

COURT FILE NO. B203 582587
ESTATE NO. 24-2582587
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON



IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
MCG RESTAURANTS LTD.
OF THE CITY OF EDMONTON,
IN THE PROVINCE OF ALBERTA

DOCUMENT **AFFIDAVIT OF ROB MORRIS**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File # 204-204417

DUNCAN CRAIG LLP
LAWYERS MEDIATORS
2800 Scotia Place
10060 Jasper Avenue
Edmonton, Alberta Canada T5J 3V9

AFFIDAVIT OF ROB MORRIS

Sworn on December 2, 2019

I, **ROB MORRIS**, of the City of Edmonton, in the Province of Alberta, Businessman, MAKE OATH AND SAY THAT:

1. I am a Director and Principal of MCG Restaurants Ltd. ("**MCG**") and, as such, the matters herein deposed to are based on my personal knowledge, on my review of the books and records maintained by MCG in the ordinary course of its business, or on information and belief and, where so stated, I do verily believe the same to be true.

Background

2. MCG is an amalgamated corporation registered in Alberta. It is the amalgamation successor to six numbered companies, notably:
 - (a) 1025967 Alberta Ltd.;
 - (b) 1323607 Alberta Ltd.;
 - (c) 565059 Alberta Ltd.;
 - (d) 683585 Alberta Ltd.;
 - (e) 838297 Alberta Ltd.; and
 - (f) 867189 Alberta Ltd.
3. Attached and marked as **Exhibit "A"** is a copy of the Corporate Search for MCG.
4. MCG is the Edmonton-area franchisee for Moxie's Grill & Bar ("**Moxie's**"). The franchisor is Moxie's Restaurants, Limited Partnership ("**Franchisor**").
5. There are Moxie's-branded restaurants throughout Canada and, presently, three locations in the United States.
6. Until the end of October, MCG operated six restaurants in the Edmonton area. One restaurant has now been closed. Details of that follow later in this Affidavit.

Franchise and Leasing Arrangements

7. As noted, MCG formerly operated six restaurants in the Edmonton area and now operates five.
8. Each restaurant has a separate Franchise Agreement with the Franchisor. The Franchise Agreements are virtually identical to one another. As part of the franchise arrangements, MCG pays royalty fees and marketing contributions on a weekly basis to the Franchisor, based on a percentage of gross sales. The fees and contributions, along with the definition of gross sales, are all particularly outlined in each Franchise Agreement. A copy of the Franchise Agreement for the Kingsway location is attached and marked as **Exhibit "B"**.
9. In respect of each location, the Franchisor or a company controlled by the Franchisor (hereinafter called the "**Head Tenant**") entered into a head lease with each Landlord. MCG, in turn, has entered into a sublease with the Head Tenant.

10. In respect of each of MCG's restaurant locations, the Landlords, Head Tenants, Subtenants and Indemnitors are as follows:

Restaurant Location	Landlord	Head Tenant	Subtenant	Indemnitors / Guarantors
Moxie's 170 Street (17109-100 Avenue NW, Edmonton)	967005 Alberta Ltd.	Moxie's Restaurants Inc.	MCG	N/A
Moxie's Kingsway (10628 Kingsway Avenue, Edmonton)	Kingsway Holdings Ltd.	Moxie's Leaseholds (Kingsway), Inc.	MCG	Moxie's Restaurants, Limited Partnership
Moxie's South Common (1739-102 Street NW, Edmonton)	Cameron Corporation and Grosvenor Canada Limited	Moxie's Leaseholds (SEC), Inc.	MCG	Moxie's Restaurants, Limited Partnership (One Year)
Moxie's St. Albert Trail (13551 St. Albert Trail, Edmonton)	Capital Shopping Centre Limited	Moxie's Leaseholds (Four Corners), Inc.	MCG	565069 Alberta Ltd.
Moxie's West Edmonton Mall	West Edmonton Mall Property Inc.	Moxie's Leaseholds (West Edmonton Mall), Inc.	MCG	1025967 Alberta Ltd. Guarantor: 683685 Alberta Ltd.
Moxie's Calgary Trail (Now Closed)	Huntington Hills Commercial – Phase II	Moxie's Leaseholds (Whitemud), Inc.	MCG	565059 Alberta Ltd.

11. In addition to the foregoing, MCG rents a small office in the west part of Edmonton located at 200-17811 – 106 Avenue, Edmonton, Alberta. The lease obligations are MCG's directly.
12. In respect of the remaining operating locations, rent for the month of October was paid to the Kingsway Landlord but not the remaining landlords. Rents for all continuing operating locations due at the start of November went unpaid.
13. Subsequent to MCG's filing of its Notice of Intention to Make a Proposal ("**NOI**") in these proceedings, it has made arrangements with the Landlords to pay ongoing rent from and after the NOI filing date. The only exception to that is the Landlord for the Calgary Trail location.
14. With respect to the Calgary Trail location, MCG closed the location on October 29, 2019. MCG has made arrangements with Huntington Hills Commercial ("**Huntington**") as follows:
- (a) Outstanding rent for September and October were paid;

- (b) Property taxes are going to be paid for the entire year;
- (c) Insurance will remain on the property until June 30, 2020;
- (d) Utilities will be left on and paid by MCG until June 30, 2020 as well the security system;
- (e) Snow removal will be maintained by MCG until the spring of 2020; and
- (f) All equipment is to remain in the premises except for computers, small wares, dishwasher, CO2 Tank and the Pepsi tower. All signage is also being removed.

MCG intends to honour this arrangement.

Employees

- 15. MCG employs 336 people at its five remaining locations. Of that number, approximately 100 have full-time positions and 236 have part-time positions. In addition to the restaurant employees, head office personnel include myself and my Executive Assistant. Between the two of us we are responsible for all business operating and financial matters inclusive of invoicing, bill payments, payroll, contracts, leasing, and so forth.
- 16. With respect to the employees who were formerly employed at the Calgary Trail location, a number of them took positions elsewhere. Those who did not were absorbed into the remaining locations.
- 17. MCG employees do not have a pension plan.

Causes of Financial Difficulties

- 18. The economic situation in Alberta has generally deteriorated since late 2014 with the sharp reduction in price of oil. That situation has not improved and has steadily declined. In addition thereto, government legislation in terms of minimum wage and adjustments to general holiday pay have significantly impacted MCG's profitability.
- 19. MCG's corporate year-end is July 9. In years prior to fiscal 2014, MCG had sales north of \$25,000,000.00 EBITDA of over \$3,300,000.00.
- 20. For fiscal year-end, 2014 sales were \$22,468,691.00 with EBITDA of \$2,455,000.00 and net earnings before tax of approximately \$1,600,000.00. 2014 was slightly lower due to the reconstruction of our Kingsway location and only having a partial year of earnings in that location as a result.
- 21. For fiscal 2018, sales declined to \$21,465,654.00 with EBITDA of approximately \$1,200,000.00. Net earnings before tax were down to \$131,255.00.
- 22. For fiscal 2019, sales were down to \$19,795,587.00 and EBITDA and net earnings were negative.

23. With respect to the wage circumstances, in 2015 liquor servers had a minimum wage of \$9.20 per hour. The remaining staff had a minimum wage of \$10.20. As of September, 2018, both liquor servers and remaining wage earners have a minimum wage of \$15.00 per hour. The first minimum wage increase resulted in a 40% increase in our overall payroll expense. At that time of the first minimum wage increase, our payroll was \$10,000,000.00. The 40% increase amounted to an extra \$4,000,000.00 not including source deductions. In addition thereto, as noted above, general holiday pay was changed under the previous government which tripled holiday pay expenses for 9 statutory holidays.
24. Our strategy, and indeed our only perceived hope, was to raise prices each year. However, that resulted in a dramatically reduced customer traffic. That, combined with the poor economic climate, resulted in sales and profits plummeting year after year.
25. In addition thereto, the employer portion of Employment Insurance ("EI") and Canada Pension Plan ("CPP") contributions required to be paid on the increased wages also rose. The EI contribution rate for employers is 2.3% to a maximum of \$1,201.51 per annum (it came down to 2.27% in 2019); however, CPP contribution amounts have risen from 4.95% to a maximum of \$2,593.80, but the CPP premiums are slated to increase to 5.95% for employers in the next five years.
26. The combination of all of these factors has taken MCG from an EBITDA of \$2,455,000.00 and net profit of \$1,600,000.00 in 2014 to a negative profitability and EBITDA for fiscal 2019.
27. In addition thereto, industry disruptors such as SkipTheDishes have eroded walk-in traffic for the MCG restaurants. That also has an impact, although difficult to measure, on the overall revenue picture.
28. The decline in the revenue picture and the increase in costs have meant that MCG has gotten behind in payment of certain obligations, including withholding obligations to the Canada Revenue Agency ("CRA"), its lender, suppliers and landlords. The decline did force MCG to close its Calgary Trail location.

Secured and Priority Creditors

29. MCG does not have an operating line of credit. It does have a credit facility with Canadian Western Bank ("CWB") in the nature of a term loan facility for construction of restaurants and capital expenditures which must be undertaken annually to keep the restaurants up to Franchisor and Head Landlord standards.
30. Attached and marked as **Exhibit "C"** to this my Affidavit is a copy of the CWB Loan Agreement.
31. CWB has been very good to work with. Prior to the filing of the NOI, MCG was able to negotiate payment reductions from \$70,849.60 per month to interest only to give MCG an opportunity to work through its financial difficulties. This arrangement is in place to March, 2020. CWB remains supportive of the company's efforts. Current monthly payments are now approximately \$20,500.00.

32. The Franchisor is also secured in respect of the MCG business. Rye Inc. and Ric Young provided advances to MCG in the spring of this year to facilitate completion of renovations at the West Edmonton Mall location. The present outstanding amount in respect of that loan is approximately \$560,000.00.
33. In terms of priority creditors, Canada Revenue Agency is owed approximately \$580,000.00 in respect of outstanding employee source deductions
34. Attached and marked as **Exhibit "D"** to this my Affidavit is a copy of a Personal Property Registry search for the Province of Alberta which notes the Secured Creditor registrations.

Trade Obligations

35. As set forth in the Notice to Creditors issued on November 15, 2019, a copy of which is attached hereto and marked as **Exhibit "E"** to this my Affidavit, MCG has a number of creditors, primarily suppliers, owing a combined amount of approximately \$6,000,000.00.

