------------------|-------------------------------------|----------------------|---------------|------------------|---------------------------|
| TILTED KILT CONWAY                                 | INFINITY GROUP INVESTMENTS, INC          | 166 BREWER HILLS DR                 | QUITMAN              | AR            | 72131            | (501) 454-9297            |
| TILTED KILT FRESNO                                 | SAI DHAM, INC.                           | 324 EAST SHAW AVE.                  | FRESNO               | CA            | 93710            | (559) 224-4040            |
| TILTED KILT LIVERMORE                              | WEST BAY AREA TK, LLC                    | TBD                                 | LIVERMORE            | CA            | TBD              | (650) 799-2662            |
| TILTED KILT SANTA CLARA                            | WEST BAY AREA TK, LLC                    | TBD                                 | SANTA CLARA          | CA            | TBD              | (650) 799-2662            |
| <u>TILTED KILT LEXINGTON</u>                       | <u>JAMIE DANIEL</u>                      | <u>215 BROADWAY</u>                 | <u>LEXINGTON</u>     | <u>KY</u>     | <u>37201</u>     | <u>(270) 625-5643</u>     |
| TILTED KILT PARSIPPANY <sup>(1)</sup>              | KUNAL SHAH                               | 3159 ROUTE 46                       | PARSIPPANY           | NJ            | 07054            | (973) 883-1160            |
| <del>TILTED KILT LEXINGTON</del>                   | <del>JAMIE DANIEL</del>                  | <del>215 BROADWAY</del>             | <del>LEXINGTON</del> | <del>TX</del> | <del>37201</del> | <del>(270) 625-5643</del> |
| TILTED KILT ROWLETT                                | DALLAS STAR RESTAURANT GROUP, LLC        | TBD                                 | ROWLETT              | TX            | TBD              | (304) 590-1935            |
| <u>TILTED KILT ALLEN</u>                           | <u>DALLAS STAR RESTAURANT GROUP, LLC</u> | <u>305 NORTH CENTRAL EXPRESSWAY</u> | <u>ALLEN</u>         | <u>TX</u>     | <u>75013</u>     | <u>(304) 590-1935</u>     |
| <u>TILTED KILT SAN ANTONIO</u>                     | <u>TK RIM, LLC</u>                       | <u>TBD</u>                          | <u>HOUSTON</u>       | <u>TX</u>     | <u>TBD</u>       | <u>210-854-2272</u>       |
| <u>HOUSTON METRO AREA (3 Franchise Agreements)</u> | <u>CHARIOT RESTAURANT GROUP, LLC</u>     | <u>TBD</u>                          | <u>HOUSTON METRO</u> | <u>TX</u>     | <u>TBD</u>       | <u>281-389-4586</u>       |

(1) We terminated the Franchise Agreement of this franchisee in 2018.



**EXHIBIT D  
(TO DISCLOSURE DOCUMENT)**

**FRANCHISEES WHO HAVE LEFT THE SYSTEM**

**FRANCHISEES WHO HAVE LEFT THE SYSTEM  
(AS OF 12/31/17)**

| NAME                                    | CITY            | STATE | PHONE NUMBER   |
|-----------------------------------------|-----------------|-------|----------------|
| TK NORTHWEST HOLDINGS, LLC KERRY PHELPS | PARADISE VALLEY | AZ    | (602) 218-6529 |
| PEORIA KILT, LLC WADE WOODRUFF          | PEORIA          | AZ    | (623) 486-5458 |
| LP KILTS, LLC                           | NORTHRIDGE      | CA    | (310) 283-1999 |
| EAST VILLAGE KILT, LP                   | SAN DIEGO       | CA    | (619) 236-8700 |
| MISSION VALLEY KILT, LLC                | SAN DIEGO       | CA    | (619) 236-8700 |
| COLORADO KILTS, INC MARK VOSS           | DENVER          | CO    | (303) 893-5458 |
| TKCT, LLC PETE DIADAMO                  | WETHERSFIELD    | CT    | (860) 257-8458 |
| TK1 SOUTH FLORIDA, LLC JEFF OSTROW      | FT LAUDERDALE   | FL    | (954) 763-5458 |
| TK IDRIVE, LLC REYNALDO COREAS          | ORLANDO         | FL    | (407) 226-6886 |
| AC RESTAURANTS, LLC DAN ALLEN           | SUWANEE         | GA    | (770) 623-6884 |
| TK AURORA, INC NICK NAGAK               | AURORA          | IL    | (630) 851-8458 |
| D2G HOLDINGS, LLC DUANE VENTVERLOH      | QUINCY          | IL    | (217) 209-3989 |
| ALLIED HOSPITALITY, INC STEVE HSU       | ROCKFORD        | IL    | (815) 229-4031 |
| TILTED HOLDINGS, LLC                    | ROSELLE         | IL    | (312) 505-3000 |
| TILTED FORT, LLC ANTHONY JONES          | FORT WAYNE      | IN    | (260) 459-3985 |
| EQUITY GUARD, LLC                       | INDIANAPOLIS    | IN    | (713) 779-9907 |
| TK INDY, LLC                            | INDIANAPOLIS    | IN    | (317) 600-3633 |
| AC RESTAURANTS, LLC DAN ALLEN           | FLORENCE        | KY    | (859) 282-6070 |
| TKBMA, LLC JAY SONNY BAJAJ              | BOSTON          | MA    | (617) 936-3098 |
| AC RESTAURANTS, LLC DAN ALLEN           | ANNAPOLIS       | MD    | (443) 949-8880 |
| AC RESTAURANTS, LLC DAN ALLEN           | HAGERSTOWN      | MD    | (301) 582-5300 |
| AC RESTAURANTS, LLC DAN ALLEN           | NOVI            | MI    | (248) 374-4990 |
| KILT HOLDINGS, LLC                      | ST. CHARLES     | MO    | (574) 247-6092 |
| AC RESTAURANTS, LLC DAN ALLEN           | FAYETTEVILLE    | NC    | (630) 737-1670 |
| NEW JERSEY RESTAURANT GROUP, LLC        | MONMOUTH        | NJ    | (732) 783-7138 |

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

| NAME                                           | CITY            | STATE | PHONE NUMBER   |
|------------------------------------------------|-----------------|-------|----------------|
| RAJ PATEL                                      | JUNCTION        |       |                |
| NISKY KILT, INC BHUPEN PATEL                   | NISKAYUNA       | NY    | (518) 377-5458 |
| G&X ENTERPRISES, INC MATT XAISANASY            | ROCHESTER       | NY    | (585) 424-5458 |
| CHEERS UNLIMITED ENTERPRISES, INC BHUPEN PATEL | SYRACUSE        | NY    | (315) 449-4444 |
| AC RESTAURANTS, LLC DAN ALLEN                  | CANTON          | OH    | (330) 492-0222 |
| AC RESTAURANTS, LLC DAN ALLEN                  | COLUMBUS        | OH    | (614) 888-5458 |
| AC RESTAURANTS, LLC DAN ALLEN                  | MAUMEE          | OH    | (419) 878-7200 |
| CHRISTINE & JOHN REEHL                         | EASTON          | PA    | (610) 515-1500 |
| KOP, LLC                                       | KING OF PRUSSIA | PA    | (215) 295-7708 |
| NORTH SHORE KILT, LLC                          | PITTSBURGH      | PA    | (312) 379-5101 |
| ROBINSON KILT, LLC                             | PITTSBURGH      | PA    | (312) 379-5101 |
| WYOMISSING KILT, LLC                           | WYOMISSING      | PA    | (312) 379-5101 |
| KRISH KILT, LLC ANIL PATEL                     | COLUMBIA        | SC    | (803) 732-5458 |
| AC RESTAURANTS, LLC DAN ALLEN                  | MYRTLE BEACH    | SC    | (843) 839-4488 |
| TILTED VENTURES, LLC MIKE DIXSON               | EL PASO         | TX    | (915) 855-3700 |
| AC RESTAURANTS, LLC DAN ALLEN                  | CHESAPEAKE      | VA    | (757) 966-1822 |
| AC RESTAURANTS, LLC DAN ALLEN                  | DULLES          | VA    | (703) 742-5458 |
| TROUT & TROUT, LTD JIM TROUT                   | HARRISONBURG    | VA    | (540) 438-8458 |

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

**EXHIBIT E**  
**(TO DISCLOSURE DOCUMENT)**  
**FINANCIAL STATEMENTS**



COMBINED AND CONSOLIDATED  
FINANCIAL STATEMENTS

DECEMBER 31, 2017, 2016 AND 2015



**Wallace Plese + Dreher**  
CERTIFIED PUBLIC ACCOUNTANTS + CONSULTANTS



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## INDEPENDENT AUDITOR'S REPORT

To the Members  
Tilted Kilt Franchise Operating, LLC  
Tempe, Arizona

We have audited the accompanying combined and consolidated financial statements of Tilted Kilt Franchise Operating, LLC (a Wyoming limited liability company) and Affiliates and Subsidiaries, which comprise the combined and consolidated balance sheets as of December 31, 2017, 2016 and 2015, and the related combined and consolidated statements of operations, equity (deficit), and cash flows for the years then ended, and the related notes to the financial statements.

### Management's Responsibility for the Financial Statements

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

### Auditor's Responsibility

Our responsibility is to express an opinion on these combined and consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the combined and consolidated financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the combined and consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the combined and consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the combined and consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the combined and consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the combined and consolidated financial statements referred to above present fairly, in all material respects, the financial position of Tilted Kilt Franchise Operating, LLC and Affiliates and Subsidiaries as of December 31, 2017, 2016 and 2015, and the results of their operations and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*Wallace, Plese + Dreher, P.C.*

Scottsdale, Arizona  
March 23, 2018

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED BALANCE SHEETS

December 31, 2017, 2016 and 2015

| <b>ASSETS</b>                                                  | <b>2017</b>         | <b>2016</b>         | <b>2015</b>         |
|----------------------------------------------------------------|---------------------|---------------------|---------------------|
| <b>CURRENT ASSETS</b>                                          |                     |                     |                     |
| Cash and cash equivalents                                      | \$ 1,407,400        | \$ 1,943,688        | \$ 2,144,536        |
| Restricted cash                                                | 200,150             | 308,319             | 525,865             |
| Accounts receivable                                            | 206,221             | 397,928             | 258,809             |
| Prepaid expenses                                               | 148,666             | 127,594             | 234,347             |
| Current portion of notes receivable, trade                     | -                   | 20,126              | 136,818             |
| Inventories                                                    | 76,842              | 60,538              | 58,427              |
| Income taxes receivable                                        | 110,361             | 39,435              | 8,300               |
| Total current assets                                           | <u>2,149,640</u>    | <u>2,897,628</u>    | <u>3,367,102</u>    |
| PROPERTY AND EQUIPMENT, net                                    | <u>1,069,704</u>    | <u>1,112,461</u>    | <u>1,201,585</u>    |
| <b>OTHER ASSETS</b>                                            |                     |                     |                     |
| Deposits                                                       | 74,643              | 81,443              | 22,824              |
| Notes receivable, trade, less current                          | -                   | 14,755              | 8,918               |
| Development rights and other intangible assets                 | 1,477,226           | 2,156,318           | 601,315             |
| Property held for sale                                         | -                   | -                   | 325,119             |
|                                                                | <u>1,551,869</u>    | <u>2,252,516</u>    | <u>958,176</u>      |
|                                                                | <u>\$ 4,771,213</u> | <u>\$ 6,262,605</u> | <u>\$ 5,526,863</u> |
| <b>LIABILITIES AND EQUITY</b>                                  |                     |                     |                     |
| <b>CURRENT LIABILITIES</b>                                     |                     |                     |                     |
| Current portion of long-term debt and capital lease obligation | \$ 483,601          | \$ 725,169          | \$ 52,324           |
| Accounts payable                                               | 853,591             | 698,409             | 393,557             |
| Accrued liabilities                                            | 294,339             | 317,553             | 434,086             |
| Income taxes payable                                           | -                   | -                   | 59,710              |
| Current portion of deferred revenue, rent, and deposits        | 231,785             | 444,954             | 418,447             |
| Total current liabilities                                      | <u>1,863,316</u>    | <u>2,186,085</u>    | <u>1,358,124</u>    |
| LONG-TERM DEBT AND CAPITAL LEASE OBLIGATION, less current      | 407,661             | 449,971             | 1,360,699           |
| DEFERRED REVENUE, RENT, AND DEPOSITS, less current             | 481,479             | 429,707             | -                   |
| DEFERRED COMPENSATION                                          | 2,636,332           | 2,636,332           | 2,636,332           |
| Total non-current liabilities                                  | <u>3,525,472</u>    | <u>3,516,010</u>    | <u>3,997,031</u>    |
| COMMITMENTS and CONTINGENCIES (Notes 10, 13 and 15)            |                     |                     |                     |
| <b>EQUITY (DEFICIT)</b>                                        |                     |                     |                     |
| Non-controlling interest (NCI) in PDT                          | (7,982)             | -                   | -                   |
| Equity (deficit) in controlling interests                      | <u>(609,593)</u>    | <u>560,510</u>      | <u>171,708</u>      |
|                                                                | <u>(617,575)</u>    | <u>560,510</u>      | <u>171,708</u>      |
|                                                                | <u>\$ 4,771,213</u> | <u>\$ 6,262,605</u> | <u>\$ 5,526,863</u> |

See Notes to Combined and Consolidated Financial Statements



# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED STATEMENTS OF OPERATIONS