Restructuring Efforts to Date

36. As noted earlier in this Affidavit, MCG has negotiated interest-only payments with CWB and has closed its Calgary Trail location. The NOI was filed on November 12, 2019, which was done to give MCG some breathing room to work with its Trustee and its legal advisors to formulate a plan for its creditors to consider.
37. Since the filing of the NOI, the creditors have been notified.
38. Immediately following the filing of the NOI, MCG, the Trustee and MCG's legal counsel, Darren R. Bieganeck, Q.C., of Duncan Craig LLP, held a conference call with its main food supplier, Gordon Food Services Ltd. ("**GFS**"), and arrangements were made to have MCG placed on cash-on-delivery basis. GFS gets paid the immediate day following delivery of product to each of the restaurants. Payments are made through automatic withdrawals from MCG's bank account.
39. Certain Landlords had issued default notices under the terms of the leasing arrangements. Conversations with those landlords have been had. At the present time, no Landlord has indicated a material concern with the MCG position. Rent will continue to be paid during the course of the proceedings on an ongoing basis.
40. MCG completed its Cash-Flow and filed it with the Superintendent of Bankruptcy as required. Attached and marked as **Exhibit "F"** to this my Affidavit is a copy of the Cash-Flow, along with the Report on Cash-Flow Statement made by the Person making the Proposal and the Trustee's Report of the Cash-Flow.
41. The Cash-Flow is forecasted out February 18, 2020 and indicates a positive cash amount of \$740,836.00 at the end of the period. While it is subject to certain assumptions, MCG remains comfortable and confident in the cash-flow presented, which illustrates an ability to pay its ongoing costs and expenses, including professional fees for the Trustee, its counsel and MCG's legal counsel, during the proceedings.

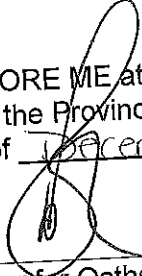
42. In the circumstances, I am advised by MCG's legal counsel, and do verily it to be the case, that at this time, MCG is not proposing that any priority charges be granted in favour of suppliers or professional advisors.
43. Additionally, the Cash-Flow does illustrate that MCG will not be required to borrow funds to maintain operations as it progresses through the proceedings.

Anticipated Plans and Extension of the Stay

44. At this time, MCG is not in a position to formulate a proposal for its creditors. As of the date of swearing this Affidavit, MCG has been operating under the NOI proceedings for a period of just under three weeks. The Consolidated Cash-Flow has been prepared, but MCG, in conjunction with its Trustee, is presently working on forecasts for each of the stores at a more detailed level to evaluate each location and assess their viability.
45. As well, even if MCG were in a position to finalize its Proposal, I am advised by representatives of Deloitte Restructuring Inc. and MCG's legal counsel that a meeting of creditors would be held some time over the Christmas break, which is not ideal.
46. Christmas is generally a busy time in the restaurant business. MCG is hopeful that the trend will continue through this holiday season.
47. In the circumstances, MCG continues to work towards putting itself in a position where it is able to formulate a Proposal to put to its creditors, but it simply needs additional time to do that. The passage of time will also assist in verifying the cash-flow projections.
48. In the circumstances, MCG believes that a 45-day extension to January 24, 2020 is reasonable and appropriate in the circumstances.
49. I do believe that MCG is acting in good faith and with due diligence in its efforts to put together a Proposal and that if afforded a continuing opportunity to do so, is likely to make a viable Proposal. I know of no facts which suggest that a creditor would be materially prejudiced if the extension that is sought is granted.

50. I make this Affidavit in support of MCG's NOI stay extension.

SWORN BEFORE ME at the City of
Edmonton, in the Province of Alberta, this
2nd day of December, 2019.



(Commissioner for Oaths in and for the
Province of Alberta)

GARREN R. BIEGANEN
BARRISTER & SOLICITOR

PRINT NAME AND EXPIRY/LAWYER
/STUDENT-AT-LAW



ROB MORRIS

Government of Alberta ■ Corporation/Non-Profit Search

Corporate Registration System

Date of Search: 2019/11/13
 Time of Search: 08:23 AM
 Search provided by: DUNCAN CRAIG LLP - EDMONTON
 Service Request Number: 32012869
 Customer Reference Number: 204417

This is Exhibit " A " referred to in the Affidavit of

Rob Morris
 Sworn before me this 2nd day of December A.D. 20 19

A Notary Public, A Commissioner for Oaths in and for the Province of Alberta

DARREN R. BIEGANER
 BARRISTER & SOLICITOR

Corporate Access Number: 2014131268
Legal Entity Name: MCG RESTAURANTS LTD.
Legal Entity Status: Active
Alberta Corporation Type: Named Alberta Corporation
Method of Registration: Amalgamation
Registration Date: 2008/07/10 YYYY/MM/DD

Registered Office:

Street: 600, 12220 STONY PLAIN ROAD
City: EDMONTON
Province: ALBERTA
Postal Code: T5N 3Y4

Email Address: ANNUALRETURNS@MROSS.COM

Directors:

Last Name: CLARKE
First Name: PHILIP
Street/Box Number: 8220 - 148 STREET
City: EDMONTON
Province: ALBERTA
Postal Code: T5R 0Z4

Last Name: MORRIS
First Name: ROBERT
Street/Box Number: 517 BEVINGTON CLOSE
City: EDMONTON

Province: ALBERTA
Postal Code: T5T 6G3

Voting Shareholders:

Legal Entity Name: 657847 ALBERTA LTD.
Corporate Access Number: 206578478
Street: 517 BEVINGTON CLOSE
City: EDMONTON
Province: ALBERTA
Postal Code: T5T 6G3
Percent Of Voting Shares: 11.477

Legal Entity Name: 857626 ALBERTA LTD.
Corporate Access Number: 208576264
Street: 8220 - 148 STREET
City: EDMONTON
Province: ALBERTA
Postal Code: T5R 0Z4
Percent Of Voting Shares: 13.364

Legal Entity Name: BLASKIN AND SONS ENTERPRISES LTD.
Corporate Access Number: 200880441
Street: 1800, 717 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P 0Z3
Percent Of Voting Shares: 20

Legal Entity Name: CEDARIDGE HOLDINGS INC.
Corporate Access Number: 2012124042
Street: 3076 SIGNAL HILL DRIVE SW
City: CALGARY
Province: ALBERTA
Postal Code: T3H 3K9
Percent Of Voting Shares: 27.5

Legal Entity Name: NASHPRO MANAGEMENT SERVICES LTD.
Corporate Access Number: 206701641
Street: 8220 - 148 STREET

City: EDMONTON
Province: ALBERTA
Postal Code: T5R 0Z4
Percent Of Voting Shares: 14.773

Details From Current Articles:

The information in this legal entity table supersedes equivalent electronic attachments

Share Structure: SEE SCHEDULE "A"
Share Transfers Restrictions: NO SHARES SHALL BE TRANSFERRED WITHOUT THE PRIOR APPROVAL OF A MAJORITY OF THE DIRECTORS OF THE CORPORATION
Min Number Of Directors: 1
Max Number Of Directors: 10
Business Restricted To: NONE
Business Restricted From: NONE
Other Provisions: SEE SCHEDULE "B"

Other Information:

Amalgamation Predecessors:

Corporate Access Number	Legal Entity Name
2010259675	1025967 ALBERTA LTD.
2013236076	1323607 ALBERTA LTD.
205650591	565059 ALBERTA LTD.
206835852	683585 ALBERTA LTD.
208382978	838297 ALBERTA LTD.
208671891	867189 ALBERTA LTD.

Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2019	2019/09/25

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2008/07/10	Amalgamate Alberta Corporation
2019/08/15	Change Director / Shareholder
2019/09/25	Enter Annual Returns for Alberta and Extra-Provincial Corp.

Attachments:

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
Share Structure	ELECTRONIC	2008/07/10
Other Rules or Provisions	ELECTRONIC	2008/07/10
Amalgamation Agreement	10000398000649357	2008/07/10
Statutory Declaration	10000198000649358	2008/07/10

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is Exhibit "B" referred to in the
Affidavit of

Rob Morris

Sworn before me this 2nd day of

December A.D. 20 19

A Notary Public, A Commissioner for Oaths in
and for the Province of Alberta

GARREN R. BIEGANE
Notary Public - Solicitor

FRANCHISE AGREEMENT

THIS AGREEMENT (the "Agreement") has been entered into effective as of March 27, 2019 among:

MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP, a Limited Partnership formed under the laws of the Province of British Columbia and registered in the Province of Alberta, with its head office located in Calgary, Alberta

(hereinafter referred to as the "**Franchisor**")

and

MCG Restaurants Ltd. a corporation formed under the laws of the Province of Alberta with its head office located in Edmonton, Alberta.

(hereinafter referred to as the "**Franchisee**")

and

Robert Morris and Philip Clarke, businessmen, residing in Edmonton, Alberta.

(hereinafter referred to collectively and individually as the "**Guarantor**").

WHEREAS the Franchisor is the registered owner of the Canadian trade-mark "Moxie's", Canadian trade-mark registration number 325,118, transferred by assignment dated December 27, 1990 and registered with the Registrar of Trade-Marks in Ottawa by notice of ownership dated February 8, 1991; and transferred by assignment dated July 7, 1998 and registered with the Registrar of Trademarks in Ottawa by confirmation of change in title on August 12, 1998, "Moxie's Classic Grill", Canadian trade-mark registration number TMA468,137, "Big Life", Canadian trade-mark registration number TMA529,730 and TMA531,883, "Life is Calling", Canadian trade-mark registration number TMA562,969, "Whatever You're in the Mood For", Canadian trade-mark registration number TMA758,896, Moxie's stacked and semi-stacked logos, Canadian trade-mark registration number TM785,943 and TM785,942, "Mbar", Canadian trade-mark registration numbers TMA626,627 and TMA626,534, stylized "M" logo Canadian trade-marks pending.

AND WHEREAS the Franchisor is also the owner of the trade-name "Moxie's" and other trade-names which include the word "Moxie's", all of which the Franchisor has adopted and used to identify Moxie's Restaurants (as hereinafter defined) and services and the food, beverages and other products sold or used therein, and which the Franchisor uses, and controls the usage of, in order to maintain, identify and further develop the reputation and goodwill established with the public by the association of its trade-marks and trade-names with the high quality of products and services available at Moxie's Restaurants;

AND WHEREAS the Franchisor is the owner of the goodwill associated with its trade-mark and with restaurants throughout Canada operated under a trade-name which includes the word "Moxie's";

AND WHEREAS the Franchisor has developed standards and specifications for buildings, decor, equipment layouts, supplies and menus, quality and quantity standards, operating procedures for sanitation, maintenance, food and beverage storage, preparation and service, methods and techniques for inventory and cost controls, record keeping and reporting, personnel management, purchasing, sales, and marketing;

AND WHEREAS the trade-mark "Moxie's" when displayed in or about a restaurant operating under a trade-name which includes the word "Moxie's" denotes to the public that the restaurant is either owned and operated by the Franchisor or an operator licensed by the Franchisor;

AND WHEREAS by reason of the maintenance of high standards of quality, product and service in Moxie's Restaurants the enviable reputation of the Franchisor would be severely damaged if restaurants operating under or using the name "Moxie's" were not maintained and operated in accordance with the highest standards, if the food and beverages sold therein were not sold under the highest possible sanitary conditions and if the service thereof was not made in a wholesome and appetizing manner;

AND WHEREAS the Franchisor is in the business, among other things, of licensing Moxie's Restaurants to be opened and operated pursuant to franchise agreements, and the Franchisee recognizes the benefits to be derived from a license issued by the Franchisor to be identified with the name "Moxie's" and desires to operate a Moxie's Restaurant, and the Franchisee acknowledges having had a full and adequate opportunity to be thoroughly advised of the terms and conditions of this Agreement by advisors of the Franchisee's own choosing;

AND WHEREAS it is the desire of the parties hereto that the Franchisee acquire the license herein granted to operate a Moxie's Restaurant at the location hereinafter mentioned under and pursuant to the covenants, terms and conditions herein contained;

NOW THEREFORE this Agreement witnesseth that in consideration of the mutual covenants, conditions and provisions herein contained and in consideration of the full and faithful performance by the Franchisee of each and every one of the covenants, terms and conditions herein contained, the parties hereby covenant, warrant and agree as set forth below.