Years Ended December 31, 2017, 2016 and 2015

|                                                                                   | 2017                  | 2016                | 2015              |
|-----------------------------------------------------------------------------------|-----------------------|---------------------|-------------------|
| Revenues:                                                                         |                       |                     |                   |
| Initial franchise and area developer fees                                         | \$ 305,000            | \$ 255,000          | \$ 1,065,000      |
| Continuing franchise fees and royalties                                           | 8,539,622             | 11,709,043          | 13,469,257        |
| Sales revenue                                                                     | 4,047,309             | 4,058,663           | 3,484,128         |
| Other operating revenues                                                          | 1,107,000             | 1,673,909           | 548,865           |
|                                                                                   | <u>13,998,931</u>     | <u>17,696,615</u>   | <u>18,567,250</u> |
| Expenses:                                                                         |                       |                     |                   |
| Cost of sales                                                                     | 1,102,055             | 1,222,210           | 1,059,729         |
| General and administrative expenses                                               | 10,246,932            | 10,982,232          | 11,139,142        |
| Franchise operating expenses                                                      | 2,823,157             | 4,171,215           | 5,440,212         |
| Depreciation and amortization expense                                             | 189,560               | 181,710             | 155,536           |
|                                                                                   | <u>14,361,704</u>     | <u>16,557,367</u>   | <u>17,794,619</u> |
| Income (loss) from operations before impairment                                   | <u>(362,773)</u>      | <u>1,139,248</u>    | <u>772,631</u>    |
| Development rights and goodwill impairment                                        | 1,011,851             | -                   | -                 |
| Income (loss) from operations                                                     | <u>(1,374,624)</u>    | <u>1,139,248</u>    | <u>772,631</u>    |
| Other income (expense):                                                           |                       |                     |                   |
| Other income                                                                      | 199,953               | 57,872              | 1,761             |
| Other expenses                                                                    | -                     | -                   | (2,207)           |
| Loss on abandonment of construction in progress                                   | -                     | -                   | (116,580)         |
| Loss on disposal of assets                                                        | (8,997)               | (35,780)            | (9,756)           |
| Interest income                                                                   | 2,228                 | 7,165               | 3,113             |
| Interest expense                                                                  | (36,597)              | (22,585)            | (33,316)          |
|                                                                                   | <u>156,587</u>        | <u>6,672</u>        | <u>(156,985)</u>  |
| Income (loss) before tax provision (benefit)                                      | <u>(1,218,037)</u>    | <u>1,145,920</u>    | <u>615,646</u>    |
| Income tax provision (benefit)                                                    | <u>(33,557)</u>       | <u>(35,382)</u>     | <u>86,210</u>     |
| Combined and consolidated net income (loss)                                       | <u>(1,184,480)</u>    | <u>1,181,302</u>    | <u>529,436</u>    |
| Less: loss attributable to NCI in subsidiary                                      | 14,377                | -                   | -                 |
| Combined and consolidated net income (loss) attributable to controlling interests | <u>\$ (1,170,103)</u> | <u>\$ 1,181,302</u> | <u>\$ 529,436</u> |

*See Notes to Combined and Consolidated Financial Statements*

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED STATEMENTS OF EQUITY (DEFICIT) Years Ended December 31, 2017, 2016 and 2015

|                                                         | 2017                | 2016              | 2015              |
|---------------------------------------------------------|---------------------|-------------------|-------------------|
| Equity, beginning of year                               | \$ 560,510          | \$ 171,708        | \$ 680,242        |
| Acquisition of PDT ( <i>Note 16</i> )                   | 6,395               | -                 | -                 |
| Contributions                                           | 11,000              | 13,200            | 36,000            |
| Distributions                                           | (11,000)            | (805,700)         | (1,073,970)       |
|                                                         | <u>566,905</u>      | <u>(620,792)</u>  | <u>(357,728)</u>  |
| Loss from NCI in PDT                                    | (14,377)            | -                 | -                 |
| Net income (loss) attributable to controlling interests | <u>(1,170,103)</u>  | <u>1,181,302</u>  | <u>529,436</u>    |
| Combined and consolidated net income (loss)             | <u>(1,184,480)</u>  | <u>1,181,302</u>  | <u>529,436</u>    |
| Equity (deficit), end of year                           | <u>\$ (617,575)</u> | <u>\$ 560,510</u> | <u>\$ 171,708</u> |

See Notes to Combined and Consolidated Financial Statements

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED STATEMENTS OF CASH FLOWS Years Ended December 31, 2017, 2016 and 2015

|                                                                                                            | 2017           | 2016         | 2015         |
|------------------------------------------------------------------------------------------------------------|----------------|--------------|--------------|
| CASH FLOWS FROM OPERATING ACTIVITIES                                                                       |                |              |              |
| Combined and consolidated net income (loss)                                                                | \$ (1,184,480) | \$ 1,181,302 | \$ 529,436   |
| Reconciliation of net cash provided by (used in) operations to Combined and consolidated net income (loss) |                |              |              |
| Depreciation and amortization                                                                              | 189,560        | 181,710      | 155,536      |
| Net bad debt expense                                                                                       | 973,399        | 203,011      | 128,266      |
| Loss on abandonment of construction in progress                                                            | -              | -            | 116,580      |
| Loss on disposal of assets                                                                                 | 8,997          | 35,780       | 9,756        |
| Non-controlling interest of PDT                                                                            | (14,922)       | -            | -            |
| Recognition of deferred gain                                                                               | (20,945)       | (13,181)     | -            |
| Development rights and goodwill impairment                                                                 | 1,011,851      | -            | -            |
| Changes in assets and liabilities:                                                                         |                |              |              |
| Restricted cash                                                                                            | 108,169        | 217,546      | 471,388      |
| Accounts receivable                                                                                        | (781,692)      | (342,130)    | 443,342      |
| Prepaid expenses                                                                                           | (18,067)       | 106,753      | 26,530       |
| Inventories                                                                                                | 19,643         | (2,111)      | (1,624)      |
| Income taxes receivable                                                                                    | (70,926)       | (31,135)     | (6,000)      |
| Notes receivable, trade                                                                                    | 34,881         | 110,855      | (145,736)    |
| Other assets                                                                                               | (83,818)       | (59,539)     | (3,862)      |
| Accounts payable and accrued liabilities                                                                   | (90,685)       | 188,319      | (645,833)    |
| Income taxes payable                                                                                       | -              | (59,710)     | 10,488       |
| Deferred revenue and deposits                                                                              | (140,452)      | (39,988)     | (850,336)    |
| Deferred compensation                                                                                      | -              | -            | 1,015,240    |
| Net cash provided by (used in) operating activities                                                        | (59,487)       | 1,677,482    | 1,253,171    |
| CASH FLOWS FROM INVESTING ACTIVITIES                                                                       |                |              |              |
| Proceeds from land held for sale                                                                           | -              | 375,000      | 653,839      |
| Proceeds on sale of property and equipment                                                                 | -              | -            | 54,000       |
| Purchase of territory rights and investment                                                                | -              | (815,003)    | -            |
| Contribution of cash from business acquisition                                                             | 39,220         | -            | -            |
| Purchases of property and equipment                                                                        | (71,360)       | (1,067,944)  | (45,133)     |
| Net cash provided by (used in) investing activities                                                        | (32,140)       | (1,507,947)  | 662,706      |
| CASH FLOWS FROM FINANCING ACTIVITIES                                                                       |                |              |              |
| Proceeds from long-term debt                                                                               | -              | 500,000      | -            |
| Payments on long-term debt                                                                                 | (444,661)      | (77,883)     | (113,007)    |
| Distributions                                                                                              | -              | (792,500)    | (1,037,970)  |
| Net cash used in financing activities                                                                      | (444,661)      | (370,383)    | (1,150,977)  |
| Net increase (decrease) in cash and cash equivalents                                                       | (536,288)      | (200,848)    | 764,900      |
| Cash and cash equivalents:                                                                                 |                |              |              |
| Beginning                                                                                                  | 1,943,688      | 2,144,536    | 1,379,636    |
| Ending                                                                                                     | \$ 1,407,400   | \$ 1,943,688 | \$ 2,144,536 |

Continued

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED STATEMENTS OF CASH FLOWS *(Continued)*

Years Ended December 31, 2017, 2016 and 2015

|                                                                                                        | 2017        | 2016         | 2015         |
|--------------------------------------------------------------------------------------------------------|-------------|--------------|--------------|
| SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION                                                       |             |              |              |
| Cash paid during the year for:                                                                         |             |              |              |
| Interest                                                                                               | \$ 36,597   | \$ 22,585    | \$ 33,316    |
| Income taxes                                                                                           | \$ 76,804   | \$ 55,463    | \$ 81,722    |
| NON-CASH INVESTING AND FINANCING TRANSACTIONS                                                          |             |              |              |
| Exchange of related party obligations through a distribution by LTD and a capital contribution to TKFO | \$ 11,000   | \$ 13,200    | \$ 36,000    |
| Payment of long-term debt with proceeds from sale of land                                              | \$ -        | \$ -         | \$ 746,161   |
| Sale and leaseback of land:                                                                            |             |              |              |
| Land                                                                                                   | \$ -        | \$ -         | \$ 975,358   |
| Deferred gain                                                                                          | -           | -            | 424,642      |
|                                                                                                        | \$ -        | \$ -         | \$ 1,400,000 |
| Reclassification of capital lease to operating lease:                                                  |             |              |              |
| Removal of leased land                                                                                 | \$ -        | \$ (975,358) | \$ -         |
| Removal of capital lease obligation                                                                    | -           | 1,400,000    | -            |
| Reclassification of capital lease obligation to deferred gain                                          | \$ -        | \$ 424,642   | \$ -         |
| Development rights acquired through debt financing                                                     | \$ 430,000  | \$ 740,000   | \$ -         |
| Development rights and note payable for same rights written-down                                       | \$ 269,217  | \$ -         | \$ -         |
| Acquisition of PDT:                                                                                    |             |              |              |
| Working capital                                                                                        | \$ (63,123) | \$ -         | \$ -         |
| Property and equipment                                                                                 | 84,440      | -            | -            |
| Controlling interest                                                                                   | \$ 21,317   | \$ -         | \$ -         |

See Notes to Combined and Consolidated Financial Statements

# **TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES**

## **Notes to Combined and Consolidated Financial Statements**

### **December 31, 2017, 2016 and 2015**

#### **NOTE 1**

#### **NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES**

---

##### **Nature of operations:**

Tilted Kilt Franchise Operating, LLC (TKFO) was organized October 13, 2005 under the laws of the State of Wyoming. TKFO is engaged in the business of franchising Tilted Kilt Pub & Eatery restaurants. TKFO uses franchise agreements to sell, operate, and develop these restaurants.

Tilted Kilt Franchise Ltd. Liability Company (LTD) was organized October 13, 2005 under the laws of the State of Wyoming and owns the Tilted Kilt concept and related intellectual property.

Tilted Kilt National Advertising and Marketing Fund (NAMF) was incorporated November 17, 2010. NAMF develops and executes advertising and marketing materials and programs that benefit Tilted Kilt restaurants located in the United States.

Tilted Kilt NAMF Canada (NAMF Canada) was incorporated December 9, 2011 in the State of Arizona. NAMF Canada develops and executes advertising and marketing materials and programs that benefit Tilted Kilt Restaurants located in Canada.

Tempe Kilt Group, LLC (TKG) was organized November 1, 2006 under the laws of the State of Arizona. The Subsidiary was acquired December 1, 2006 and operated a restaurant, Tilted Kilt Pub & Eatery, in Tempe, Arizona, until July 2016. TKG was succeeded by Warner Kilt, LLC (WK) when operations for the restaurant were relocated to a nearby site.

TKFO Land Company LLC (TK Land) was organized on May 22, 2013 under the laws of the State of Arizona. The Subsidiary was intended to own and develop land for the TKFO corporate office and restaurant for TKG. Management modified these plans (*Note 15*) which suspended TK Land's operations in 2016.

BAL TK, LLC (BAL) was organized on January 22, 2014 under the laws of the State of Arizona. The Subsidiary was acquired February 20, 2014 and operated a restaurant, Tilted Kilt Pub & Eatery, in Birmingham, Alabama until April 2017.

TK Franchising International LLC (TKI) was organized on June 19, 2014 under the laws of the State of Arizona. The Subsidiary was engaged in franchising restaurants outside of North America.

TK Training LLC (Training) was organized on December 24, 2013 under the laws of the State of Arizona. The Subsidiary facilitates training services provided to franchisees.

Warner Kilt, LLC (WK) was organized on April 14, 2015 under the laws of the State of Arizona. The Subsidiary began operating a restaurant in Tempe, Arizona in August 2016.

PDT TK, LLC (PDT) was organized on February 16, 2010 under the laws of the State of Arizona. TKFO acquired 70% of the membership of PDT in October 2017, which operates a restaurant in Phoenix, Arizona.

The Company, Affiliates, and Subsidiaries are collectively referred to as "the Companies" throughout the notes to the combined and consolidated financial statements.

# **TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES**

## **Notes to Combined and Consolidated Financial Statements**

### **December 31, 2017, 2016 and 2015**

#### **NOTE 1 (Continued)**

#### **NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES**

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##### **Principles of combination and consolidation:**

The combined and consolidated financial statements include the accounts of the Company, the Affiliates and the Subsidiaries. TKFO owns 100% of TKG, WK, TK Land, BAL, Training, and TKI and 70% of PDT. TKFO and LTD share identical ownership. NAMF and NAMF Canada are incorporated as non-profit organizations. LTD's significant assets are the Tilted Kilt concept and related intellectual property. All material intercompany balances and transactions are eliminated in combination and consolidation.

##### **Deconsolidation of subsidiaries:**

As of December 31, 2017, the operations of TKG, TK Land, and TKI, subsidiaries of TKFO, were suspended and the subsidiaries were deconsolidated from the combined and consolidated financial statements with a distribution from TKFO and contribution to each subsidiary for any amounts owed to TKFO. There was a loss from the deconsolidation of TKG of approximately \$26,000. All related party transactions with those entities are eliminated in consolidation.

##### **A summary of the Companies' significant accounting policies follows:**

##### **Cash and cash equivalents:**

For purposes of the combined and consolidated statements of cash flows, the Companies consider all cash investments with original or purchased maturities of three months or less to be cash equivalents.

##### **Restricted cash:**

The Companies maintain certain bank accounts for which funds are restricted for various purposes that can include area developer (AD) agreement transfer payments, gift cards balances, and other custodial deposits.

##### **Accounts, franchise fees, and notes receivable:**

Accounts receivables primarily represent royalties due from franchisees as contracted in the respective franchise agreements. Management determines the allowance for doubtful accounts by evaluating individual franchisee receivables and considering a franchisee's financial condition, credit history, and current economic condition. Accounts receivable are written off when deemed uncollectible. Recoveries of accounts receivable previously written off are recognized when received or when adequate consideration is provided. Franchise fees are directly drafted from franchisees' accounts on a weekly basis. No allowance for doubtful accounts was deemed necessary at December 31, 2017, 2016 or 2015. Bad debt expense including franchise fees receivable that were deemed uncollectible, net of unpaid AD royalties, totaled approximately \$973,000, \$203,000 and \$143,000 for years ended December 31, 2017, 2016 and 2015, respectively. During the year ended December 31, 2015, the Company recovered \$133,250 of bad debt, with a related note receivable for the unpaid portion, reported in *Note 4*. No bad debts were recovered during the years ended December 31, 2017 and 2016.

##### **Inventories:**

Inventories consist primarily of food, beverages, and supplies used in the operations of the restaurants. Inventories are stated at the lower of cost (first-in, first-out) or market.

|                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES</b><br/><b>Notes to Combined and Consolidated Financial Statements</b><br/><b>December 31, 2017, 2016 and 2015</b></p> |
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**NOTE 1 (Continued)**  
**NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES**

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**Property and equipment:**

Property and equipment is recorded at cost less accumulated depreciation. Depreciation and amortization are charged on the straight-line method over estimated useful lives. Useful lives are three to seven years for vehicles, restaurant equipment, computer equipment, furniture, and fixtures, and the lesser of the estimated useful life or the lease term for leasehold improvements.

**Development rights and other intangible assets:**

Goodwill represents the minority members' contribution of the Tilted Kilt concept and intellectual property and the excess of the purchase price over fair market value paid for tangible net assets and inventory in the acquisition of a Tilted Kilt restaurant. The value of the contributed goodwill equals the minority members' pro rata ownership percentage of the majority members' cash contributions to LTD.

Other intangible assets represent development rights in various states and other company assets listed at *Note 5*. Management regularly evaluates the carrying value of goodwill and other intangible assets to determine whether impairment may exist by considering relevant cash flows and profitability, including estimated future operating results, trends, and other available information. If management determines that the carrying value of goodwill and other intangible assets cannot be recovered, management will consider the carrying value of goodwill and other intangible assets as impaired and will report an impairment loss to operations by the amount of the impairment. Impairment is measured as the carrying value of an intangible asset less the amount of recoverable estimated undiscounted future cash flows.

**Franchise fees:**

Initial fees related to sales of franchises are recognized as revenue upon substantial performance by TKFO of all material conditions relating to the initial fee. Continuing franchise royalties are based on a defined percentage of franchise or license store revenues and are recognized when earned. AD fees are recognized when earned.

**Gift cards:**

In 2008, TKFO established a bank account to facilitate gift cards and began to utilize a third party vendor to process all gift card transactions. There are no administrative fees on unused gift cards and the majority of gift cards in circulation have no expiration date. Revenue is recognized by the franchisee when the gift card is redeemed or by TKFO when the likelihood of redemption by the customer is remote and it is determined that there is no legal obligation to remit the value of unredeemed gift card to the relevant jurisdiction. Management estimates and recognizes gift card breakage based on historical redemption activity, with the likelihood of a gift card remaining unredeemed can be determined 24 months after issued. The Company recognized gift card breakage of approximately \$80,000, \$80,000, and \$162,000 for the years ended December 31, 2017, 2016 and 2015, respectively. The unused balance of approximately \$200,000, \$308,000, and \$363,000 at December 31, 2017, 2016 and 2015, respectively, is included in deferred revenue and deposits and restricted cash on the combined and consolidated balance sheets.

|                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES</b><br/><b>Notes to Combined and Consolidated Financial Statements</b><br/><b>December 31, 2017, 2016 and 2015</b></p> |
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**NOTE 1 (Continued)**  
**NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES**

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**Advertising:**

The Companies expense non-direct response advertising as incurred. For the years ended December 31, 2017, 2016 and 2015, advertising and promotion expense totaled approximately \$2,800,000, \$2,900,000 and \$2,300,000, respectively.

**Income taxes:**

Under the provisions of the Internal Revenue Code, TKFO, LTD, TKG, TK Land, BAL, TKI, Training, WK, and PDT have elected to be taxed as partnerships. Under such election, the Companies' taxable income, credits, and preferences are passed through to individual members. Therefore, there is no provision for income taxes in the accompanying combined and consolidated financial statements related to these entities, except for entity level taxes imposed by certain states. Due to requirements of the Internal Revenue Code, certain items may be treated differently for income tax reporting than for the financial statements. Therefore, the members' shares of taxable income and deductions may vary from the amounts reported in these combined and consolidated financial statements.

NAMF and NAMF Canada have elected to be treated as C corporations for income tax purposes. Provisions for (benefits from) income taxes represent the estimated current tax payable (receivable) and any over (under) accrual of income taxes from the prior year for the years ended December 31, 2017, 2016 and 2015. If assessed, the Companies would classify any interest and penalties associated with a tax position as an income tax provision in the combined and consolidated statements of operations.

**Use of estimates:**

Management uses estimates and assumptions in preparing these combined and consolidated financial statements in accordance with accounting principles generally accepted in the United States of America. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could vary from the estimates that were used.

**Compensated absences:**

Employees of the Companies are entitled to paid vacation, paid sick days and personal days off, depending on job classification, length of service, and other factors. Management has determined that it is impractical to estimate the amount of compensation for future absences and accordingly, no liability has been recorded in the accompanying financial statements. The Companies' policy is to recognize the costs of compensated absences when paid to employees.

**Accounting standards updates:**

Management understands early-adopting certain ASUs, at times, may materially change the Companies' results of operations or financial position. If the Company had early-adopted ASU 2016-02 *Leases*, management believes the Company's non-current assets and capital lease liabilities would have materially changed as of December 31, 2017 and 2016. Management plans to adopt ASU 2016-02 when it becomes effective in 2020.



# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## Notes to Combined and Consolidated Financial Statements

### December 31, 2017, 2016 and 2015

#### NOTE 1 (Continued)

#### NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES

##### Reclassifications:

Certain amounts in 2016 and 2015 were reclassified to conform with the 2017 presentation.

##### Subsequent events:

Management has evaluated subsequent events through March 23, 2018, which is the date the combined and consolidated financial statements were available to be issued.

#### NOTE 2

#### FRANCHISE REVENUE

TKFO's franchise revenue consists of royalty income and franchise fees, initial AD fees, and management fee income from managing prior Tilted Kilt license agreements. The following is a summary of changes in the number of franchise stores in operation during the years ended December 31:

|                                   | <u>2017</u> | <u>2016</u> | <u>2015</u> |
|-----------------------------------|-------------|-------------|-------------|
| In operation, beginning of year   | 90          | 97          | 99          |
| Franchises opened during the year | 9           | 11          | 16          |
| Franchises closed during the year | <u>(45)</u> | <u>(18)</u> | <u>(18)</u> |
| In operation, end of year         | <u>54</u>   | <u>90</u>   | <u>97</u>   |

Royalty income earned from franchisees for the years ended December 31, 2017, 2016 and 2015 was approximately \$8,540,000, \$11,800,000 and \$13,500,000, respectively, reduced in consolidation of the subsidiaries by approximately \$79,000, \$66,000, and \$69,000, respectively, from intercompany transactions. TKG, an operating franchise, was a subsidiary of TKFO for the years ended December 31, 2017, 2016 and 2015. BAL, an operating franchise, became a subsidiary of TKFO in 2014 and remains a subsidiary of TKFO through the year ended December 31, 2017. WK, the operating franchise that succeeded TKG, became a subsidiary in 2016. PDT, an operating franchise, became a subsidiary of TKFO in 2017.

TKFO has agreements with ADs to sell and develop Tilted Kilt restaurants in specific geographic areas. Certain agreements require ADs to pay an initial fee. AD fees are recognized when earned. The following is a summary of TKFO AD agreements and fees recognized and deferred during 2017, 2016 and 2015:

|                                                                      | <u>ADs<br/>at year-end</u> | <u>Agreements<br/>at year-end</u> | <u>Initial fee<br/>Recognized</u> |
|----------------------------------------------------------------------|----------------------------|-----------------------------------|-----------------------------------|
| <b>Agreements as of and for the year<br/>ended December 31, 2017</b> | <b>8</b>                   | <b>12</b>                         | <b>\$ -</b>                       |
| Agreements as of and for the year<br>ended December 31, 2016         | 13                         | 22                                | \$ -                              |
| Agreements as of and for the year<br>ended December 31, 2015         | 19                         | 35                                | \$ 15,000                         |

Management fees earned from minority interest members for restaurant operational assistance with a franchise license agreement for the years ended December 31, 2017, 2016 and 2015 were \$0, \$0 and \$24,453, respectively.

|                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES</b></p> <p><b>Notes to Combined and Consolidated Financial Statements</b></p> <p><b>December 31, 2017, 2016 and 2015</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**NOTE 3**  
**PROPERTY AND EQUIPMENT**

| Property and equipment were as follows at December 31: | <u>2017</u>                | <u>2016</u>         | <u>2015</u>         |
|--------------------------------------------------------|----------------------------|---------------------|---------------------|
| Land ( <i>Note 15</i> )                                | \$ -                       | \$ -                | \$ 975,358          |
| Vehicles                                               | <b>38,721</b>              | 37,814              | 37,814              |
| Furniture, fixtures and equipment                      | <b>1,096,043</b>           | 948,252             | 752,088             |
| Leasehold improvements                                 | <u><b>331,002</b></u>      | <u>300,575</u>      | <u>813,080</u>      |
|                                                        | <b>1,465,766</b>           | 1,286,641           | 2,578,340           |
| Less accumulated depreciation and amortization         | <u><b>396,062</b></u>      | <u>174,180</u>      | <u>1,376,755</u>    |
|                                                        | <u><b>\$ 1,069,704</b></u> | <u>\$ 1,112,461</u> | <u>\$ 1,201,585</u> |

**NOTE 4**  
**NOTES RECEIVABLE, TRADE**

| Notes receivable were as follows at December 31:                                                        | <u>2017</u>        | <u>2016</u>      | <u>2015</u>     |
|---------------------------------------------------------------------------------------------------------|--------------------|------------------|-----------------|
| Notes receivable from franchisees, unsecured and at various interest rates up to 6%. Collected in 2017. | \$ -               | \$ 34,881        | \$ 145,736      |
| Less current portion                                                                                    | <u>-</u>           | <u>20,126</u>    | <u>136,818</u>  |
|                                                                                                         | <u><b>\$ -</b></u> | <u>\$ 14,755</u> | <u>\$ 8,918</u> |

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## Notes to Combined and Consolidated Financial Statements

### December 31, 2017, 2016 and 2015

#### NOTE 5 DEVELOPMENT RIGHTS AND OTHER INTANGIBLE ASSETS

Intangible assets were as follows at December 31:

|                                                                                                                                                                                                                                                     | <u>2017</u>         | <u>2016</u>         | <u>2015</u>       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|-------------------|
| <b>Development rights:</b>                                                                                                                                                                                                                          |                     |                     |                   |
| Nevada and 5% partnership interest in entity formed to operate a Tilted Kilt restaurant in Las Vegas                                                                                                                                                | \$ -                | \$ 75,000           | \$ 75,000         |
| Central Illinois                                                                                                                                                                                                                                    | 40,000              | 40,000              | 40,000            |
| New York, New Jersey, and Pennsylvania (Note 6)                                                                                                                                                                                                     | 396,417             | 990,000             | -                 |
| Northern Illinois, Northwest Indiana, and Southeast Wisconsin (Note 6)                                                                                                                                                                              | 550,000             | 550,000             | -                 |
| San Diego                                                                                                                                                                                                                                           | 116,087             | -                   | -                 |
| Orange County (Note 6)                                                                                                                                                                                                                              | 144,696             | -                   | -                 |
| Washington, Oregon, Idaho, and Montana. Agreement calls for additional payments equal to fifty percent of future area developer royalty payments that would have been made to seller prior to purchase through August 2021, not to exceed \$190,000 | -                   | 15,003              | -                 |
|                                                                                                                                                                                                                                                     | 1,247,200           | 1,670,003           | 115,000           |
| <b>Other intangible assets:</b>                                                                                                                                                                                                                     |                     |                     |                   |
| Minority members' contribution of the Tilted Kilt concept and intellectual property                                                                                                                                                                 | 184,062             | 184,062             | 184,062           |
| Franchisee agreement for PDT, net of \$35,394 accumulated amortization                                                                                                                                                                              | 45,964              | -                   | -                 |
| Goodwill from the excess of the purchase price over fair market value paid for tangible net assets and inventory in the acquisition of a Tilted Kilt restaurant                                                                                     | -                   | 302,253             | 302,253           |
|                                                                                                                                                                                                                                                     | <u>\$ 1,477,226</u> | <u>\$ 2,156,318</u> | <u>\$ 601,315</u> |

Management evaluates development rights, goodwill, and other intangible assets for impairment, at least annually, or if a triggering event occurs. As of December 31, 2017, the remaining development rights, goodwill, and other intangible assets listed above were determined to be recoverable. There were total impairment losses recognized in the year ended December 31, 2017 of approximately \$1 million attributable to the closure of certain franchises. These amounts were determined by management using undiscounted future cash flows. There were no impairment losses recognized in the years ended December 31, 2016 and 2015.