ARTICLE 1 INTERPRETATION

1.1 **Definitions** Unless the context otherwise requires, the following terms and expressions shall have the meanings set forth below wherever used in this Agreement:

"**Board of Health**" means the local board of health as described in Sub-article 5.4(i);

"Commencement Date" has the same meaning as set out in the Lease, as hereinafter defined;

"Designated Operator" means the person appointed, in accordance with Sub-article 13.4, as the designated operator of MCG Restaurants Ltd., who shall initially be Philip Clarke;

"Effective Date" shall have the meaning set out in Sub-article 1.10;

"Force Majeure" shall have the meaning set out in Sub-article 14.6;

"Franchisee" means the corporation or partnership first identified in this Agreement as the Franchisee, and any person or partner if that person or partner beneficially owns or controls, directly or indirectly, shares or units in the corporation or partnership, as the case may be, to which are attached fifty percent (50 %) or more of the voting rights, wholly or in the aggregate, under all circumstances or under any circumstances that have occurred and are continuing, and in the event that there is no person or partner that alone has such controlling interest in the corporation or partnership, then at the Franchisor's discretion, the Franchisee shall be deemed to include all such persons as, in the aggregate, have such controlling interest;

"Franchise Fee" means the sum of \$50,000 payable as provided in Sub-article 3.1;

"Gross Sales" shall have the meaning set out in Sub-article 3.4;

"Lease" or **"Sublease"** means the head lease dated March 29, 2014 or the Sublease dated March 29, 2014, as the case may be, and any amendments thereto or renewal or replacement thereof, in respect of the site where the Subject Restaurant is located;

"Moxie's Restaurant" means a restaurant operating under a trade name which includes the word "Moxie's", and/or a lounge operating under such name(s) as may be chosen by Franchisor in its sole discretion, and is/are either owned by the Franchisor or an operator licensed by the Franchisor;

"New Trading Area" shall have the meaning set out in Sub-article 2.5;

"Opening Date" means the opening day of business for the Subject Restaurant, subject to Sub-article 4.9;

"Ownership Agreement" means an agreement regarding the ownership and governance among (i) two (2) or more partners in a partnership or (ii) two (2) or more persons owning shares in a corporation;

"Premises" means the demised Premises identified in the Sublease;

"**Prime**" means the floating annual rate of interest established and announced by Royal Bank of Canada from time to time as a reference rate for purposes of determining rates of interest it will charge on loans denominated in Canadian dollars.

"**Royalty Fee**" means the fee payable by the Franchisee to the Franchisor pursuant to Sub-article 3.2;

"**Subject Restaurant**" means the Moxie's Grill & Bar and/or its lounge (if any, subject to the sole discretion of the Franchisor) to be located at the site described in Sub-article 2.1 and to be operated at such site by the Franchisee;

"**Term**" shall have the meaning set out in Sub-article 2.3;

"**Termination Date**" means the date which is the earlier to occur of: (i) expiry or earlier termination of the Lease and (ii) 25 years from the Commencement Date; and

"**Trading Area**" shall have the meaning set out in Sub-article 2.4.

1.2 **Schedules** The following is a list of the designating number and reference name of the schedules attached to and forming an integral part of this Agreement:

<u>Designating Number:</u>	<u>Reference Name</u>
1	Location and Trademarks
2	Description of Trading Area
3	Franchisee Loans
4	Certificate as to Directors, Officers and Shareholders
5	Sublease
6	General Security Agreement
7	Certificate of Independent Legal Advice
8	Ownership Agreement
9	Location of Subject Restaurant
10	Authority, Responsibilities and Duties of the Designated Operator

1.3 **Subsidiaries** For the purposes of this Agreement, an entity shall be deemed to be a subsidiary of another entity if:

- (a) it is controlled by that other, that other and one or more entities each of which is controlled by that other, or two or more entities each of which is controlled by that other; or
- (b) it is a subsidiary of an entity that is that other's subsidiary.

1.4 **Holding Entity** For the purposes of this Agreement, an entity shall be deemed to be another's holding entity if that other entity is its subsidiary.

1.5 **Affiliated Entities** For the purposes of this Agreement, one entity shall be deemed to be affiliated with another entity if one of them is the subsidiary of the other or both are subsidiaries of the same entity or each of them is controlled by the same person and if two entities are affiliated with the same entities at the same time they shall be deemed to be affiliated with each other.

1.6 **Control** For the purposes of this Agreement, an entity shall be deemed to be controlled by another person or by two or more other persons who act in concert if:

securities of or interests in the entity to which are attached more than 50% of the votes that may be cast for the election of directors or managers of that entity are held, other than by way of security only, by or for the benefit of such other person or persons; and

the votes attached to those securities or interests are sufficient, if exercised, to elect a majority of the board of directors or managing group of the entity.

1.7 **Headings, etc.** The division of this Agreement into articles, sections, paragraphs, clauses and schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation hereof. Unless otherwise stated, all references herein to articles, sections, paragraphs, clauses or schedules are to those in or to this Agreement.

1.8 **Plurality and Gender** Words used herein importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender and words importing individuals shall include corporations, partnerships, trusts, syndicates, joint ventures and governments and governmental agents and authorities and vice versa.

1.9 **Governing Law** This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province in which the Subject Restaurant is operated. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the courts of the Province in which the Subject Restaurant is operated over any action or proceeding arising out of or relating to this Agreement and the parties hereto irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such courts of the Province in which the Subject Restaurant is operated. The parties hereto also irrevocably consent to the service of any process in any such action or proceeding by the mailing by registered mail of copies of such process to the relevant party at the address specified in Article 18. The parties hereto agree that a final judgement in any such action or proceeding after all appeals are exhausted or expired shall be conclusive and may be enforced in other jurisdictions by suit on the judgement or in any other manner provided by law.

1.10 **Effective Date** This Agreement shall be and become effective and binding as of the date first above written, notwithstanding the Term.

ARTICLE 2
GRANT OF LICENSE

2.1 **Subject Restaurant** At the location known as Kingsway, Edmonton as outlined on Schedule 9. The Franchisor hereby grants to the Franchisee the right and license:

- (a) to use the above recited trade-marks and trade-names in the operation of the Subject Restaurant;
- (b) in the operation of the Subject Restaurant, to use the Franchisor's distinctive labels, designs, cartons, containers and marketing material furnished to the Franchisee by the Franchisor or its material suppliers from time to time at the Franchisee's request and expense; and
- (c) to sell, use and distribute, in the Subject Restaurant only, such products and/or services as designated by the Franchisor.

2.2 **Limit on License** This license relates solely to the Subject Restaurant at the location designated herein, and the granting thereof is subject to the terms and conditions herein contained.

2.3 **Term** The Term shall begin on the Commencement Date and expire on the Termination Date.

2.4 **Trading Area** Subject to the provisions of Sub-articles 2.5 and 2.6, during the term of this Agreement, the Franchisor shall not establish, or license another to establish, a Moxie's Restaurant within a geographic radius (the "Trading Area") of the Subject Restaurant set out in Schedule 2 without the Franchisee's written consent.

2.5 **Changes to Trading Area**

(a) It is understood that the parties have agreed on the Trading Area specified in Sub-article 2.4 as an assessment of the primary retail trading area within which the Subject Restaurant should be the only Moxie's Restaurant. If in the reasonable opinion of the Franchisor a segment of the Trading Area or a segment thereof plus a further area not included within the Trading Area (the "New Trading Area") will support a further Moxie's Restaurant, the Franchisor may so advise the Franchisee by notice in writing setting out the reasons why the Franchisor is of such opinion and the area it deems to be the New Trading Area. If the Franchisor should so advise the Franchisee, the Franchisee shall have the option for a period of thirty (30) days from the date of such notice of making an application to operate a further Moxie's Restaurant in such New Trading Area.

(b) It is understood that the Franchisee is under no obligation whatsoever to submit an application to license a further Moxie's Restaurant as referred to in Sub-article 2.5(a). If the Franchisee should make such application the same shall not be unreasonably rejected, and if accepted, the Franchisee shall execute a further franchise agreement for such new Moxie's Restaurant containing the then current license fee, royalty fee and marketing contribution, and in

form and content similar to the franchise agreement then being utilized by the Franchisor for licensee developed Moxie's Restaurant locations. It is understood that in assessing the Franchisee's application for a further Moxie's Restaurant, the Franchisor shall take into account and assess whether or not in the Franchisor's sole judgement the Franchisee has the financial and managerial capabilities of owning and operating an additional Moxie's Restaurant.

(c) The provisions of this Sub-article 2.5(c) shall not apply until after the fifth anniversary of the Opening Date. If in any year following the fifth anniversary of the Opening Date of the Subject Restaurant, the Franchisor delivers a notice as contemplated pursuant to Sub-article 2.5(a) and the Franchisee elects not to submit an application to establish a further Moxie's Restaurant within the thirty (30) day period provided for in Sub-article 2.5(a) (or should the Franchisee submit an application which is not unreasonably rejected by the Franchisor), the Franchisor shall have the right for a further period of six months of itself obtaining a location, or of accepting an application from a third party, for the purpose of establishing or causing to be established a further Moxie's Restaurant in the New Trading Area. Should the Franchisor not exercise its aforesaid right the same shall lapse until a delivery of a further notice under Sub-article 2.5(a). For the sake of clarity, it is not intended that a further Moxie's Restaurant be established and operating within the time frames mentioned in this Sub-article 2.5(c), but rather that an application therefor be submitted by the Franchisee and approved by the Franchisor within the time frames, and the date by which such further Moxie's Restaurant is established and operating shall be as determined by the parties acting reasonably and is to be set forth in the franchise agreement respecting the same.