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## Notes to Combined and Consolidated Financial Statements

### December 31, 2017, 2016 and 2015

#### NOTE 6 LONG-TERM DEBT AND CAPITAL LEASE OBLIGATION

| Long-term debt consisted of the following at December 31:                                                                                                                                                                                                                                                                                                | <u>2017</u>       | <u>2016</u>       | <u>2015</u>         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------|---------------------|
| <b>TKFO:</b>                                                                                                                                                                                                                                                                                                                                             |                   |                   |                     |
| Note payable to Arizona Business Bank (ABB) in monthly installments of \$505 through March 2018, including interest at 3.9%, and secured by a vehicle.                                                                                                                                                                                                   | \$ 1,500          | \$ 7,378          | \$ 13,023           |
| Note payable in monthly installments of \$5,551 through August 2019, including interest at 6%. A balloon payment of \$384,613 is due in August 2019.                                                                                                                                                                                                     | 448,475           | 486,918           | -                   |
| Note payable for AD rights ( <i>Note 5</i> ) in monthly installments of \$10,000, including interest at 4%. A balloon payment of approximately \$389,000 was due in June 2017. The Company and the seller of the AD rights are in arbitration to resolve payment of the remaining balance, which would be due on-demand. Secured by intangible property. | 396,417           | 430,844           | -                   |
| Note payable to an AD in monthly installments of \$15,000 through November 2017. Secured by intangible property. Repaid in 2017.                                                                                                                                                                                                                         | -                 | 250,000           | -                   |
| Note payable for AD rights ( <i>Note 5</i> ) in monthly installments of \$3,739 through December 2018. Secured by intangible property.                                                                                                                                                                                                                   | 44,870            | -                 | -                   |
|                                                                                                                                                                                                                                                                                                                                                          | <u>891,262</u>    | <u>1,175,140</u>  | <u>13,023</u>       |
| <b>WK:</b>                                                                                                                                                                                                                                                                                                                                               |                   |                   |                     |
| Capital lease obligation ( <i>Note 15</i> )                                                                                                                                                                                                                                                                                                              | -                 | -                 | 1,400,000           |
|                                                                                                                                                                                                                                                                                                                                                          | <u>891,262</u>    | <u>1,175,140</u>  | <u>1,413,023</u>    |
| Less current portion of capital lease obligation                                                                                                                                                                                                                                                                                                         | -                 | -                 | 46,666              |
| Less current portion of long-term debt                                                                                                                                                                                                                                                                                                                   | 483,601           | 725,169           | 5,658               |
|                                                                                                                                                                                                                                                                                                                                                          | <u>483,601</u>    | <u>725,169</u>    | <u>52,324</u>       |
|                                                                                                                                                                                                                                                                                                                                                          | <u>\$ 407,661</u> | <u>\$ 449,971</u> | <u>\$ 1,360,699</u> |

Annual principal payments required for these agreements at December 31, 2017 were:

|      |                   |
|------|-------------------|
| 2018 | \$ 483,601        |
| 2019 | <u>407,661</u>    |
|      | <u>\$ 891,262</u> |

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## Notes to Combined and Consolidated Financial Statements

### December 31, 2017, 2016 and 2015

#### NOTE 7 INCOME TAXES

The Company recorded the following provisions for (benefit from) income taxes based on estimated taxable income (loss) of NAMF and NAMF Canada and TKFO, as required for partnerships by certain taxing authorities at the state level, for the years ended December 31:

|                                                       | <u>2017</u>        | <u>2016</u>        | <u>2015</u>      |
|-------------------------------------------------------|--------------------|--------------------|------------------|
| Estimated NAMF income tax provision (benefit):        |                    |                    |                  |
| Federal                                               | \$ (31,000)        | \$ (46,125)        | \$ 11,900        |
| State                                                 | <u>(8,000)</u>     | <u>(19,692)</u>    | <u>4,300</u>     |
|                                                       | <u>(39,000)</u>    | <u>(65,817)</u>    | <u>16,200</u>    |
| Estimated NAMF Canada income tax provision (benefit): |                    |                    |                  |
| Federal                                               | (1,950)            | 6,075              | (6,000)          |
| State                                                 | <u>50</u>          | <u>50</u>          | <u>50</u>        |
|                                                       | <u>(1,900)</u>     | <u>6,125</u>       | <u>(5,950)</u>   |
| TKFO entity-level income taxes                        | <u>7,343</u>       | <u>24,410</u>      | <u>75,960</u>    |
| Total income tax provision (benefit)                  | <u>\$ (33,557)</u> | <u>\$ (35,382)</u> | <u>\$ 86,210</u> |

There were no deferred income tax assets or liabilities at December 31, 2017, 2016 and 2015. Differences between the income tax provision (benefit) and income taxes computed using the statutory income tax rate for NAMF and NAMF Canada relate to certain non-deductible expenses, graduated income tax rates, state income taxes, and actual provisions (benefits) from the Companies' tax returns. In 2016, NAMF changed its year end from June 30 to December 31.

#### NOTE 8 DEFERRED REVENUE, RENT, AND DEPOSITS

|                                                               |                   |                   |                |
|---------------------------------------------------------------|-------------------|-------------------|----------------|
| Deferred revenue and deposits were as follows at December 31: | <u>2017</u>       | <u>2016</u>       | <u>2015</u>    |
| Initial franchise fees                                        | \$ -              | \$ 105,000        | \$ 30,000      |
| Deferred rent                                                 | 83,407            | -                 | -              |
| Gift card and other custodial deposits                        | 200,150           | 308,319           | 388,447        |
| Deferred gains on sale leasebacks, net                        | <u>429,707</u>    | <u>461,342</u>    | <u>-</u>       |
|                                                               | 713,264           | 874,661           | 418,447        |
| Less current portion                                          | <u>231,785</u>    | <u>444,954</u>    | <u>418,447</u> |
|                                                               | <u>\$ 481,479</u> | <u>\$ 429,707</u> | <u>\$ -</u>    |

|                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES</b><br/><b>Notes to Combined and Consolidated Financial Statements</b><br/><b>December 31, 2017, 2016 and 2015</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**NOTE 9**  
**DEFERRED COMPENSATION**

Deferred compensation represents amounts due from TKFO to the President under the terms of the operating agreement. The President has provided terms to defer payment beyond 2018.

**NOTE 10**  
**COMMITMENTS**

TKFO leases a facility under the terms of an operating lease, and pays all applicable taxes, insurance and common area expenses. The subsidiaries (TKG, WK, BAL, and PDT) lease or have leased restaurant facilities and equipment under the terms of operating leases. The subsidiaries pay all applicable taxes, insurance, and common area expenses related to facility leases. Minimum annual payments required under all operating leases at December 31, 2017 were approximately:

|            |                     |
|------------|---------------------|
| 2018       | \$ 877,000          |
| 2019       | 876,000             |
| 2020       | 880,000             |
| 2021       | 775,000             |
| 2022       | 626,000             |
| Thereafter | <u>5,833,000</u>    |
|            | <u>\$ 9,867,000</u> |

Rent expense for the years ended December 31, 2017, 2016 and 2015 was approximately \$882,000, \$721,000, and \$543,000, respectively.

**NOTE 11**  
**NATIONAL ADVERTISING FUNDS**

TKFO maintains two national advertising funds for the purpose of developing advertising and marketing materials and programs to benefit Tilted Kilt restaurants. NAMF began maintaining a fund effective November 17, 2010, receiving all unspent advertising funds collected by TKFO, to benefit the franchises in the United States. NAMF Canada began maintaining a fund effective December 9, 2011 to benefit franchises in Canada. NAMF and NAMF Canada may charge up to 2% of a franchisee's gross sales to fund national advertising activities.

The NAMF advertising fund collected approximately \$2,004,000, \$2,108,000, and \$1,877,000 for the years ended December 31, 2017, 2016 and 2015, respectively, which is reduced in consolidation of the subsidiary by approximately \$68,000, \$53,000 and \$33,000, respectively by eliminating intercompany transactions. NAMF advertising and administrative expenses for the years ended December 31, 2017, 2016 and 2015 were approximately \$2,525,000 \$2,677,000, and \$2,083,000, respectively.

The advertising fund maintained by NAMF Canada collected approximately \$93,000, \$125,000, and \$104,000 for the years ended December 31, 2017, 2016 and 2015, respectively. NAMF Canada advertising and administrative expenses for the years ended December 31, 2017, 2016 and 2015 were approximately \$103,000, \$106,000 and \$131,000, respectively.

|                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES</b><br/><b>Notes to Combined and Consolidated Financial Statements</b><br/><b>December 31, 2017, 2016 and 2015</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**NOTE 11 (Continued)**  
**NATIONAL ADVERTISING FUNDS**

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NAMF and NAMF Canada maintain separate bank accounts and records for each respective national advertising fund. As of December 31, 2017, 2016 and 2015 the NAMF account balance was \$246,767, \$381,644 and \$363,950, respectively. As of December 31, 2017, 2016 and 2015, the NAMF Canada account balance was \$38,466, \$88,539 and \$60,158, respectively. TKFO maintains the right to terminate either fund after 30 days written notice to franchisees, at which point unspent monies from that fund would be returned to franchisees in proportion to their contributions to the fund.

**NOTE 12**  
**CONCENTRATIONS OF RISK**

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Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and accounts receivable. The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts.

**NOTE 13**  
**CONTINGENCIES**

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At times, TKFO may have pending legal proceedings that are, in the opinion of management, ordinary routine matters incidental to the normal business conducted by a restaurant franchisor. In the opinion of management and TKFO's outside legal counsel, such proceedings are substantially covered by insurance, and the ultimate disposition of such proceedings are not expected to have a materially adverse effect on TKFO's financial position, results of operations or cash flows as of December 31, 2017.

**NOTE 14**  
**RETIREMENT PLAN**

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The Company has a 401(k) profit sharing plan covering all employees who meet certain age and service requirements. Contributions, including a company match and profit sharing contributions subject to plan provisions, are made at the discretion of management. Company contributions to the plan for years ended December 31, 2017, 2016 and 2015 totaled \$29,813, \$68,259 and \$64,278, respectively.

|                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES</b><br/><b>Notes to Combined and Consolidated Financial Statements</b><br/><b>December 31, 2017, 2016 and 2015</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**NOTE 15**  
**SALE-LEASEBACKS**

In August 2013, TK Land purchased land with an ABB note payable to develop as the corporate restaurant, training facility, and office. In 2014, management revised the layout and design of the corporate restaurant, training facility, and office, leading to \$116,580 of abandonment losses of construction in progress for the year ended December 31, 2015.

During 2015, the Company divided the undeveloped land into two parcels (A and B). The Company sold parcel A in 2015 for \$1,400,000, resulting in a \$424,642 deferred gain, and repaid the note payable to ABB. The parcel was subsequently leased by WK, qualifying the transaction as a sale-leaseback. Management estimated the lease would qualify as a capital lease, recording "land" of \$975,378 (*Note 3*), a "capital lease obligation" of \$1.4 million (*Note 6*), and deferred income of \$424,642 as of December 31, 2015. When the project was completed and the lease began in August 2016, management determined it qualified as an operating lease (included in *Note 10*) and reclassified it by disposing land and a capital lease obligation.

In 2016, the Company sold parcel B for \$375,000, resulting in a \$49,881 gain. The parcel was leased by TKFO as an operating lease (included in *Note 10*), qualifying the transaction as a sale-leaseback.

The deferred gains for parcel A and B are included in the deferred revenue and deposits on the combined and consolidated balance sheet and are amortized over the term of each lease. For the years ended December 31, 2017 and 2016, income recognized from amortization of the deferred gains totaled \$20,945 and \$13,181, respectively.

**NOTE 16**  
**BUSINESS ACQUISITION**

On October 2, 2017, TKFO acquired a 70% membership interest of PDT. The results of operations of the acquired business have been included in the combined and consolidated financial statements of the Companies since the acquisition date. Consideration given from TKFO for the membership interest was a pro rata assumption of PDT's commitments and the provision by TKFO of operations and other administrative support.

Among the primary reasons the Company entered into this acquisition and factors that contributed to the consideration given were PDT's status as a franchisee in close proximity to TKFO, PDT's marketplace presence, and historical operational performance. There were no substantial expenses related to the acquisition.