(d) The establishing of a further Moxie's Restaurant in the New Trading Area shall not preclude the continuing applicability of the provisions of Sub-articles 2.5(a), 2.5(b) and 2.5(c) for the establishing of additional Moxie's Restaurants, provided the Franchisor may not exercise the right set forth in Sub-article 2.5(c) until five (5) years have elapsed from the opening date of any further Moxie's Restaurant within the New Trading Area. This Sub-article 2.5(d) shall be read with the intent that all changes to content necessary to comply with the circumstances are to be made and that it is the desire of the Franchisor to establish as many Moxie's Restaurants as may reasonably be supported within each trading area but not more often than every five (5) years without the Franchisee's consent so as to permit each Moxie's Restaurant to become established before another is opened.

(e) In the event further Moxie's Restaurant(s) are established in the Trading Area specified in Sub-article 2.4 as a result of the foregoing provisions, the portion(s) thereof included in the New Trading Area(s) shall be removed from the Trading Area specified in Sub-article 2.4.

2.6 Additional Franchises Notwithstanding anything contained in this Agreement, under no circumstances shall the Franchisor be obligated to offer, or agree to provide to the Franchisee any franchise rights or licences to any additional Moxie's Restaurant franchises, whether inside or outside any Trading Area or New Trading Area.

ARTICLE 3 FRANCHISE FEE AND ROYALTY PAYMENTS

3.1 **Franchise Fee** The Franchise Fee shall be payable in two (2) equal instalments of \$50,000.00 each. The first instalment shall become due and payable upon the execution of this Agreement and any concurrent amendment hereto, and the second instalment shall become due on the Opening Date of the Subject Restaurant. Notwithstanding anything contained in this Agreement, in the event that the transaction contemplated by this Agreement is not completed as set out in this Agreement, the first instalment shall be entirely non-refundable and shall be retained by the Franchisor as liquidated damages and not as a penalty. The Franchisee expressly agrees and acknowledges that all costs not expressly stated to be the responsibility of the Franchisor in this Agreement shall be at the sole cost and expense of the Franchisee.

3.2 **Royalty Fee** The Franchisee shall pay to the Franchisor a recurring non-refundable Royalty Fee, to be paid weekly during the Term, in an amount equal to five percent (5%) of the Gross Sales of the Subject Restaurant calculated weekly, unless royalties cannot be charged on the sale of alcoholic beverages because of provincial statute or regulation, or because of the suspension of the liquor licence for the Subject Restaurant, in which cases the Royalty Fee shall be automatically increased to seven percent (7%) of Gross Sales of the Subject Restaurant, calculated weekly, for so long as such royalties cannot be charged on the sale of alcoholic beverages. If the liquor licence for the Subject Restaurant is revoked or suspended indefinitely as a result of the actions or inactions of the Franchisee, the Franchisor shall have the option in its sole discretion to either terminate this Agreement or increase the Royalty Fee to seven percent (7%) for the duration of the Term. Any increase in the Royalty Fee hereunder shall be agreed compensation for loss of revenue to the Franchisor due to such circumstances and shall be treated as liquidated damages and not as a penalty.

3.3 **Marketing Contribution** The Franchisee shall, in addition to the Royalty Fee, pay to the Franchisor weekly the percentage of Gross Sales for marketing purposes as set out in Sub-article 9.1.

3.4 **Meaning of Gross Sales** The term "Gross Sales" as used herein shall include the aggregate amount of all sales, receipts, receivables, sales of merchandise made or services rendered in, at, on or from the Subject Restaurant and sales wherever made of food, beverages and products stored on the Subject Restaurant, or any business conducted from the Subject Restaurant, whether made on a cash basis, or on credit, paid or unpaid, collected or uncollected, including deposits not refunded to customers, and the amount of any orders received at or solicited from the Subject Restaurant although such orders may be filled elsewhere. Each charge or sale upon credit shall be treated as a sale for the full price in the week during which such charge or sales shall be made, irrespective of the time when the Franchisee shall receive payment (whether full or partial) therefor. Subject to Sub-article 3.7, the Franchisee shall be entitled to deduct from Gross Sales to the extent the Franchisee has included therein: any gratuities to employees, sales or excise tax imposed by any governmental authority added to the price of a sale or service, collected from the customer and in turn payable (subject to offset of input tax credits) by the Franchisee to such governmental authority, promotion discounts approved by the Franchisor and the Franchisor's coupon redemptions, consistent with the Franchisor's policy consistently applied and in effect from time to time. Gross Sales shall not include meals served to employees and consumed on the Premises, provided an accurate list of such meals consumed is reported on the weekly report form herein referred to. Any installation fee, continuing rental or percentage of sales or other revenue received

by the Franchisee from vending and other machines including, without limitation, cigarette vending machines, ATMs and video lottery terminals, and public telephones permitted to be installed under Sub-article 4.8 shall form part of Gross Sales.

3.5 **Business Interruption** In the event of a business interruption as a result of a peril in respect of which the Franchisee is required to carry or otherwise carries business interruption insurance (gross earnings form) under this Agreement, the Franchisee shall continue to make payment to the Franchisor of the weekly amounts due under Sub-article 3.1, if any, and under Sub-articles 3.2 and 3.3 on the basis of the average weekly payments made during the (fifty-two) 52 weeks immediately preceding the occurrence or, if the Subject Restaurant has not been open for business for 52 weeks, the average weekly payments made during the period of time the Subject Restaurant has been open, and such other payments as are required under the terms of this Agreement and any other agreement between the parties affecting the Subject Restaurant.

3.6 **HST Additional** All fees, monies and royalties provided for herein shall be subject to the addition of any harmonized sales tax (HST) or other applicable tax.

3.7 **Discounted Items** Notwithstanding anything contained in this Agreement, the Franchisee is entitled to offer to its employees, and family and friends of its employees, discounts on meals or promotional items provided that such discounts are consistent with the Franchisor's policies from time to time established.

3.8 **General Security Agreement** The Franchisee shall execute and deliver to the Franchisor as security for payment of the obligations of the Franchisee to the Franchisor under this Agreement the General Security Agreement in the form attached hereto as Schedule 6 concurrently with the execution of this Agreement.

ARTICLE 4 SITE SELECTION, STANDARD PLANS, COMPLETION AND EQUIPPING OF BUILDING, TRAINING, OPENING ASSISTANCE, CONTINUING ASSISTANCE

4.1 **Franchisor Assistance** During the term of this Agreement, the Franchisee authorizes and directs the Franchisor to do or cause to be done all such matters and things as the Franchisor, in its sole discretion deems necessary, at the Franchisor's expense (unless provided otherwise), including, without limitation, the following:

1. assisting the Franchisee to open the Subject Restaurant (or to re-open after a substantial renovation), by providing to the Franchisee the following:
 - (a) site selection and procurement counselling, including review of market analysis, demographic analysis and purchase or lease agreements;
 - (b) review of site plan showing building placement, traffic flow and site layout;

- (c) assistance in directing the Franchisee's architect only with building plans, specifications and drawings for the Subject Restaurant building which the Franchisee shall ensure will comply with local ordinances and by-laws and to suit the site; with the exception of site surveys, soil reports and design of special foundations peculiar to the individual site. The site surveys (including topographic surveys) and soil reports shall also be obtained by the Franchisee at its expense and shall be provided to the Franchisor by the Franchisee prior to the preparation of drawings. The plans and specifications shall also include such improvements as fixtures, furnishings, signs and equipment, and the Moxie's Restaurant exterior and interior design and layout;
- (d) co-ordination and assistance in the formation and purchase of the standard Moxie's equipment package;
- (e) co-ordination and assistance in the purchase of the standard Moxie's smallwares package;
- (f) complete training of the Franchisee or its designated manager in the operation of a Moxie's Restaurant prior to the opening of the Subject Restaurant for such period (approximately eighteen (18) weeks) and at such locations as may be designated by the Franchisor from time to time. The Franchisee shall be responsible for all travelling, meals and accommodation expenses and wages of the designated manager. In the event that the Franchisor determines, in its sole and unfettered discretion, that further training is required at any time throughout the Term, then the expense of such training shall be borne by the Franchisee and the Franchisee shall pay the Franchisor an administration fee of fifteen percent (15%) on such expenses;
- (g) training and/or re-training support relating to the re-opening of the Subject Restaurant after substantial renovation, or as requested by the Franchisee from time to time, for which the Franchisee shall pay the Franchisor's then-current fee(s) for such services, subject to change from time to time plus an administration fee of fifteen percent (15%) on such fee(s);
- (h) pre-opening and opening assistance and supervision;
- (i) a head office supervisor to assist in the opening of the Subject Restaurant and in training the employees. The supervisor shall commence assistance on such date as the Franchisor and the Franchisee shall mutually agree and shall remain at the Subject Restaurant for such time (not to exceed 14 consecutive working days) as the Franchisor in its sole discretion shall deem necessary in order to properly open the Subject Restaurant and train the personnel employed therein;
- (j) the loan of the Franchisor's confidential operating manuals (including electronic copies) (the "Manuals") covering daily operations of a Moxie's Restaurant. The contents of the Manuals shall be in the Franchisor's absolute discretion. Should the

Franchisor revise the Manuals from time to time it shall provide the Franchisee with copies of such revisions for insertion in the Franchisee's loan copy;

- (k) an initial set of accounting forms for reporting daily and weekly transactions and analyzing costs;
 - (l) information on all new or improved methods and methodology adopted by the Franchisor in the operation of Moxie's Restaurants generally and instruct the Franchisee in the use of such new and improved methods and methodology; and
 - (m) access to the Franchisor for purchase, sale, loan and/or use, as applicable, of all products, menus and other items pertaining to the operation of Moxie's Restaurants generally; and
2. providing to the Franchisee at any time throughout the Term (other than during an opening or re-opening after a substantial renovation) operational support that shall include, without limitation, further training in the operation of a Moxie's Restaurant, training on new and improved methods and methodology adopted by the Franchisor in the operation of a Moxie's Restaurant generally, and such continuing individual or group counselling, field supervision, assistance and consultation in the operation of the Subject Restaurant as the Franchisor may in its absolute discretion deem necessary or advisable ("Operational Support"). If the Franchisor determines, in its sole and unfettered discretion, to provide Operational Support to the Franchisee, then the expense of such Operational Support shall be borne by the Franchisee and the Franchisee shall pay the Franchisor all the Franchisor's out of pocket costs and an administration fee of fifteen percent (15%) on such expenses.

4.2 **Franchise Course** The Franchisee agrees that it will actively and in good faith attend and participate in the training courses offered by the Franchisor in the operation of the Subject Restaurant, including, but not limited to, prior to its opening for the time period(s) and at such locations as may be stipulated by the Franchisor. The Designated Operator or a Franchisor approved designated manager, shall actively and in good faith attend and participate in such training course. If the Franchisee, Designated Operator or manager, fails to successfully complete the initial training course, of which failure the Franchisor shall be the sole judge, then the Franchisor may in its absolute discretion cancel and terminate this Agreement, and retain the non-refundable Franchise Fee referred to in Sub-article 3.1 as liquidated damages and not as a penalty and this Agreement shall be of no further force or effect.