U.S. GAAP requires that assets and liabilities acquired in a business combination be recognized at their fair values at the acquisition date. Management's estimation of those fair values as of October 1, 2017 was as follows:

|                             |                  |
|-----------------------------|------------------|
| Cash and cash equivalents   | \$ 39,220        |
| Inventory                   | 35,947           |
| Prepaid expenses            | 3,005            |
| Property and equipment, net | 84,440           |
| Other assets                | 81,358           |
| Accounts payable            | (147,627)        |
| Accrued expenses            | <u>(75,026)</u>  |
|                             | <u>\$ 21,317</u> |



# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED BALANCE SHEET

June 30, 2018

| <b>ASSETS</b>                                                                | <b>2018</b>                |
|------------------------------------------------------------------------------|----------------------------|
| <b>CURRENT ASSETS</b>                                                        |                            |
| Cash and cash equivalents                                                    | \$ 638,325                 |
| Restricted cash                                                              | 207,182                    |
| Accounts receivable                                                          | 592,121                    |
| Prepaid expenses                                                             | 341,356                    |
| Current portion of notes receivable, trade                                   | -                          |
| Inventories                                                                  | 74,848                     |
| Income taxes receivable                                                      | -                          |
| Total current assets                                                         | <u>1,853,832</u>           |
| <b>PROPERTY AND EQUIPMENT, net</b>                                           | <u>995,005</u>             |
| <b>OTHER ASSETS</b>                                                          |                            |
| Deposits                                                                     | 63,416                     |
| Notes receivable, trade, less current portion                                | -                          |
| Development rights and other intangible assets                               | 1,477,226                  |
| Property held for sale                                                       | -                          |
|                                                                              | <u>1,540,642</u>           |
|                                                                              | <u><u>\$ 4,389,479</u></u> |
| <b>LIABILITIES AND EQUITY</b>                                                |                            |
| <b>CURRENT LIABILITIES</b>                                                   |                            |
| Current portion of long-term debt<br>and capital lease obligation            | \$ 461,116                 |
| Accounts payable                                                             | 654,658                    |
| Accrued liabilities                                                          | 436,845                    |
| Income taxes payable                                                         | -                          |
| Current portion of deferred revenue and deposits                             | <u>207,182</u>             |
| Total current liabilities                                                    | 1,759,801                  |
| <b>LONG-TERM DEBT AND CAPITAL LEASE OBLIGATION,<br/>less current portion</b> | 386,110                    |
| <b>COMMITMENTS and CONTINGENCIES</b>                                         |                            |
| <b>EQUITY (DEFICIT)</b>                                                      | <u>2,243,568</u>           |
|                                                                              | <u><u>\$ 4,389,479</u></u> |

*Preliminary and Unaudited*

These Financial Statements Have Been Prepared Without An Audit. Prospective Franchisees Or Sellers of Franchises Should Be Advised That No Independent Certified Public Accountant Has Audited These Figures Or Expressed An Opinion with Regard to their Content Or Form.

# TILTED KILT FRANCHISE OPERATING, LLC AND AFFILIATES AND SUBSIDIARIES

## COMBINED AND CONSOLIDATED STATEMENT OF OPERATIONS

Period Ended June 30, 2018

|                                             | 2018                       |
|---------------------------------------------|----------------------------|
| Revenues:                                   |                            |
| Initial franchise and area developer fees   | \$ -                       |
| Continuing franchise fees and royalties     | 2,215,895                  |
| Sales revenue                               | 2,621,906                  |
| Other operating revenues                    | 344,416                    |
|                                             | <u>5,182,217</u>           |
| Expenses:                                   |                            |
| Cost of sales                               | 657,330                    |
| General and administrative expenses         | 4,126,898                  |
| Franchise operating expenses                | 511,066                    |
| Depreciation and amortization expense       | 189,407                    |
|                                             | <u>5,484,701</u>           |
| Income (loss) from operations               | <u>(302,484)</u>           |
| Other income (expense):                     |                            |
| Other income                                | 86,000                     |
| Other expenses                              | (4,331)                    |
| Interest income                             | 1,078                      |
| Interest expense                            | (13,288)                   |
|                                             | <u>69,459</u>              |
| Income (loss) before impairment             | (233,025)                  |
| Debt forgiven                               | <u>(2,636,332)</u>         |
| Income (loss) before income taxes           | 2,403,307                  |
| Income tax provision (benefit)              | <u>117,907</u>             |
| Combined and consolidated net income (loss) | <u><u>\$ 2,285,400</u></u> |

*Preliminary and Unaudited*

These Financial Statements Have Been Prepared Without An Audit. Prospective Franchisees Or Sellers of Franchises Should Be Advised That No Independent Certified Public Accountant Has Audited These Figures Or Expressed An Opinion with Regard to their Content Or Form.

**EXHIBIT F  
(TO DISCLOSURE DOCUMENT)**

**PUB OPERATIONS AND SYSTEMS MANUAL AND  
MARKETING MANUAL  
TABLES OF CONTENTS**

## **Tilted Kilt Pub Operations & Systems Manual:**

|                             | <b>Pages</b>                       |
|-----------------------------|------------------------------------|
| User Guides                 | 110                                |
| 2017 Beverage Menu          | 91                                 |
| Accounting                  | 72                                 |
| Announcements               | 2                                  |
| Apparel                     | 39                                 |
| Captain's Table Help        | 24                                 |
| Casting and Recruiting      | 31                                 |
| Catering                    | 14                                 |
| DMA                         | 6                                  |
| LTO                         | 43                                 |
| Operations Manual           | 100                                |
| Management Material         | 97                                 |
| Marketing                   | 89                                 |
| Menu Canada                 | 111                                |
| Menu USA                    | 138                                |
| Product Update              | 18                                 |
| Promote                     | 7                                  |
| Supply Chain                | 6                                  |
| TK/Enterprise Discount Rate | 1                                  |
| Training USA or CANADA      | 249                                |
| Webinars                    | 78                                 |
| <b>TOTAL PAGES</b>          | <b><u><del>1326</del>1,326</u></b> |

**EXHIBIT G  
(TO DISCLOSURE DOCUMENT)**

**CONFIDENTIALITY AND NON-COMPETITION AGREEMENT**

## CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

This Confidentiality and Non-Competition Agreement (this “**Agreement**”) is made and entered into as of \_\_\_\_\_, 20\_\_\_\_, by and among Franchisee, Covenantor, and **TILTED KILT FRANCHISE OPERATING, LLC**, a Wyoming limited liability company (“**Franchisor**”).

“Franchisee”: \_\_\_\_\_

“Covenantor”: \_\_\_\_\_, being [an employee of Franchisee who will have access to Confidential Information], [an officer], or [a director] or [general partner] or [managing member] of Franchisee.

Address of Covenantor : \_\_\_\_\_

### 1. PREAMBLES.

Franchisor has executed or intends to execute a franchise agreement (“**Franchise Agreement**”) with Franchisee under which Franchisor grants to Franchisee certain rights with regard to sports and entertainment bars and restaurants that offer dinner entrées, traditional pub food, hamburgers and salads, accompanied by full bar service, in a Celtic-themed atmosphere with numerous large-screen televisions featuring sports programming (“**TILTED KILT Restaurant**” or “**Restaurants**”). 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 know-how and distinctive systems, designs, decor, trade dress, specifications, standards and procedures authorized or required by Franchisor from time to time for use in the operation of Franchisee’s Restaurant 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.

As a condition of Covenantor’s employment or continued employment with Franchisee or Covenantor’s appointment as a director, officer, general partner, or managing member of Franchisee and to induce Franchisor to enter into the Franchise Agreement, Covenantor agrees to enter into this Agreement. Due to the nature of Franchisor’s and Franchisee’s business, 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) The term “**Competitive Business**” as used in this Agreement means any business (i) offering dine-in services, traditional pub fare (including, without limitation, hamburgers, chicken wings,

and chicken tenders), and alcoholic beverages (ii) granting franchises or licenses for the operation of a business described in subsection (i) of this definition.

(b) The term “**Confidential Information**” as used in this Agreement means certain confidential and proprietary information relating to the development and operation of the Restaurants, which includes, but is not limited to: (1) entertainment and business format, designs, trade dress, layouts, costumes and other employee attire, décor, plans and specifications for the development of the Restaurants; (2) training materials, programs, and systems for franchisees and personnel of the Restaurants; (3) methods, techniques, formats, specifications, standards, systems, procedures, formulas, recipes, sales and marketing techniques, and knowledge of and experience in the development and operation of the Restaurants; (4) marketing systems and promotional programs for the Restaurants; (5) knowledge of specifications for and supplies of products, materials, supplies, equipment and services; (6) knowledge of operating results and financial performance of the Restaurants; and (7) marks, trade names, proprietary interests, and other information and Know-how developed and used in connection with the operation of the Restaurants.

### 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 neither Covenantor nor any other person or entity will 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, including, without limitation, in connection with any other business would be detrimental to Franchisor and Franchisee and would constitute a breach of Covenantor’s obligations of confidentiality and an unfair method of competition with Franchisor and/or other Restaurants owned by Franchisor or franchisees.

Covenantor acknowledges and agrees that the Confidential Information is confidential, unique, and exclusive property and a trade secret of Franchisor; that Franchisor has expended a great amount of effort and money to obtain, develop, and safeguard the Confidential Information; and that it would be very costly for competitors to acquire or duplicate. Covenantor further acknowledges and agrees that any unauthorized disclosure or use of the Confidential Information would be wrongful and would cause irreparable injury and harm to Franchisor. The Confidential Information will be 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 or capacity; (b) will maintain the absolute confidentiality of the Confidential Information; (c) will not make unauthorized copies of any portion of the Confidential Information disclosed or in written form; and (d) 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.

Notwithstanding anything to the contrary contained in this Agreement, the restrictions on Covenantor do not apply to (a) disclosure or use of information, methods, or techniques which are generally known and used in the industry (as long as the availability is not because of a disclosure by Covenantor or Covenantor’s agents, and such disclosure or use is not otherwise prohibited by this Agreement), provided that Covenantor has first given Franchisor written notice of his or her intended disclosure and/or use; and (b) disclosure of the Confidential Information in legal proceedings when Covenantor is legally required to disclose it, provided that Covenantor has first given Franchisor the

opportunity to obtain an appropriate legal protective order or other assurance satisfactory to Franchisor that the information required to be disclosed will be treated confidentially.

Notwithstanding any provisions in this Agreement or Franchisor policy applicable to the unauthorized use or disclosure of trade secrets, Covenantor is hereby notified that, pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1833(b):

An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

Further, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding if the individual: (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

#### 4. **IN-TERM RESTRICTIVE COVENANT.**

Covenantor acknowledges and agrees that Franchisor and Franchisee would be unable to protect the Confidential Information against unauthorized use or disclosure and Franchisor would be unable to achieve a free exchange of ideas and information among Restaurants 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 director, officer, general partner, or managing member of Franchisee, or (b) an employee of Franchisee who will have access to Confidential Information, neither Covenantor nor Covenantor's spouse shall (i) have any direct or indirect interest as a disclosed or beneficial owner in a Competitive Business, or (ii) perform services as a director, officer, member, employee, manager, consultant, representative, agent or otherwise for any Competitive Business. Covenantor further acknowledges that the restrictions contained in this Section will not hinder his or her activities or those of members of his or her immediate family under this Agreement or in general.

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

Upon the first to occur of: (a) termination or expiration without renewal of the Franchise Agreement; or (b) the date as of which Covenantor is neither (i) a director, officer, general partner or managing member of Franchisee or (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 two (2) years commencing on the effective date of a Termination Event, neither Covenantor nor Covenantor's spouse shall have any direct or indirect interest as a disclosed or beneficial owner in, or assist or perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for, a Competitive Business located or operating within a two (2) mile radius of any TILTED KILT Restaurant in operation or under construction as of the date of this Agreement. Notwithstanding the foregoing, Covenantor shall not be prohibited from owning securities in a Competitive Business if



such securities are listed on a stock exchange or traded on the over-the-counter market and represent 5% or less of that class of securities issued and outstanding. Covenantor and its officers, directors, shareholders, and/or partners expressly acknowledge that they possess skills and abilities of a general nature and have other opportunities for exploiting such skills. Consequently, enforcement of this covenant will not deprive them of their personal goodwill or 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. **INJUNCTION.**

Covenantor hereby acknowledges and agrees that in the event of any breach or threatened breach of this Agreement, Franchisor shall be authorized to and entitled to seek, from any court of competent jurisdiction, preliminary and permanent injunctive relief in addition to such further or other relief as may be available at law or in equity. Covenantor agrees that Franchisor may obtain such injunctive relief, without posting a bond. Covenantor further agrees that Covenantor's only remedy if an injunction is entered against Covenantor will be the dissolution of that injunction, if warranted, upon due hearing (all claims for damages by injunction being expressly waived hereby).

9. **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, nor shall any waiver or relinquishment of any right or remedy hereunder at any one or more times be deemed a waiver or relinquishment of such right or remedy at any other time or times.

10. **SEVERABILITY.**

Each section, paragraph, term and 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 section, paragraph, term or provision in question.

11. **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.

12. **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.

13. **EFFECTIVENESS.**

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

14. **GOVERNING LAW.**

This Agreement and the relationship between the parties hereto shall be construed and governed in accordance with the internal laws of the State of Arizona without regard to its conflict of laws principles.

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

**Franchisee:**

\_\_\_\_\_  
Print name of **Covenantor**

\_\_\_\_\_  
Print name of **Franchisee**

\_\_\_\_\_  
Signature of **Covenantor**

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

**Franchisor:**

**TILTED KILT FRANCHISE OPERATING,  
LLC**, a Wyoming limited liability company

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



**EXHIBIT H  
(TO DISCLOSURE DOCUMENT)**

**REPRESENTATIONS AND ACKNOWLEDGMENT STATEMENT**

## **REPRESENTATIONS AND ACKNOWLEDGMENT STATEMENT**

The purpose of this Statement is to demonstrate to Tilted Kilt Franchise Operating, LLC (“Franchisor”) that the person(s) signing below (“I,” “me” or “my”), whether acting individually or on behalf of any legal entity established to acquire the franchise rights, (a) fully understands that the purchase of a Tilted Kilt Restaurant franchise is a significant long-term commitment, complete with its associated risks, and (b) is not relying on any statements, representations, promises or assurances that are not specifically set forth in Franchisor’s Franchise Disclosure Document and Exhibits (collectively, the “FDD”) in deciding to purchase the franchise.