4.3 **Franchise Location** The geographic location of any Moxie's Restaurant, including the Subject Restaurant, shall be in the Franchisor's sole and unfettered discretion and should the Franchisee approach the Franchisor with any suggested location of a Moxie's Restaurant, the Franchisor shall be under no obligation to consider nor procure such site for any Moxie's Restaurant, including the Subject Restaurant. Further, it is expressly acknowledged by the Franchisee that the procurement of any Moxie's Restaurant location is not guaranteed and that if, by way of example, a location for the Subject Restaurant is not procured, or if such procurement is not completed or secured with the owner or lessor of the lands or Premises of the Subject Restaurant,

this Agreement shall be of no force nor effect and the parties shall have no further obligations hereunder. It is also expressly acknowledged that the Franchisor makes best efforts to procure geographic locations for Moxie's Restaurants, including the Subject Restaurant, but that same is not a guarantee as to the sales that may result from the location and that the Franchisor makes no representations or warranties with respect to same. The Franchisee shall be responsible for its own analysis and assessment as to the quality of the location chosen for the Subject Restaurant in its decision to enter into this Agreement.

4.4 **Construction Obligations** In connection with the construction of the Subject Restaurant the Franchisee agrees as follows:

- (a) prior to commencement of the construction, to submit to the Franchisor the plans, specifications and complete sets of drawings (including without limitation design, electrical and mechanical drawings) and to obtain the written approval of same from the Franchisor, which may be arbitrarily withheld in the sole discretion of the Franchisor, prior to such commencement;
- (b) prior to commencement of construction, to submit to the Franchisor reasonable evidence of the manner in which it will finance the cost of construction of the Subject Restaurant, and the purchase of the equipment, smallwares, inventories and supplies to be located therein;
- (c) prior to commencement of construction, to file with the Franchisor a construction flow schedule and obtain and file with the Franchisor copies of all such contracts, permits and certificates as may be required for the lawful construction of the Subject Restaurant, together with certifications from all governmental authorities having jurisdiction over the location and contemplated business that all necessary permits have been or will be obtained on usual and proper application and that all requirements for construction and operation have been, or will be, met on usual and proper application, including, without limitation, zoning, building, access, signage, fire, health, liquor licence, occupancy and safety requirements;
- (d) to commence construction of the Subject Restaurant as soon as reasonably possible and to advise the Franchisor of the date of such commencement and keep the Franchisor fully advised of the progress of construction;
- (e) to complete construction of the Subject Restaurant in accordance with the approved plans and specifications and in compliance with the issued permits, all governing laws, orders, regulations, ordinances and the requirements of fire insurance underwriters, all at the Franchisee's expense;
- (f) that the Franchisor and its agents shall have the right, but not the obligation, to inspect the course of, and quality of, construction at any time and make suggestions and recommendations and/or provide instructions that shall be followed by the Franchisee in respect thereof;

- (g) that in the event the Subject Restaurant is not being, or has not been, constructed in conformity with the provisions of Sub-article 4.4(e), and the Franchisee has delayed unreasonably or refused upon request to so construct, such failure to so construct shall be a default under this Agreement and the Franchisor at its option may:
- (i) from time to time, by its agents if it so selects, and without liability for trespass or other tort, enter upon the Subject Restaurant and remove, replace, repair, remodel, modify or alter, at the Franchisee's expense, any items which do not so conform and bill the Franchisee for all costs and expenses reasonably incurred in so doing plus an administration fee of fifteen (15%) on all costs and expenses; and
 - (ii) refuse to permit the Subject Restaurant to open for business and, if any such default is not cured within the time limits set out in , Sub-article 4.5 the Franchisor may invoke the provisions of Sub-article 4.5;
- (h) to open the Subject Restaurant for business within (thirty) 30 days from the date construction is completed;
- (i) to file with the Franchisor within (thirty) 30 days of opening the Subject Restaurant for business a copy of all permits, certificates, contracts and reports not previously filed pertaining to the construction and operation of the Subject Restaurant; and
- (j) that no additions, alterations or improvements to the Subject Restaurant may be made at any time during the currency of this Agreement except in compliance with the foregoing paragraphs.

4.5 **Maximum Construction Period** The Franchisee agrees that if construction is not completed and the Subject Restaurant is not open for business within eighteen (18) months of the date of this Agreement, exclusive of time lost by reason of events beyond the Franchisee's control (which shall be determined in the sole discretion of the Franchisor), the Franchisor may in its absolute discretion cancel and terminate this Agreement, retain the non-refundable portion of the Franchise Fee referred to in Sub-article 3.1 as liquidated damages and not as a penalty, and this Agreement shall be of no further force or effect.

4.6 **Equipment and Smallwares Approval** The Franchisee shall equip the Subject Restaurant with the equipment approved by the Franchisor. The Franchisor at the request of the Franchisee will arrange for the Franchisee to purchase the same at the same prices as the Franchisor would be charged if it were establishing the Subject Restaurant, plus reasonable expenses incurred thereby, and in such event the Franchisee will execute the Franchisor's current agency agreement relating thereto. The Franchisee acknowledges, covenants and agrees that he or it shall also purchase at his or its own cost and expense the smallwares required for the operation of the Subject Restaurant as approved by the Franchisor.

4.7 **Restrictions on Supplies** No item of marketing material, merchandise, supplies, furnishings, utensils or other smallwares or equipment other than such as specified by the Franchisor shall be brought into, installed, displayed or used upon or in the Subject Restaurant without the express prior written consent of the Franchisor, which consent may be arbitrarily withheld.

4.8 **Restrictions on Vending Machines** The Franchisee shall not install, cause to be installed, purchase or lease vending machines of any type, including public telephones, entertainment devices and products not referred to herein, nor may the same be sold, operated, displayed or used in the Subject Restaurant, without the express prior written approval of the Franchisor, which consent may be arbitrarily withheld; provided that if such are in use or sold generally in a majority of other Moxie's Restaurants such consent may not be unreasonably withheld.

4.9 **Opening**

(a) The Franchisee shall not open the Subject Restaurant for business to the public without first obtaining the written consent of the Franchisor, which consent may be arbitrarily withheld, and without limiting the generality of the foregoing, the Franchisee acknowledges that such consent will be withheld if, in the sole judgement of the Franchisor, the construction of the Subject Restaurant is not complete or has not been completed to the current standards of the Franchisor.

(b) Upon opening, the Franchisee shall immediately provide the Franchisor with all up to date copies of the following:

- (i) Development Permit and/or Site Plan Approval
- (ii) Building Permit
- (iii) Occupancy Permits
- (iv) Fire Permit
- (v) Business Licence
- (vi) Liquor Licence
- (vii) Certificate of valid insurance

**ARTICLE 5
OPERATION OF SUBJECT RESTAURANT**

5.1 **Restrictions on Use** The Franchisee covenants and agrees to use the Subject Restaurant solely for the purpose of a Moxie's Restaurant and will not use or permit to be used the lands and Premises on which the Subject Restaurant is located for any other purpose or activity.

5.2 **Restriction on Sub-Licensing** The Franchisee covenants and agrees that the Subject Restaurant shall not be operated by a sub-licensee.

5.3 **Duty of Good Faith and Diligence: Approved Manager** The Designated Operator of the Franchisee covenants and agrees that he will faithfully, honestly and diligently perform the Franchisee's and his duties, will devote his entire working time, labour, skill and attention to the

operation of the Subject Restaurant, shall be primarily responsible for the day to day operations of the Subject Restaurant, and will abide by all the covenants, terms and provisions contained in this Agreement in his personal capacity and on behalf of the Franchisee. However, the Franchisee may upon the express written authorization of the Franchisor designate a Franchisor approved full time manager who will devote his/her entire working time, labour, skill and attention to the operation of the Subject Restaurant and will abide by all the covenants, terms and provisions contained in this Agreement in his/her personal capacity and on behalf of the Franchisee. The Franchisor approved manager must successfully complete the Franchisor's eighteen (18) week training course, in the Franchisor's sole discretion. The Franchisee covenants that he or it will diligently attempt to achieve the maximum Gross Sales from the Subject Restaurant which it operates and/or owns and will promote and make every reasonable effort to steadily increase the Gross Sales from the Subject Restaurant.

5.4 **Acknowledgement of Standard** The Franchisee acknowledges that the Franchisor maintains high standards of quality of product and service in Moxie's Restaurants and that the Franchisor may, in the interest of improving thereon and enhancing public appearance of Moxie's Restaurants, upgrade its standards from time to time. Therefore, in order to maintain a uniform standard of operation and quality for all licensees operating under the name Moxie's and to further protect the goodwill of the Franchisor the Franchisee covenants and agrees that:

- (a) the Franchisee shall operate the Subject Restaurant in conformity with such uniform methods, standards and specifications as the Franchisor may from time to time prescribe for general application in its confidential Manuals or otherwise in writing to ensure that the highest degree of quality and service is uniformly maintained, refrain from any deviation therefrom and from otherwise operating in any manner which reflects adversely on the Franchisor's name and goodwill, or on the name "Moxie's" associated with the Subject Restaurant;
- (b) the Franchisee, at his or its own expense, shall provide sufficient and proper management, supervisory and other personnel for the operation of the Subject Restaurant in accordance with the Franchisor's standards and requirements and methods now or hereafter defined by the Franchisor. The Franchisee covenants to remove any manager or other supervisory personnel or staff members who at any time do not meet the requirements of the Franchisor, in the Franchisor's sole and arbitrary opinion, within 10 days after receipt of a written demand from the Franchisor to do so;
- (c) the Franchisee will at all times make all possible efforts to ensure that the services provided by and the products sold from the Subject Restaurant are of uniformly high quality and properly and courteously served and so as to be a credit to the Franchisee, to the Franchisor and to other licensees of the Franchisor operating Moxie's Restaurants;
- (d) the Franchisee obliges himself or itself to require his or its employees to conduct themselves properly and courteously at all times toward all customers, and shall

enforce compliance by employees of the uniform and dress codes set by the Franchisor;