In that regard, I represent to Franchisor and acknowledge that:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| I understand that buying a franchise is not a guarantee of success. Purchasing or establishing any business is risky, and the success or failure of the franchise is subject to many variables such as my skills and abilities (and those of my partners, officers, employees), the time my associates and I devote to the business, competition, interest rates, the economy, inflation, operation costs, location, lease terms, the market place generally and other economic and business factors. I am aware of and am willing to undertake these business risks. I understand that the success or failure of my business will depend primarily upon my efforts and not those of Franchisor.                                                                                         | INITIAL: |
| I received a copy of the FDD, including the Franchise Agreement, at least 14 calendar days (10 business days in Michigan and New York) before I executed the Franchise Agreement. I understand that all of my rights and responsibilities and those of Franchisor in connection with the franchise are set forth in these documents and only in these documents. I acknowledge that I have had the opportunity to personally and carefully review these documents and have, in fact, done so. I have been advised to have professionals (such as lawyers and accountants) review the documents for me and to have them help me understand these documents. I have also been advised to consult with other franchisees regarding the risks associated with the purchase of the franchise. | INITIAL: |
| Neither the Franchisor nor any of its officers, employees or agents (including any franchise broker) has made a statement, promise or assurance to me concerning any matter related to the franchise (including those regarding advertising, marketing, training, support service or assistance provided by Franchisor) that is contrary to, or different from, the information contained in the FDD.                                                                                                                                                                                                                                                                                                                                                                                    | INITIAL: |
| My decision to purchase the franchise has not been influenced by any oral representations, assurances, warranties, guarantees or promises whatsoever made by the Franchisor or any of its officers, employees or agents (including any franchise broker or area developer), including as to the likelihood of success of the franchise.                                                                                                                                                                                                                                                                                                                                                                                                                                                  | INITIAL: |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <p>I have made my own independent determination as to whether I have the capital necessary to fund the business and my living expenses, particularly during the start-up phase.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>INITIAL:</p> |
| <p>PLEASE READ THE FOLLOWING QUESTION CAREFULLY. THEN SELECT YES OR NO AND PLACE YOUR INITIALS WHERE INDICATED.</p> <p>Have you received any information from the Franchisor or any of its officers, employees or agents (including any franchise broker or area developer) concerning actual, average, projected or forecasted sales, revenues, income, profits or earnings of the franchise business (including any statement, promise or assurance concerning the likelihood of success) other than information contained in the FDD?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No (Initial Here: ____)</p> <p>If you selected "Yes," please describe the information you received on the lines below:</p> <p>_____</p> <p>_____</p> | <p>INITIAL:</p> |

**Prohibited Parties Clause.** I acknowledge that Franchisor, its employees and its agents are subject to U.S. laws that prohibit or restrict (a) transactions with certain parties, and (b) the conduct of transactions involving certain foreign parties. These laws include, without limitation, U.S. Executive Order 13224, the U.S. Foreign Corrupt Practices Act, the Bank Secrecy Act, the International Money Laundering Abatement and Anti-terrorism Financing Act, the Export Administration Act, the Arms Export Control Act, the U.S. Patriot Act, and the International Economic Emergency Powers Act, and the regulations issued pursuant to these and other U.S. laws. As part of the express consideration for the purchase of the franchise, I represent that neither I nor any of my employees, agents, or representatives, nor any other person or entity associated with me, is now, or has been listed on:

1. the U.S. Treasury Department's List of Specially Designated Nationals;
2. the U.S. Commerce Department's Denied Persons List, Unverified List, Entity List, or General Orders;
3. the U.S. State Department's Debarred List or Nonproliferation Sanctions; or
4. the Annex to U.S. Executive Order 13224.

I warrant that neither I nor any of my employees, agents, or representatives, nor any other person or entity associated with me, is now, or has been: (i) a person or entity who assists, sponsors, or supports terrorists or acts of terrorism; or (ii) is owned or controlled by terrorists or sponsors of terrorism. I warrant that I am now, and have been, in compliance with U.S. anti-money laundering and counter-terrorism financing laws and regulations, and that any funds provided by me to Franchisor were legally obtained in compliance with these laws.

I further covenant that neither I nor any of my employees, agents, or representatives, nor any other person or entity associated with me, will, during the term of the Franchise Agreement, become a person or entity described above or otherwise become a target of any anti-terrorism law.

NOTE TO MARYLAND RESIDENTS OR FRANCHISEES WITH A FRANCHISE LOCATED IN MARYLAND: This Representations and Acknowledgement Statement is not intended to and shall not waive any liability Franchisor may have under the Maryland Franchise Registration and Disclosure Law.

[Signature page follows]

**FRANCHISEE:**

Sign here if you are taking the franchise as an

**INDIVIDUAL(S)**

(Note: use these blocks if you are an individual or a partnership but the partnership is not a separate legal entity)

\_\_\_\_\_  
**Signature**  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
**Signature**  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
**Signature**  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
**Signature**  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign here if you are taking the franchise as a  
**CORPORATION, LIMITED LIABILITY  
COMPANY OR PARTNERSHIP**

\_\_\_\_\_  
Print Name of Legal Entity

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

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**EXHIBIT I**  
**(TO DISCLOSURE DOCUMENT)**  
**SAMPLE GENERAL RELEASE**

**TILTED KILT FRANCHISE OPERATING, LLC**

**GRANT OF FRANCHISOR CONSENT AND FRANCHISEE RELEASE**

**Tilted Kilt Franchise Operating, LLC** (“we,” “us,” or “our”) and the undersigned franchisee, \_\_\_\_\_

\_\_\_\_\_ (“you” or “your”), currently are parties to a certain franchise agreement (the “Franchise Agreement”) dated \_\_\_\_\_, 20\_\_\_\_. You have asked us to take the following action or to agree to the following request: [insert as appropriate for renewal or transfer situation]\_\_\_\_\_

\_\_\_\_\_. We have the right under the Franchise Agreement to obtain a general release from you (and, if applicable, your owners) as a condition of taking this action or agreeing to this request. Therefore, we are willing to take the action or agree to the request specified above if you (and, if applicable, your owners) give us the release and covenant not to sue provided below in this document. You (and, if applicable, your owners) are willing to give us the release and covenant not to sue provided below as partial consideration for our willingness to take the action or agree to the request described above.

Consistent with the previous introduction, you, on your own behalf and on behalf of your successors, heirs, executors, administrators, personal representatives, agents, assigns, partners, shareholders, members, directors, officers, principals, employees, and affiliated entities (collectively, the “Releasing Parties”), hereby forever release and discharge us and our current and former officers, directors, members, shareholders, principals, employees, agents, representatives, affiliated entities, successors, and assigns (collectively, the “Tilted Kilt Parties”) from any and all claims, damages (known and unknown), demands, causes of action, suits, duties, liabilities, and agreements of any nature and kind (collectively, “Claims”) that you and any of the other Releasing Parties now has, ever had, or, but for this document, hereafter would or could have against any of the Tilted Kilt Parties, including without limitation, Claims (1) arising out of or related to the Tilted Kilt Parties' obligations under the Franchise Agreement or (2) otherwise arising from or related to your and the other Releasing Parties' relationship, from the beginning of time to the date of your signature below, with any of the Tilted Kilt Parties. You, on your own behalf and on behalf of the other Releasing Parties, further covenant not to sue any of the Tilted Kilt Parties on any of the Claims released by this paragraph and represent that you have not assigned any of the Claims released by this paragraph to any individual or entity who is not bound by this paragraph.

We also are entitled to a release and covenant not to sue from your owners. By his, her, or their separate signatures below, your owners likewise grant to us the release and covenant not to sue provided above.

Furthermore, you agree not to (and to use your best efforts to cause the Releasing Parties not to) disparage or otherwise speak or write negatively, directly or indirectly, of us, our affiliates, any of our or their affiliates’ owners, directors, officers, employees, representatives or affiliates, the “TILTED KILT” brand, the Licensed Methods, any TILTED KILT Restaurant, any business using the Marks, or take any other action which would subject the TILTED KILT brand to ridicule, scandal, reproach, scorn, or indignity, or which would negatively impact the goodwill of us or the TILTED KILT brand.

IF THE RESTAURANT YOU OPERATE UNDER THE FRANCHISE AGREEMENT IS LOCATED IN CALIFORNIA OR IF YOU ARE A RESIDENT OF CALIFORNIA, THE FOLLOWING SHALL APPLY:

**SECTION 1542 ACKNOWLEDGMENT.** IT IS YOUR INTENTION, ON YOUR OWN BEHALF AND ON BEHALF OF THE RELEASING PARTIES, IN EXECUTING THIS RELEASE THAT THIS INSTRUMENT BE AND IS A GENERAL RELEASE WHICH SHALL BE EFFECTIVE AS A BAR TO EACH AND EVERY CLAIM, DEMAND, OR CAUSE OF ACTION RELEASED BY YOU OR THE RELEASING PARTIES. YOU RECOGNIZE THAT YOU OR THE RELEASING PARTIES MAY HAVE SOME CLAIM, DEMAND, OR CAUSE OF ACTION AGAINST THE TILTED KILT PARTIES OF WHICH YOU, HE, SHE, OR IT IS TOTALLY UNAWARE AND UNSUSPECTING, WHICH YOU, HE, SHE, OR IT IS GIVING UP BY EXECUTING THIS RELEASE. IT IS YOUR INTENTION, ON YOUR OWN BEHALF AND ON BEHALF OF THE RELEASING PARTIES, IN EXECUTING THIS INSTRUMENT THAT IT WILL DEPRIVE YOU, HIM, HER, OR IT OF EACH SUCH CLAIM, DEMAND, OR CAUSE OF ACTION AND PREVENT YOU, HIM, HER, OR IT FROM ASSERTING IT AGAINST THE TILTED KILT PARTIES. IN FURTHERANCE OF THIS INTENTION, YOU, ON YOUR OWN BEHALF AND ON BEHALF OF THE RELEASING PARTIES, EXPRESSLY WAIVE ANY RIGHTS OR BENEFITS CONFERRED BY THE PROVISIONS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

**“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”**

YOU ACKNOWLEDGE AND REPRESENT THAT YOU HAVE CONSULTED WITH LEGAL COUNSEL BEFORE EXECUTING THIS RELEASE AND THAT YOU UNDERSTAND ITS MEANING, INCLUDING THE EFFECT OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, AND EXPRESSLY CONSENT THAT THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH AND ALL OF ITS EXPRESS TERMS AND PROVISIONS, INCLUDING, WITHOUT LIMITATION, THOSE RELATING TO THE RELEASE OF UNKNOWN AND UNSUSPECTED CLAIMS, DEMANDS, AND CAUSES OF ACTION.

If the franchise is located in Maryland or if you are a resident of Maryland, the following shall apply:

Any general release provided for hereunder shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the parties have executed and delivered this Agreement on the date stated below.

**TILTED KILT FRANCHISE  
OPERATING, LLC,**  
A Wyoming limited liability company

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

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

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

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

**FRANCHISEE:**

**(IF YOU ARE A CORPORATION,  
LIMITED LIABILITY COMPANY, OR  
PARTNERSHIP):**

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

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

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

**(IF YOU ARE AN INDIVIDUAL AND  
NOT A LEGAL ENTITY):**

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name]

**EXHIBIT J**  
**(TO DISCLOSURE DOCUMENT)**  
**STATE ADDENDA AND RIDERS**

**ADDITIONAL DISCLOSURES FOR THE  
TILTED KILT FRANCHISE OPERATING, LLC  
DISCLOSURE DOCUMENT**

The following are additional disclosures for the Franchise Disclosure Document of Tilted Kilt Franchise Operating, LLC required by various state franchise laws. Each provision of these additional disclosures will only apply to you if the applicable state franchise registration and disclosure law applies to you.

**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 CIRCULAR.

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

OUR WEBSITE ([www.tiltedkilt.com](http://www.tiltedkilt.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](http://www.dbo.ca.gov).

1. The following is added to the State Cover Page:

THE FRANCHISE AGREEMENT CONTAINS PROVISIONS THAT LIMIT FRANCHISEE'S RIGHTS AND MAY NOT BE ENFORCEABLE IN CALIFORNIA INCLUDING BUT NOT LIMITED TO A TIME LIMIT TO RAISE CLAIMS AGAINST THE FRANCHISOR, LIMITATION OF DAMAGES AND WAIVER OF JURY TRIAL.

THE TERRITORY IS NOT EXCLUSIVE. YOU MAY FACE COMPETITION FROM OTHER FRANCHISEES, FROM FRANCHISOR OWNED OUTLETS OR FROM OTHER CHANNELS OF DISTRIBUTION OR COMPETITIVE BRANDS FRANCHISOR CONTROLS.

THE FRANCHISE REQUIRES THAT FRANCHISEES HIRE ONLY FEMALE SERVERS AND HOSTS. THIS BUSINESS PRACTICE MAY SUBJECT YOU TO LITIGATION FOR DISCRIMINATORY HIRING PRACTICES. IF YOU ARE FOUND TO BE IN VIOLATION OF THE LAW, THE FRANCHISOR CAN TERMINATE YOUR FRANCHISE ON THAT BASIS AND YOU COULD LOSE YOUR ENTIRE INVESTMENT.

THE FRANCHISE AGREEMENT PROVIDES THAT A FRANCHISEE AGREE TO FRANCHISOR SEEKING INJUNCTIVE RELIEF WITHOUT POSTING A BOND AND AGREEING TO HAVING THE DISSOLUTION OF THE INJUNCTION AS THE ONLY REMEDY AND WAIVING ALL CLAIMS FOR DAMAGES CAUSED BY WRONGFUL ISSUANCE OF ANY SUCH INJUNCTION.

2. The following statement is added to Item 3:

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

6: 3. The following sentence is added to the “Remarks” section regarding “Interest” in Item

The highest interest rate allowed in California is 10% annually.

4. 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 concerning termination, transfer, or nonrenewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

The Franchise Agreement requires you to sign a general release of claims upon renewal or transfer of the Franchise Agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order thereunder is void. Section 31512 might void a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 31000 – 31516). Business and Professions Code Section 20010 might void a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 – 20043)

The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the Franchise. This provision may not be enforceable under California law.