- (e) the Franchisor may at all times determine reasonable standards of quality, service, production, merchandising and marketing, subject to the provisions of Sub-article 5.4(i), credit card usage, and the prices of all products sold in the Subject Restaurant. Notwithstanding the approved prices at which products may be sold in the Subject Restaurant, the Franchisee may sell any or all of such products at prices less than the approved prices as long as the price for any product sold in the Subject Restaurant is not less than eighty percent (80%) of the price of the same or comparable product sold by a Moxie's in a comparable market with such comparable market to be determined by the Franchisor in its sole discretion;
- (f) the Franchisor or its authorized representatives shall have the right at all reasonable times to enter and remain in the Subject Restaurant, to inspect the Subject Restaurant and its equipment, the books and records, the quality of food sold by the Franchisee and the manner of operation of the Subject Restaurant; the Franchisee is to assist and cooperate during any such inspection, and upon notice from the Franchisor take such steps as may be necessary immediately to correct any deficiencies detected during any such inspection;
- (g) the Franchisee shall at all times maintain a sufficient supply of approved products to meet the public demand, provided that approved products are available for purchase, and without limiting the generality of the foregoing shall further maintain a sufficient inventory of products to meet any delivery shortfalls which might reasonably be expected to occur from time to time;
- (h) the Franchisee shall continuously operate the Subject Restaurant upon such days and during such hours as the Franchisor shall determine, but only to the extent lawful and subject to the direction and request of governmental authorities;
- (i) the Franchisee will comply with all applicable local and governmental laws and regulations and specifically any requirements of any governmental or administrative body (a "Board of Health") enforcing health or similar regulations and having jurisdiction over the Subject Restaurant as well as the Franchisor's regulations and directives pertaining to the operation and use of the Subject Restaurant, the equipment in the Subject Restaurant and the production and sale of products in the Subject Restaurant. The Franchisee shall request a copy of any inspection report or citation issued by a Board of Health, the liquor licensing authorities or any other governmental agency pertaining to the inspection, use or operation of the Subject Restaurant and the Franchisee's employees and shall upon receipt forthwith provide a copy of such inspection report or citation to the Franchisor; should the Franchisee fail to provide the same the Franchisor shall be entitled to contact the appropriate authority and obtain a copy on request and the Franchisor is hereby authorized to obtain the same. If specific authorization is required by any such authority the Franchisee covenants to execute and deliver the

same to the Franchisor or such other person or persons as the Franchisor may direct forthwith on request from the Franchisor;

- (j) the Franchisee shall at all times maintain the Subject Restaurant and all equipment therein in a good state of repair, including periodic redecoration, free from the accumulation of rubbish, and in a neat and wholesome condition, in the highest degree of sanitation, and shall maintain the parking lot, sidewalks, landscaping and other amenities to the Subject Restaurant all in first class condition, and shall comply with all lawful requirements of federal, provincial or municipal provisions, statutes, rules, orders, regulations, by-laws or other governmental directives which relate to the partition, equipment, operation or use of the Subject Restaurant or to the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Subject Restaurant necessary to maintain the same in first class condition, and to comply with police, fire and sanitary regulations and all rules made by fire insurance underwriters. Without limiting the generality of the foregoing, the Franchisee shall refurbish, remodel or redecorate the Subject Restaurant upon the Franchisor's request, which is not to be unreasonably issued, and not to be issued more often than once every three years, to conform to the building design, trade dress, colour schemes, fixtures, interior layout and related matters consistent with the Franchisor's then current standards, and provided that such standards of refurbishing, remodelling or redecorating are consistently applied to Moxie's Restaurants where possible in accordance with reasonable business practices. Notwithstanding the foregoing, no request may be made by the Franchisor for any remodeling or redecorating within the last two years of the Term having an aggregate cost of greater than Forty Thousand Dollars (\$40,000.00), save and except for any request by the Franchisor to remodel or replace any signage at the Subject Property or to add or replace equipment for the Subject Restaurant for the purpose of maintaining current Moxie's Restaurants standards; and
- (k) the Franchisee and the Guarantor will comply with all of the terms and conditions of any and all agreements and instruments to which the Franchisee is a party or to which it is bound in connection with the Subject Restaurant, including the Lease, if any, and any loan and security documents.

5.5 **Additional Training** The Franchisee and its supervisory personnel shall attend at their own expense such course(s), convention(s) or seminar(s) as may be conducted or designated by the Franchisor from time to time in the Franchisor's sole and unfettered discretion. The Franchisee agrees that, at the request of the Franchisor, the Franchisee, at its own expense, will actively and in good faith attend and participate in training course(s) offered by the Franchisor for such period of time and at such location as may be stipulated by the Franchisor, from time to time during the currency of this Agreement. The training personnel selected by the Franchisor to provide training to the Franchisee shall be at the sole and unfettered discretion of the Franchisor. If the Franchisee is a corporation or partnership, a designated shareholder, partner, or shareholder of the general or designated partner, who is active in the day to day operation of the Subject Restaurant, and a designated manager, in addition to any other persons stipulated by the

Franchisor in its sole and unfettered discretion, shall actively and in good faith attend and participate in any and all such training course(s). The Franchisee shall forthwith reimburse the Franchisor for all costs and expenses of the Franchisor relating to the provision of training, where such costs and expenses may include, but are not limited to, materials costs, equipment rental costs, room rental costs, personnel costs, material handouts, travel costs such as: airfare, mileage, trip charges, hotel, off-site meals, taxi service and vehicle rental incurred in travel to, from and at the location of such training course(s). The Franchisee shall purchase at its own expense any training material the Franchisor may designate as necessary. In addition, the Franchisee shall pay to the Franchisor a training fee, reasonably commensurate with training fees for similar training courses in the restaurant industry, as determined by the Franchisor in its sole discretion, plus an administration fee of fifteen per cent (15%) of all costs and expenses relating to the provision of training pursuant to this Sub-article 5.5. If the Franchisee, or if the Franchisee is a corporation or partnership, the designated shareholder, partner, or manager, fails to successfully complete any and all training, of which failure the Franchisor shall be the sole judge, then the Franchisor may in its absolute discretion require the Franchisee to attend further training and/or require the Franchisee to replace/terminate member(s) of the Franchisee's management personnel, as determined by the Franchisor in its sole and absolute discretion. Nothing contained in this Agreement, creates an obligation of the Franchisor to provide any of the additional training described in this Sub-article 5.5, such training being at the absolute and unfettered discretion of the Franchisor.

5.6 Costs of Operation The Franchisee shall at all times be responsible for, and pay all costs and expenses relating to, the operation of the Subject Restaurant, including without limitation the paying for and ensuring due attention to or completion of:

- (a) all necessary food, beverages, supplies and services;
- (b) the hiring, training, managing and disciplining of all personnel necessary for the proper operation of the Subject Restaurant and ensuring that all applicable laws and collective agreements, if any, relating to terms of employment are complied with;
- (c) the maintenance and processing of all time-keeping records, processing of payrolls and the payment of all wages for all personnel of the Subject Restaurant, and ensuring that all government regulations are complied with including the withholding and remittance of income tax deductions, pension contributions and unemployment insurance, and processing and remittance of all assessments made in accordance with any applicable government laws, regulations or policies;
- (d) the maintenance of the Franchisor's approved accounting system and proper accounts and records of the Subject Restaurant, including all invoices, receipts, vouchers and payroll records relating thereto;
- (e) the handling and banking of all receipts from the operation of the Subject Restaurant;

- (f) the handling, processing and payment of all invoices for food, beverages, supplies and services purchased for or necessary for the Subject Restaurant;
- (g) ensuring compliance with all applicable health, sanitary, liquor licensing and other laws, regulations, policies and enactments of any competent governmental authority relating to the operation of the Subject Restaurant or personnel employed therein;
- (h) the maintenance of all records and the remittance of all monies required under the provisions of all applicable legislation including applicable government goods and service or sales tax statutes;
- (i) the maintenance at all times in full force and effect of comprehensive general liability insurance, including products and host liquor liability with limits as specified by the Franchisor and in any event for not less than a Five Million Dollar (\$5,000,000) combined limit with respect to property damage, bodily injury and personal injury combined per occurrence, (or such higher limit the Franchisor may reasonably require in its sole discretion), and naming the Franchisor as an additional named insured (with severability of interests and cross liability clauses) respecting the Subject Restaurant and the business conducted therefrom and thereon;
- (j) the maintenance at all times in full force and effect of all risks property insurance to the full replacement value of property of every description in, on or about the Subject Restaurant in the name of the Franchisee and naming the Franchisor as an additional named insured as their respective interests may appear, with particular attention being paid to Sub-article 3.5, with a waiver of the subrogation rights of the insurer with respect to any action against the Franchisor;
- (k) the maintenance at all times in full force and effect of comprehensive broad boiler and machinery insurance covering all insurable objects in, on or about the Subject Restaurant together with such other insurance, and always with such limits, as may be required by statute, rule of law, the Franchisor, acting reasonably, or other agreement(s) affecting the Franchisee, the Subject Restaurant or the equipment, or as may be normally carried by reasonable and prudent restaurant business operators, such insurance to be in the name of the Franchisee and naming the Franchisor as an additional named insured as their respective interests may appear, and with a waiver of the subrogation rights of the insurer with respect to any action against the Franchisor; and
- (l) the cost of full compliance with the terms and conditions of this Agreement and all costs and expenses whatsoever relating to the operation and use of the Subject Restaurant including, but not limited to: realty and business taxes, school taxes, utility services, maintenance and repair, permits, licenses, insurance and rent payable under the Lease and/or Sublease to which the Franchisee is a party.

5.7 **Policies of Insurance** All policies of insurance obtained pursuant to this Article 5 shall:

- (a) be placed only with insurers reasonably acceptable to the Franchisor;
- (b) be in such form and amounts as is acceptable to the Franchisor;
- (c) contain a clause that the insurer will not cancel or change or refuse to renew the insurance without first giving to the Franchisor thirty (30) days prior written notice; and
- (d) be renewable at times specified by the Franchisor.

5.7.1 **Additional Insurance Matters** Property and boiler and machinery insurance policies shall include business interruption coverage (gross earnings form) including Royalty Fees, Marketing Contributions and other payments due to the Franchisor under the terms of this Agreement, the Lease, if any, and any other agreement between the parties affecting the Subject Restaurant. The Franchisee shall provide the Franchisor with a certified copy of any and all insurance policies, including renewals, required to be maintained by the Franchisee under this Agreement or any other agreement between the parties respecting the Subject Restaurant. Such insurance policies shall be obtained from reputable insurance companies acceptable to the Franchisor acting reasonably and shall provide for not less than 30 days' written notice to the Franchisor in the event of policy termination. Should the Franchisee, for any reason, fail to procure and maintain the insurance required by this Agreement, the Franchisor shall have the right, at its option, to procure such insurance and to charge the cost of same to the Franchisee, which charges, together with a reasonable fee for the Franchisor's expense in so acting, shall be payable by the Franchisee immediately upon demand. Upon written request from the Franchisor, the Franchisee shall provide a certificate of insurance or other reasonable proof of the presence of insurance required to be carried by the Franchisee pursuant to this Agreement.

5.8 **Provision of Keys** If requested by the Franchisor, the Franchisee shall provide the Franchisor with a duplicate set of keys to the Subject Restaurant to be used by the Franchisor in the event of fire, robbery, audits taken by the Franchisor under Article 7, abandonment of the Subject Restaurant by the Franchisee, and for such other justifiable reasons as determined by the Franchisor.