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 *et seq.*)

The Franchise Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

The Franchise Agreement requires application of the laws of the State of Arizona. This provision may not be enforceable under California law.

The Franchise Agreement requires binding arbitration. The arbitration will occur in or within a 50-mile radius of our then-current principal place of business (currently Tempe, Arizona) with the costs being borne by the non-prevailing party.

Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration

Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

5. The following sentence is added to the end of Item 19:

The financial performance representation in this Item 19 does not reflect the costs of sales, operating expenses, or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operation your franchised Restaurant. Franchisees or former franchisees, listed in the Disclosure Document, may be one source of this information.

## **ILLINOIS**

1. The following paragraph is added to the end of Items 5 and 21:

Pursuant to an order of the Illinois Office of the Attorney General, we will defer collection of all initial fees and payments owed by you until we have completed our pre-opening obligations to you under the Franchise Agreement and you have begun operating your TILTED KILT Restaurant.

12. The summary section of Item 17(v), entitled **Choice of forum** is deleted in its entirety.

23. The summary section of Item 17(w), entitled **Choice of law** is deleted in its entirety and replaced by the following:

Except to the extent governed by the Lanham Act for the U.S. Federal Arbitration Act and other federal laws in the U.S., the laws of the State of Illinois apply.

## **MARYLAND**

1. The following is added to the end of the "Summary" sections of Item 17(c) ("**Requirements for franchisee to renew or extend**") and Item 17(m) ("**Conditions for franchisor approval of transfer**"):

However, pursuant to COMAR 02.02.08.16L, any release required as a condition of renewal and/or assignment/transfer will not apply to claims arising under the Maryland Franchise Registration and Disclosure Law.

2. The following is added to the end of the "Summary" section of Item 17(h) ("**Cause defined - defaults which cannot be cured**"):

The Franchise Agreement provides for termination upon bankruptcy. This provision might not be enforceable under federal bankruptcy law (11 U.S.C. Sections 101 et seq.), but we will enforce it to the extent enforceable.

3. The following is added to the "Summary" section of Items 17(v) ("**Choice of forum**") and 17(w) ("**Choice of law**"):

; except for claims arising under the Maryland Franchise Registration and Disclosure Law.



## **MINNESOTA**

We are contractually obligated by the Franchise Agreement to protect you against claims of infringement or unfair competition with respect to your use of the Marks, when in the opinion of our legal counsel, your rights granted therein warrant protection.

Minnesota law provides a franchisee with certain termination and nonrenewal rights. Minn. Stat. Sec. 80C.14 Subd. 3, 4 and 5 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 nonrenewal of the applicable agreement.

Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit Franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring Franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the disclosure document or 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. Those provisions also provide that no condition, stipulations or provision in the Franchise Agreement shall in any way abrogate or reduce any rights you have under the Minnesota Franchises Law, including (if applicable) the right to submit matters to the jurisdiction of the courts of Minnesota.

As it pertains to the Franchise Agreement, any release as a condition of renewal and/or transfer/assignment will not apply to the extent prohibited by applicable law with respect to claims arising under Minn. Rule 2860.4400D.

## **NEW YORK**

1. The following paragraphs are added to the state cover page:

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23RD FLOOR, NEW YORK, NEW YORK 10271.

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE REPRESENTATIVE OR FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS DISCLOSURE DOCUMENT.

2. The following paragraphs are added at the beginning of Item 3:

Neither TKFO, nor any person identified in Item 2 above has any administrative, criminal or civil action pending against that person alleging: a felony, a violation of any franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property or unfair or deceptive practices or comparable civil or misdemeanor allegations. In addition, no such party has any pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

Except as set forth below, neither TKFO, nor any person identified in Item 2 above has been convicted of a felony or pleaded nolo contendere to a felony charge, or within the ten year period immediately preceding the application for registration, has been convicted of a misdemeanor or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law, fraud, embezzlement, fraudulent conversion or misappropriation of property, or unfair or deceptive practices or comparable allegations.

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

3. The following paragraph is added at the beginning of Item 4:

Except as set forth below, neither TKFO, its affiliate, its predecessor, officer or general nor any person listed in Item 2, during the 10-year period immediately preceding the date of the offering prospectus: (a) has filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after the officer or general partner of TKFO held this position in the company or partnership.

4. The following is added to the end of the “Summary” sections of Item 17(c), entitled **Requirements for franchisee to renew or extend**, and Item 17(m), entitled **Conditions for franchisor approval of transfer**:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in

force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

5. Item 17(j) (“**Assignment of contract by franchisor**”) is deleted in its entirety and replaced by the following:

No assignment will be made except to an Assignee who, in our good faith judgment, is willing and able to assume our obligations under the Franchise Agreement.

6. The following is added to the “Summary” section of Item 17(w) (“**Choice of Law**”): is deleted in its entirety and replaced by the following:

However, the governing choice of law should not be considered a waiver of any right conferred upon either the Franchisor or upon the Franchisee by the GBL of the State of New York, Article 33.

7. THE FRANCHISOR REPRESENTS THAT THIS DISCLOSURE DOCUMENT DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT.

#### **NORTH DAKOTA**

1. The following is added to the end of the "Summary" sections of Item 17(c) ("Requirements for franchisee to renew or extend") and Item 17(m) ("Conditions for franchisor's approval of transfer"):

However, any release required as a condition of renewal and/or assignment/transfer will not apply to the extent prohibited by the North Dakota Franchise Investment Law.

2. The following is added to the end of the "Summary" section of Item 17(r) ("Non-competition covenants after the franchise is terminated or expires"):

Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota; however, we and you will enforce the covenants to the maximum extent the law allows.

3. The "Summary" section of Item 17(u) ("Dispute resolution by arbitration or mediation") is deleted and replaced with the following:

To the extent required by the North Dakota Franchise Investment Law (unless such requirement is preempted by the Federal Arbitration Act), arbitration will be at a site to which we and you mutually agree.

4. The "Summary" section of Item 17(v) ("Choice of forum") is deleted and replaced with the following:

Litigation generally must be in the state where our then current principal place of business is located (currently Tempe, Arizona), except that, subject to your arbitration

obligation, and to the extent required by North Dakota Franchise Investment Law you may bring an action in North Dakota.

5. The "Summary" section of Item 17(w) ("Choice of law") is deleted and replaced with the following:

Except as otherwise required by North Dakota law, the laws of the State of Arizona shall apply.

## **RHODE ISLAND**

1. The following is added to the "Summary" section of Items 17(v) ("Choice of forum") and 17(w) ("Choice of law"):

Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."

## **SOUTH DAKOTA**

1. The following paragraph is added to the end of Items 5 and 21:

Pursuant to an order of the South Dakota Division of Insurance, Securities Regulation, we will defer collection of all initial fees and payments owed by you until we have completed our pre-opening obligations to you under the Franchise Agreement and you have begun operating your TILTED KILT Restaurant.

## **VIRGINIA**

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement does not constitute "reasonable cause," as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

The Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by you to us until we have completed our pre-opening obligations under the Franchise Agreement.

## **WASHINGTON**

1. The following language is added to the end of Item 17:

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.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.

**THE FOLLOWING PAGES IN THIS EXHIBIT  
ARE STATE-SPECIFIC RIDERS TO THE  
FRANCHISE AGREEMENT**

**RIDER TO THE  
TILTED KILT FRANCHISE OPERATING, LLC  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF ILLINOIS**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisors"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) any of the offering or sales activity relating to the Franchise Agreement occurred in Illinois and the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located in Illinois, and/or (b) Franchisee is domiciled in Illinois.

2. Section 4.1 ("Initial Franchise Fee") is supplemented with the following language:

The Franchisor agrees that it will defer collection of the Initial Franchise Fee until the Franchisor has completed its pre-opening obligations to the Franchisee, and the Franchisee has begun operating its Tilted Kilt Restaurant.

23. Section 23.2 ("**Governing Law/Consent to Jurisdiction**") is hereby deleted in its entirety and the following is substituted in its place:

**23.2 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.), the Federal Arbitration Act, or other federal law, Illinois law applies to all matters regarding this Agreement, without regard to its conflicts of laws rules.

Section 41 of the Illinois Franchise Disclosure Act (Act) provides that any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Act or any other law of the State of Illinois is void.

3. Section 25.11 ("~~**Limitation of Claims**~~") is deleted in its entirety and the following is substituted in its place:

~~**25.11 Limitation of Claims. EXCEPT FOR CLAIMS ARISING FROM FRANCHISEE'S NON-PAYMENT OR UNDERPAYMENT OF AMOUNTS THE FRANCHISEE OWES THE FRANCHISOR OR ITS AFFILIATE, AND ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FRANCHISOR'S RELATIONSHIP WITH THE FRANCHISEE WILL BE BARRED UNLESS A JUDICIAL OR ARBITRATION PROCEEDING IS COMMENCED WITHIN 1 YEAR FROM THE DATE ON WHICH THE PARTY ASSERTING THE CLAIM KNEW OR SHOULD HAVE KNOWN OF THE FACTS GIVING RISE TO THE CLAIMS. HOWEVER, NOTHING CONTAINED IN THIS SECTION SHALL CONSTITUTE A CONDITION, STIPULATION OR PROVISION PURPORTING TO BIND ANY PERSON TO WAIVE COMPLIANCE**~~

~~WITH ANY PROVISION OF THE ILLINOIS FRANCHISE DISCLOSURE ACT OR ANY OTHER LAW OF THE STATE OF ILLINOIS, TO THE EXTENT APPLICABLE.~~

4. The first paragraph of Section 25.19 is deleted in its entirety and the following is substituted in its place:

~~**25.19 Acknowledgement.** BEFORE SIGNING THIS AGREEMENT, THE FRANCHISEE SHOULD READ IT CAREFULLY WITH THE ASSISTANCE OF LEGAL COUNSEL. THE FRANCHISEE ACKNOWLEDGES THAT: SECTION 41 OF THE ILLINOIS FRANCHISE DISCLOSURE ACT STATES THAT “ANY CONDITION, STIPULATION OR PROVISION PURPORTING TO BIND ANY PERSON ACQUIRING ANY FRANCHISE TO WAIVE COMPLIANCE WITH ANY PROVISION OF THIS ACT IS VOID.”~~

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Illinois Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING, LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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



**RIDER TO THE  
TILTED KILT FRANCHISE OPERATING, LLC  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF MARYLAND**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisors"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) Franchisee is domiciled in Maryland, and/or (b) the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located in Maryland.

2. The following sentence is added at the end of Sections 17.2.g. ("**Pre-Conditions to Franchisee's Transfer**") and 18.2.d. ("**Rights Upon Expiration**"):

Any release executed in connection herewith will not apply to any claims that may arise under the Maryland Franchise Registration and Disclosure Law.

3. The following is added to the end of Section 19.1.d ("**Insolvency; Assignments**"):

; however, Franchisee and Franchisor acknowledge that certain aspects of this provision might not be enforceable under federal bankruptcy law (11 U.S.C. Sections 101 et seq.)

4. The following is added to the end of Section 23.2 ("**Governing Law/Consent to Jurisdiction**"):

The Franchisee may commence any cause of action against the Franchisor in any court of competent jurisdiction, including the state or federal courts of Maryland, unless otherwise governed by the arbitration provisions of this Agreement. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

5. The following is added to the end of Sections 25.3 ("**Entire Agreement**") and 25.19 ("**Acknowledgement**"):

; provided, however, that this provision is not limited to, nor shall it act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

6. The following is added to the end of Section 25.11 ("Limitation of Claims"):

**; PROVIDED, HOWEVER, THAT THIS LIMITATION OF CLAIMS SHALL NOT ACT TO REDUCE THE 3 YEAR STATUTE OF LIMITATIONS AFFORDED FRANCHISEE FOR BRINGING A CLAIM UNDER THE MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW.**

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Maryland Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING,  
LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE  
TILTED KILT FRANCHISE OPERATING, LLC  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF MINNESOTA**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisors"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located in Minnesota; and/or (b) any of the offering or sales activity relating to the Franchise Agreement occurred in Minnesota.

2. The following language is added to Section 15.4 ("**Mark Infringement**") of the Franchise Agreement:

Franchisor or its affiliates agree to protect the Franchisee against claims of infringement or unfair competition with respect to the Franchisee's authorized use of the Marks, when, in the opinion of counsel to Franchisor or its affiliates, the Franchisee's rights granted therein warrant protection.

3. The following sentence is added at the end of Sections 17.2.g ("**Pre-Conditions to Franchisee's Transfer**") and 18.2.d. ("**Rights Upon Expiration**"):

Any release executed in connection herewith will not apply to any claims that may arise under the Minnesota Franchise Act.

4. The following statement is added to Sections 18.2 ("**Rights Upon Expiration**"), Section 19.1 ("**Termination by Franchisor – Effective Upon Notice**") and Section 19.2 ("**Termination by Franchisor – Thirty Days Notice**") of the Franchise Agreement:

Minnesota law provides a Franchisee with certain termination and nonrenewal rights. Minn. Stat. Sec. 80C.14 Subd. 3, 4 and 5 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 nonrenewal of this Agreement.

5. The following statement is added to Section 19.6 ("**Remedy Upon Termination**") of the Franchise Agreement:

Franchisor and Franchisee acknowledge that certain parts of this provision might not be enforceable under Minn. Rule Part 2860.4400J. However, Franchisor and Franchisee agree to enforce the provision to the extent the law allows.

6. The last sentence of Section 23.2 ("**Governing Law/Consent to Jurisdiction**") of the Franchise Agreement is deleted and the following is inserted in its place:

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit Franchisor from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or 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.

7. Section 23.3 ("**Injunctive Relief**") of the Franchise Agreement is deleted and the following is inserted in its place:

The Franchisor and the Franchisee will each have the right in a proper case to seek injunctive relief (subject to the parties' obligation to arbitrate the underlying claim under Section 23.1) in addition to such further or other relief as may be available at law or in equity. The Franchisor shall have the right to seek such injunctive relief, without posting a bond. The Franchisee further agrees that the Franchisee's only remedy if an injunction is entered against the Franchisee shall be the dissolution of that injunction, if warranted, upon due hearing (all claims for damages injunction being expressly waived hereby).

8. The following statement is added to Section 25.11 ("**Limitation of Claims**") of the Franchise Agreement:

**; PROVIDED, HOWEVER, THAT MINNESOTA LAW PROVIDES THAT NO ACTION MAY BE COMMENCED UNDER MINN. STAT. SECT. 80C.17 MORE THAN 3 YEARS AFTER THE CAUSE OF ACTION ACCRUES.**

9. Section 25.12 "**Waiver of Punitive Damage and Jury Trial**" of the Franchise Agreement shall be deleted if and then only to the extent required by the Minnesota Franchises Law, Section 17.J

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Minnesota Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING,  
LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE  
TILTED KILT FRANCHISE OPERATING, LLC  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF NEW YORK**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisor"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) Franchisee is domiciled in the State of New York and the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located in New York, and/or (b) any of the offering or sales activity relating to the Franchise Agreement occurred in New York.

2. The following shall be added at the end of Sections 17.2.g. ("**Pre-Conditions to Franchisee's Transfer**") and 18.2.d. ("**Rights Upon Expiration**):

; provided, however, that all rights enjoyed by the Franchisee and any causes of action arising in its favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provision of GBL 687.4 and 687.5 be satisfied.

3. The following language is added to the end of Section 17.6 ("**Assignment by the Franchisor**):

; provided, however, that Franchisor shall not transfer its rights and obligations hereunder unless, in Franchisor's reasonable judgment, the assignee is able to perform Franchisor's obligations under this Agreement.

4. The following language is added at the end of the first sentence of Section 20.3 ("**Indemnification**):

, except when arising solely out of Franchisor's breach of this Agreement or other legal wrong.

5. The following shall be added at the end of Section 23.2 ("**Governing Law/Consent to Jurisdiction**):

However, the foregoing choice of law shall not be considered a waiver of any right conferred upon Franchisee by the provisions of Article 33 of the New York State General Business Law. This language has been included in this Agreement as a condition of registration.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this New York Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING, LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE**  
**TILTED KILT FRANCHISE OPERATING, LLC**  
**FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF NORTH DAKOTA**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisors"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) Franchisee is a resident of North Dakota and the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located in North Dakota; and/or (b) any of the offering or sales activity relating to the Franchise Agreement occurred in North Dakota.

2. The following sentence is added at the end of Sections 17.2.g. ("**Pre-Conditions to Franchisee's Transfer**") and 18.2.d. ("**Rights Upon Expiration**"):

Any release executed in connection herewith will not apply to the extent prohibited by the North Dakota Franchise Investment Law.

3. The following statement is added to Sections 21.2 ("**Post Termination Covenant Not to Compete**") of the Franchise Agreement:

Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota; however, Franchisor will enforce the covenants to the maximum extent the law allows.

4. The first paragraph of Section 23.1 ("**Arbitration**") of the Franchise Agreement is deleted and the following is inserted in its place:

The Franchisor and the Franchisee agree that all controversies, disputes, or claims between the Franchisor and its affiliates (and their respective shareholders, members, officers, directors, agents, or employees), on the one hand, and the Franchisee (and/or its owners, guarantors, Affiliates, or employees), on the other hand, arising out of or related to:

- (a) this Agreement or any other agreement between the Franchisor (or any of its affiliates) and the Franchisee (or any of its owners or Affiliates);
- (b) the Franchisor's relationship with the Franchisee;
- (c) the scope or validity of this Agreement or any other agreement between the Franchisee (or any of its owners or Affiliates) and the Franchisor (or any of its affiliates) or any provision of any such agreements (including the validity and scope of the arbitration obligation under this

Section 23.1, which the Franchisor and the Franchisee acknowledge is to be determined by an arbitrator, not a court); or

- (d) any Licensed Method;

must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association (“AAA”). The arbitration proceedings will be conducted by one arbitrator and, except as this Section 23.1 otherwise provides, according to the then current Commercial Arbitration Rules of the AAA. All proceedings will be conducted at a suitable location chosen by the arbitrator in or within a 50 mile radius of the Franchisor’s then-current principal place of business (currently, Tempe, Arizona); provided, however, that to the extent otherwise required by the North Dakota Franchise Investment Law (unless such requirement is preempted by the United States Federal Arbitration Act (9 U.S.C. §§ 1 et seq.)), arbitration shall be held at a site to which the Franchisor and the Franchisee mutually agree. The decision of the arbitrator shall be final and binding upon each party and may be enforced in any court of competent jurisdiction.

5. The following statement is added to Section 23.2 (“**Governing Law/Consent to Jurisdiction**”) of the Franchise Agreement:

Federal law applies, including the United States Trademark Act of 1496 (Lanham Act, 15 U.S.C. Sections 1051 et seq.), except to the extent required by the North Dakota Franchise Investment Law, you may bring an action in North Dakota for claims arising under the North Dakota Franchise Investment Law.

6. The following statement is added to Section 25.11 (“**Limitation of Claims**”) of the Franchise Agreement:

**THE STATUTES OF LIMITATIONS UNDER NORTH DAKOTA LAW APPLIES WITH RESPECT TO CLAIMS ARISING UNDER THE NORTH DAKOTA FRANCHISE INVESTMENT LAW.**

7. Section 25.12 “**Waiver of Punitive Damage and Jury Trial**” of the Franchise Agreement shall be deleted if and then only to the extent required by the North Dakota Franchise Investment Law



IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this North Dakota Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING,  
LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE  
TILTED KILT FRANCHISE OPERATING, LLC  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF RHODE ISLAND**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisor"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) Franchisee is domiciled in the State of Rhode Island and the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located in Rhode Island, and/or (b) any of the offering or sales activity relating to the Franchise Agreement occurred in Rhode Island.

2. The following shall be added at the end of Section 23.2 ("**Governing Law/Consent to Jurisdiction**"):

**SECTION 19-28.1-14 OF THE RHODE ISLAND FRANCHISE INVESTMENT ACT PROVIDES THAT "A PROVISION IN A FRANCHISE AGREEMENT RESTRICTING JURISDICTION OR VENUE TO A FORUM OUTSIDE THIS STATE OR REQUIRING THE APPLICATION OF THE LAWS OF ANOTHER STATE IS VOID WITH RESPECT TO A CLAIM OTHERWISE ENFORCEABLE UNDER THIS ACT."**

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this ~~New York~~ Rhode Island Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING,  
LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE**  
**TILTED KILT FRANCHISE OPERATING, LLC**  
**FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF SOUTH DAKOTA**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 (“Franchisor”), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ (“Franchisee”).

1. **BACKGROUND.** The Franchisor and the Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the “Franchise Agreement”) that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) the Franchisee is domiciled in the State of South Dakota and the TILTED KILT Restaurant that the Franchisee will operate under the Franchise Agreement will be located in South Dakota, and/or (b) any of the offering or sales activity relating to the Franchise Agreement occurred in South Dakota.

2. **INITIAL FRANCHISE FEE.** The following language is added at the end of Section 4.1 of the Franchise Agreement:

The Franchisor agrees that it will defer collection of the Initial Franchise Fee until the Franchisor has completed its pre-opening obligations to the Franchisee, and the Franchisee has begun operating its TILTED KILT Restaurant.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this South Dakota Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING, LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE**  
**TILTED KILT FRANCHISE OPERATING, LLC**  
**FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF VIRGINIA**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 (“Franchisor”), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ (“Franchisee”).

1. **BACKGROUND.** The Franchisor and the Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the “Franchise Agreement”) that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because the TILTED KILT Restaurant that the Franchisee will operate under the Franchise Agreement will be located in Virginia.

2. **INITIAL FRANCHISE FEE.** The following language is added at the end of Section 4.1 of the Franchise Agreement:

The Virginia State Corporation Commission’s Division of Securities and Retail Franchising requires the Franchisor to defer payment of the initial franchise fee and other initial payments owed by the Franchisee to the Franchisor until the Franchisor has completed its pre-opening obligations under the Franchise Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Virginia Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING, LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**RIDER TO THE**  
**TILTED KILT FRANCHISE OPERATING, LLC**  
**FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF WASHINGTON**

THIS RIDER is made and entered into by and between Tilted Kilt Franchise Operating LLC, a Wyoming limited liability company with its principal business address at 8915 S. Harl Avenue, Tempe, Arizona 85284 ("Franchisor"), and \_\_\_\_\_, whose principal business address is \_\_\_\_\_ ("Franchisee").

1. **BACKGROUND.** Franchisor and Franchisee are parties to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider. This Rider is annexed to and forms part of the Franchise Agreement. This Rider is being signed because (a) Franchisee is domiciled in Washington; and/or (b) the TILTED KILT RESTAURANT that Franchisee will operate under the Franchise Agreement will be located or operated in Washington; and/or (c) any of the offering or sales activity relating to the Franchise Agreement occurred in Washington.

2. **WASHINGTON LAW.** The following paragraphs are added to the end of the Franchise Agreement:

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.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Washington Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**TILTED KILT FRANCHISE OPERATING, LLC**

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

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

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

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

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

**NEW YORK REPRESENTATIONS PAGE**

**FRANCHISOR REPRESENTS THAT THIS FRANCHISE DISCLOSURE DOCUMENT  
DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY  
UNTRUE STATEMENT OF A MATERIAL FACT.**

**EXHIBIT K  
(TO DISCLOSURE DOCUMENT)  
RECEIPTS**



## RECEIPT

(Keep this copy for your records)

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Tilted Kilt Franchise Operating, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, or sooner if required by applicable state law. Under Iowa law, we must give you this disclosure document at the earlier of our 1st personal meeting or 14 calendar days before you sign an agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale. Michigan requires that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. Under New York law, we must provide this Disclosure Document at the earlier of the 1st personal meeting or 10 business days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale.

If Tilted Kilt Franchise Operating, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on Exhibit A.

The franchisor is Tilted Kilt Franchise Operating, LLC, located at 8915 S. Harl Avenue, Tempe, Arizona 85284, Telephone: (480) 456-5458

Issuance date: March 28, 2018, as amended August 1, 2018.

The individual franchise seller who offered you a Tilted Kilt franchise is:

☐ Mark Hanby  
Tilted Kilt Franchise Operating, LLC  
8915 S. Harl Avenue  
Tempe, AZ 85284

☐ Name of Franchise Seller:

Principal Business Address:

☐ Name of Franchise Seller:

Principal Business Address:

Tilted Kilt Franchise Operating, LLC authorizes the respective state agencies identified on Exhibit A to receive service of process for it in the particular state.

I received a Disclosure Document dated March 28, 2018, as amended August 1, 2018, that included the following Exhibits:

- |                                                                       |                                                       |
|-----------------------------------------------------------------------|-------------------------------------------------------|
| A List of State Agencies/Agents for Service of Process                | G Confidentiality and Noncompetition Agreement        |
| B Franchise Agreement                                                 | H Representations and Acknowledgment Statement        |
| C List of Restaurants                                                 | I Sample Release                                      |
| D Franchisees Who Have Left the System                                | J State Addenda and Riders to the Franchise Agreement |
| E Financial Statements                                                | K Receipts                                            |
| F Pub Operations & Systems and Marketing Manuals - Tables of Contents |                                                       |

Date: \_\_\_\_\_  
(Do not leave blank)

Signature of Prospective Franchisee

Print Name

**RECEIPT**  
(Return this copy to us)

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Tilted Kilt Franchise Operating, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, or sooner if required by applicable state law. Under Iowa law, we must give you this disclosure document at the earlier of our 1st personal meeting or 14 calendar days before you sign an agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale. Michigan requires that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. Under New York law, we must provide this Disclosure Document at the earlier of the 1st personal meeting or 10 business days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale.

If Tilted Kilt Franchise Operating, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on Exhibit A.

The franchisor is Tilted Kilt Franchise Operating, LLC, located at 8915 S. Harl Avenue, Tempe, Arizona 85284, Telephone: (480) 456-5458

Issuance date: March 28, 2018, as amended August 1, 2018.

The individual franchise seller who offered you a Tilted Kilt franchise is:

☐ Mark Hanby  
Tilted Kilt Franchise Operating, LLC  
8915 S. Harl Avenue  
Tempe, AZ 85284

☐ Name of Franchise Seller: \_\_\_\_\_

Principal Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Name of Franchise Seller: \_\_\_\_\_

Principal Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tilted Kilt Franchise Operating, LLC authorizes the respective state agencies identified on Exhibit A to receive service of process for it in the particular state.

I received a Disclosure Document dated March 28, 2018, as amended August 1, 2018, that included the following Exhibits:

- |                                                                       |                                                       |
|-----------------------------------------------------------------------|-------------------------------------------------------|
| A List of State Agencies/Agents for Service of Process                | G Confidentiality and Noncompetition Agreement        |
| B Franchise Agreement                                                 | H Representations and Acknowledgment Statement        |
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| D Franchisees Who Have Left the System                                | J State Addenda and Riders to the Franchise Agreement |
| E Financial Statements                                                | K Receipts                                            |
| F Pub Operations & Systems and Marketing Manuals - Tables of Contents |                                                       |

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

You may return the signed receipt either by signing, dating and mailing it to Tilted Kilt Franchise Operating, LLC, 8915 S. Harl Avenue, Tempe, Arizona 85284, or by faxing a copy of the signed and dated receipt to Ron Lynch at (480) 456-0385.