5.9 **Policies and Procedures** The Franchisee expressly acknowledges that it shall at all times comply with and adhere to any and all of the policies and procedures set by the Franchisor from time to time with respect to any requirements for the operation of the Subject Restaurant (including without limitation policies and procedures respecting the operation of the kitchen, handling of monies, accounting, reporting, conduct and handling of employees and managers, and safety and security of employees and guests), and expressly acknowledges that damages will be suffered by the Franchisor that would be difficult to quantify in the event of non-compliance. Without limiting the generality of the foregoing, it is expressly acknowledged that the Franchisee shall not permit to occur in the Subject Restaurant any conduct or business of a lewd, illegal and/or immoral nature, which conduct shall be determined in the sole discretion of the Franchisor. As such, the Franchisee expressly acknowledges that failure on its part to comply with and adhere to the Franchisor's policies and procedures may, without limiting the remedies available to the Franchisor under this Agreement, at law or in equity, result in the withholding of monies due to the Franchisee in

accordance with the provisions of Sub-article 14.11, as liquidated damages therefor and not as a penalty.

ARTICLE 6 SUPPLIES AND PRODUCTS

6.1 Product Consistency The Franchisee covenants and agrees:

- (a) to advertise, sell, distribute and use only such services, products and supplies as are designated by the Franchisor for Moxie's Restaurants generally and to purchase the said products and supplies from sources and purveyors who are selected by the Franchisor, or approved by the Franchisor from time to time, in its absolute discretion, and to discontinue purchasing from sources and purveyors who have been disapproved by the Franchisor;
- (b) that all products and menu items must be of uniformly high quality and in such quantity as expressly specified and approved by the Franchisor and prepared in accordance with the Franchisor's methods and techniques for product preparation;
- (c) to sell all approved items pursuant to a menu in form and content approved by the Franchisor in its absolute discretion. Notwithstanding the approved prices at which products may be sold in the Subject Restaurant, the Franchisee may sell any or all of such products at prices less than the approved prices as long as the price for any product sold in the Subject Restaurant is not less than eighty percent (80%) of the price of the same or comparable product sold by a Moxie's in a comparable market with such comparable market to be determined by the Franchisor in its sole discretion;
- (d) to sell all products and items as may be designated by the Franchisor from time to time for sale in Moxie's Restaurants generally, it being understood and agreed that the Franchisor in its discretion may vary, expand, supplement or amend the Moxie's Restaurant menu from time to time during the term of this Agreement; and
- (e) to participate in all promotions initiated by the Franchisor, whether national, regional or local, which the Franchisor designates as applying to the Subject Restaurant.

6.2 Monitoring Fees, Rebates and Allowances In order to ensure the uniformity and quality of the products sold by the Franchisee to the public, the Franchisor may specify and monitor all purveyors and suppliers, including alternate purveyors and suppliers, for the Subject Restaurant. The Franchisor shall, at its expense, locate and interview purveyors and suppliers for the purpose of providing the Franchisee with access to supplies and products at competitive prices, obtain market data and analysis, conduct quality tests, and inspect merchandise for uniformity and quality, at such times as it may deem necessary or desirable in its absolute discretion. Subject to Sub-article 14.12, any cash rebates paid by purveyors and suppliers shall be paid as to ninety percent (90%) thereof to the Franchisee and as to ten percent (10%) thereof to the Franchisor.

Nothing herein contained shall in any way prevent the Franchisor from receiving any fees or monies of any kind as may from time to time be provided to the Franchisor, and the Franchisee shall not be entitled to the benefit of any such fee, which may be provided to the Franchisor by suppliers or purveyors. Any amounts received by the Franchisor shall in no way reduce the sums to be paid to the Franchisor or to the purveyors or suppliers by the Franchisee. However, in no way shall the foregoing or anything contained in this Agreement obligate the Franchisor to obtain the lowest price for any goods and/or services required to be purchased from Franchisor-approved vendors or distributors by the Franchisee in accordance with this Agreement.

6.3 **Franchisee to Purchase Directly** All supplies and products referred to in this Article 6 shall be purchased by the Franchisee directly from the suppliers and purveyors designated or approved by the Franchisor and the suppliers and purveyors shall be required to invoice the Franchisee for all purchases. The Franchisee hereby undertakes to pay such invoices within seven days of their date or pursuant to such other credit agreements as agreed on by the suppliers and purveyors.

ARTICLE 7 ACCOUNTING AND RECORDS

7.1 **Duty to Maintain Records** The Franchisee agrees to maintain and preserve, during the term of this Agreement and for a period of eighteen (18) months thereafter, full, complete and accurate books, records and accounts in accordance with generally accepted accounting principles and in the form and manner prescribed by the Franchisor from time to time. The Franchisor agrees to instruct the Franchisee and his or its accountant in the use of its accounting system if requested by the Franchisee, and the Franchisee agrees that any expense associated therewith incurred by the Franchisor shall be paid by the Franchisee forthwith upon written demand from the Franchisor.

7.2 **Reporting** The Franchisee shall furnish the Franchisor with accurate weekly reports and operating statements together with duplicate cash register readings showing Gross Sales, in the form prescribed by the Franchisor for the Subject Restaurant. Within twenty one (21) days following the end of each four week period the Franchisee shall furnish an operating statement and balance sheet in respect of the Subject Restaurant in the form prescribed by the Franchisor which is to include Gross Sales, receipts and expenses for such period; such statements may be unaudited. Within ninety (90) days after the end of the Franchisee's fiscal year, the Franchisee shall provide the Franchisor with review engagement financial statements for such fiscal year with respect to the Subject Restaurant, and such statements shall be reported upon by a firm of chartered accountants acceptable to the Franchisor, acting reasonably. Notwithstanding the foregoing, upon written request from the Franchisor, the Franchisee shall provide the Franchisor, at the Franchisee's sole expense, with audited financial statements in place of the review engagement, which in all other respects shall comply with the foregoing.

7.3 **Franchisor Audit**

The Franchisor shall have the right, during normal business hours and without prior notice to the Franchisee, to inspect or audit, or cause to be inspected or audited the financial books, records, bookkeeping and accounting records, documents or other materials in respect of

the Subject Restaurant, including the right, without limitation, to have a person on the Premises to check, verify and tabulate Gross Sales, and/or to examine and make copies of all accounting and business records and procedures.

In the event that any such audit or inspection shall disclose an understatement of Gross Sales, the Franchisee shall pay to the Franchisor, within two (2) days after receipt by the Franchisee of the inspection or audit report, the royalty and other sums due on account of such understatement, including, but not limited to, annual interest at Prime plus five percent (5%) on all overdue amounts.

Further, if such audit or inspection is made necessary by the failure of the Franchisee to furnish reports, financial statements or any other documentation as herein required, or if it is determined by any such audit or inspection that the Franchisee's records and procedures were insufficient to permit a proper determination of Gross Sales for any year or part thereof to be made, or that Gross Sales for the period in question were understated by three percent (3%) or more of the Gross Sales actually received, or that the Franchisee was not complying with each of the provisions of this Article 7, the Franchisee shall immediately take such steps as may be necessary to remedy such default in accordance with the recommendations of such auditor and the Franchisee shall promptly pay to the Franchisor all costs incurred in connection with such audit or inspection, including, without limitation, charges of an accountant and the travel expenses, room, board and compensation of employees of the Franchisor, an administration fee of fifteen (15%), and annual interest at Prime plus five (5%) on all overdue amounts. In addition, the Franchisee shall pay for the same audit and annual interest at Prime plus five percent (5%) on all overdue amounts for the subsequent two (2) years to determine whether the problems, including without limitation, any understatement of Gross Sales, failure to furnish reports, financial statements or other documentation as herein required, insufficient Franchisee's records and procedures to permit proper determination of Gross Sales, or the Franchisee not complying with the provisions of this Article 7, are recurring

If the Franchisee's records and procedures were insufficient to permit a proper determination of Gross Sales, the Franchisor shall have the right to deliver to the Franchisee an estimate, made by the Franchisor, of Gross Sales for the period under consideration and the Franchisee shall immediately pay to the Franchisor any amount shown thereby to be owing on account of the royalty fees and other sums due on account of any understatement and annual interest at Prime plus five percent (5%) on all overdue amounts. Any such estimate shall be final and binding upon the Franchisee.

7.4 Cash Register System The Franchisor shall require the Franchisee, at the Franchisee's expense, to install and use in the Subject Restaurant a computer-based cash control and restaurant management, or "point of sale", system ("POS System"); the Franchisee shall only use a POS System of a cumulative non-resettable type as designated and approved in writing by the Franchisor and shall provide the Franchisor with access to permit readings of the running of such POS System at any time, at the Franchisor's discretion. Every transaction or sale in, upon or from the Subject Restaurant shall be registered on or upon the POS System installed. The Franchisee shall not under any circumstances whatsoever allow, permit or operate with an open cash register drawer (or

equivalent) between registration of sales. The Franchisee shall adopt such related procedures as the Franchisor may require to obtain efficient use of the POS System.

7.5 **Record Retention** All vouchers, cash register tapes, receipts, books and records related to Gross Sales and required to be kept by the Franchisee shall be retained by him or it at least twenty-four (24) months following the expiration of each year of the term of this Agreement.

7.6 **Method of Payments to Franchisor** Notwithstanding any other provision of this Agreement regarding manner and timing of payment, upon 60 days' notice in writing, the Franchisee agrees to participate fully in any form of automatic/telecommunication deposit system implemented by the Franchisor for the payment of fees, royalties or other monies owed to the Franchisor hereunder.

7.7 **Gift Card Policies** The Franchisee agrees to conform with and abide by the terms of any policy respecting the use or application of gift cards, coupons, or other similar or comparable products, as same may be established and amended from time to time by the Franchisor.

7.8 **Reservation Policies** The Franchisee agrees to conform with and abide by the terms of any policy respecting the implementation, replacement or alteration of a reservation system for Moxie's clientele, as same may be established and amended from time to time by the Franchisor.

7.9 **Music Policies** The Franchisee agrees to conform with and abide by the terms of any policy respecting the music requirements to be abided by for all Moxie's Restaurants, including the Subject Restaurant, as same may be established and amended from time to time by the Franchisor.

ARTICLE 8 TRADE-MARKS AND TRADE-NAMES

8.1 **Restriction on Trade-Names** The Franchisee shall adopt and use only the trade-names which include the word "Moxie's" and the Franchisor's Moxie's trade-mark and trade-names in the operation of the Subject Restaurant, in such manner, form and style as shall be designated or approved in writing by the Franchisor.

8.2 **Restrictions on Other Names** The Franchisee shall use the trade-mark and trade-names or any additional trade-marks or trade-names of the Franchisor relating to Moxie's Restaurants (hereinbefore recited and any of which the Franchisor may hereafter designate) only in connection with the operation of the Subject Restaurant, and shall not use any other name or names, alone or in connection with a trade-name which includes the word "Moxie's", or any of the Franchisor's other trade-marks or trade-names, in the operation of the Subject Restaurant. Further, the Franchisee shall not display any signs, use any marketing materials, nor engage in or make any solicitation in connection with the operation of the Subject Restaurant without the prior written consent of the Franchisor. The Franchisee will, if required by the Franchisor, place in a conspicuous position in the Subject Restaurant a notice that it is a licensee of the Franchisor.

8.3 Prohibited Use of Names The Franchisee shall not use any trade-marks or trade-names of the Franchisor as part of the Franchisee's corporate or other personal business name, nor shall the Franchisee hold out or otherwise employ the trade-names or trade-marks to perform any activity, or to incur any obligation or indebtedness, in such a manner as might in any way make the Franchisor liable therefor, without the Franchisor's prior written consent.

8.3.1 Internet Advertising Without in any way limiting the Franchisor's rights under Article 9 herein, the Franchisee acknowledges and agrees that it shall not establish or create a Website, on the Internet or have any other internet/online presence, including any social media presence, in connection with the Subject Restaurant, System or Marks without the express prior written consent of the Franchisor, which consent may be given or withheld in the sole discretion of the Franchisor. The Franchisee further acknowledges and agrees that the following are to be conditions precedent to the Franchisor granting the Franchisee permission to establish and maintain a Website or other Internet presence:

- (a) upon request by the Franchisor, the Franchisee shall submit to the Franchisor for its approval, which approval may be given or withheld in the sole discretion of the Franchisor, all data information, design and layout that the Franchisee wishes to use in its Website, and, until such time as the Franchisor shall give its prior written consent to the use of such, the Franchisee shall not utilize same in any Website;
- (b) the Franchisee shall obtain the Franchisor's prior written approval before any copyright information is placed on the Franchisee's Website;
- (c) the Franchisee acknowledges and agrees that his Website may be monitored by the Franchisor and any and all contents of the Website though earlier approved, may be disapproved and required to be removed from the Website;
- (d) the Franchisee acknowledges and agrees that the Website shall state that the use of any trademarks or copyrights is not an assertion of ownership, but rather a license from the owner;

the Franchisee acknowledges and agrees that upon termination of this Agreement that the Franchisee shall relinquish any and all rights in the Website, the domain name, and shall within five days of termination of this Agreement, dismantle the Website and any frames and links between the Franchisee's Website and any other Websites.

8.4 Effecting and Preservation and Termination of Registrations

(a) The Franchisee shall observe such requirements with respect to trade-mark and trade-name registrations, registration of the Franchisee as a user of the Franchisor's trade-mark and trade-names, notices of trade-mark and trade-name ownership and copyright notice and registration, and execute all documents pertaining to such registrations, as the Franchisor may from time to time require in writing. Any application for registration by the Franchisee to use a trade-name which includes the word "Moxie's" which may be required by the laws or statutes or any governing or governmental unit or body shall specify that the same are owned by the Franchisor and the Franchisee's use of the said name is limited to the Subject Restaurant pursuant to the provisions of

this Agreement expiring on the date set forth herein, subject to earlier termination in accordance with the terms hereof. In the event of any of such registrations, no right or privilege to use the said name is created which will extend beyond termination of this Agreement.

(b) For the purpose of facilitating the registration of the Franchisee under the provisions of the *Trade-Marks Act* (Canada), or succeeding legislation, as a user of the Franchisor's trade-marks and ensuring compliance with Sub-article 8.4(a) in respect thereof, and for the purpose of removing the Franchisee as a registered user of the Franchisor's trade-marks in the event of termination or expiration of this Agreement, the Franchisee hereby appoints the secretary of the Franchisor for the time being and from time to time as his or its true, lawful and authorized attorney in fact for him or it, and in his or its name, place and stead, to execute, deliver and amend any and all documents and instruments as fully and effectually as the Franchisee could do if personally acting, as may be required for the purposes of registration or de-registration (for which no compensation to the Franchisee shall be payable) of the Franchisee as a user of the trade-marks of the Franchisor, it being expressly understood that such secretary of the Franchisor may delegate such authority to such other person or persons as he or she, in his or her absolute discretion, deems appropriate, and the Franchisee hereby ratifies and confirms all actions taken in pursuance of the authority herein conferred upon the secretary of the Franchisor and agrees to execute any documents requested by the Franchisor to specifically witness such ratification and confirmation. The Franchisee agrees not to oppose, directly or indirectly, any application by the Franchisor to remove the Franchisee as a registered user of the Franchisor's trade-marks upon termination or expiration of this Agreement.

(c) Until the Franchisee is a registered user of the Franchisor's trade-marks and such registered use has been filed under appropriate legislation, it shall only use same with the prior written permission of the Franchisor.

8.5 Use Only at Subject Restaurant The license herein granted to use the trade-name which includes the word "Moxie's" and the trade-mark and trade-names hereinbefore recited is exclusive for the Subject Restaurant only, and the privileges herein granted are applicable only to the Subject Restaurant to be established pursuant to this Agreement and not elsewhere. Specifically, the Franchisor has and retains the right to grant additional licenses in addition to those licenses granted to existing licensees. The Franchisee acknowledges that the use of the said trade-mark and trade-names outside the scope of this Agreement without the Franchisor's consent is an infringement of the Franchisor's right, title and interest therein and expressly covenants that during the term of this Agreement and after the termination or expiration hereof the Franchisee shall not, directly or indirectly, commit an act of infringement or contest, or aid in contesting, the validity or ownership of the Franchisor's trade-marks or trade-names, or take any action in derogation thereof and in the event of the Franchisee so doing this Sub-article 8.5 may be pleaded against him or it.

8.6 Franchisee's Disclaimer of Interest Neither this Agreement nor the operation of the Subject Restaurant gives the Franchisee any interest in any of the Franchisor's trade-marks and trade-names or the goodwill attached thereto. The Franchisee expressly acknowledges the Franchisor's right, title and interest in and to the trade-marks and trade-names and agrees not to represent in any manner that the Franchisee has any ownership in the Franchisor's trade-marks or trade-names. The Franchisee further agrees that his or its use of the trade-marks or trade-names

shall not create in his or its favour any right, title or interest in or to the Franchisor's trade-marks or trade-names except as the right to use the same is expressly set forth herein. All such trade-marks, trade-names and goodwill arising therefrom or associated therewith shall belong to and enure to the exclusive benefit of the Franchisor, its successors and assigns. The Franchisee shall promptly notify the Franchisor of any claim, demand or cause of action based upon or arising from any attempt by any other person, corporation or other entity to use the trade-marks or trade-names licensed hereunder, or any colourable variation thereof, in which the Franchisor has or claims a proprietary interest. The Franchisee also agrees to notify the Franchisor promptly of any litigation instituted by any person, corporation or other entity or by any governmental agency against the Franchisor or the Franchisee involving the Franchisor's trade-marks or trade-names. If the Franchisor undertakes the defence or prosecution of any litigation relating to the trade-marks or trade-names it shall do so at its expense, and the Franchisee agrees to execute any and all documents and to do such acts and things as may, in the opinion of counsel for the Franchisor, be necessary to carry out such defence or prosecution. If the Franchisor should be unsuccessful in its defence or prosecution relating to the trade-marks or trade-names, the Franchisee shall have no claim for damages against the Franchisor arising as a result thereof.

8.7 Cessation on Termination The Franchisee covenants and agrees that immediately upon the termination or expiration of this Agreement he or it will not use the word "Moxie's" in any manner or form, any colourable imitations thereof or any other word(s) containing the word "Moxie's", or commencing with the letters "Mox" or ending with the letters "ies", in connection with the operation of a restaurant or related business or wares. The Franchisee further covenants and agrees not to make known, either directly or indirectly in any manner or form, that the Franchisee had any previous connection with a restaurant operating under a trade-name including the word "Moxie's".

8.8 Removal of Signs In the event of termination or expiration of this Agreement for any reason whatsoever the Franchisee shall immediately remove all reference to the trade-marks and trade-names of the Franchisor hereinbefore referred to and deliver same to the Franchisor and shall indicate clearly by signs and other suitable means that the Franchisor is no longer connected with the Subject Restaurant business in any way. In the event the Franchisee fails to comply with the foregoing the Franchisee hereby authorizes the Franchisor or its agents to use such force as is reasonably necessary to enter in and on the Premises of the Subject Restaurant and to remove signs, designs and inventory bearing the Franchisor's trade-marks or trade-names and the Franchisee hereby releases the Franchisor and its agents or representatives of and from any claim for loss, cost, damage or expense that the Franchisee may have or allegedly have as a result of any act or omission by the Franchisor or its agents or representatives in exercising the rights conferred herein.

8.9 Ownership and Use of Know How, etc. The Franchisee agrees that the standard building plans and specifications, layouts, decorative schemes, operating methods and procedures, the accounting methods and procedures, and the manuals of operation, including the confidential Manuals and training manuals prepared by the Franchisor and made available to the Franchisee, as well as any and all other trade secrets and confidential information, knowledge and know-how (including without limitation operating methods and procedures, product secrets, product formulae, labour control systems, marketing techniques and strategies and any information or methods unique to the operation of a Moxie's Restaurant) concerning the construction and operation of the Subject

Restaurant that may be imparted by the Franchisor to the Franchisee from time to time are unique and confidential and the Franchisee shall use all reasonable efforts to maintain such information as secret and confidential. The Franchisee shall divulge such information only to such of his or its employees as must have access to it in order to operate the Subject Restaurant and shall not make the same available to any unauthorized person or source. All of the aforementioned matters referred to in the first sentence of this Sub-article 8.9 shall at all times be deemed and remain the sole property of the Franchisor, and the Franchisee shall acquire no right, title or interest therein or thereto except to possess and use the same solely in connection with the Subject Restaurant during the term of this Agreement, and all copies shall be returned in their entirety to the Franchisor and electronic copies destroyed, upon the expiration or termination of this Agreement, or upon any permitted transfer of this Agreement by the Franchisee. If required by the Franchisor, the Franchisee and his or its employees will execute confidentiality and/or non-disclosure agreements for the benefit of the Franchisor on such terms and conditions as the Franchisor may specify from time to time. The covenants contained in this Sub-article 8.9 shall survive the expiry or earlier termination of this Agreement. Notwithstanding the foregoing, and only during the Term, for the purpose of obtaining professional advice from a qualified person with appropriate degrees or designations for that purpose, the Franchisee may communicate or divulge to the extent necessary in the circumstances such confidential information as may be needed by such professional to provide the advice sought by the Franchisee, such as, for example, lawyers, accountants, engineers and architects (but explicitly excluding chefs and restaurant consultants), whose services are obtained for the purpose of operating, constructing, renovating, improving or considering a Moxie's franchise, and shall instruct such persons to keep such information in confidence in accordance with the terms of this Agreement.

ARTICLE 9 MARKETING

9.1 **Marketing Contribution** The Franchisee acknowledges that in order to promote and enhance the public image of all Moxie's Restaurants in Canada the Franchisor may carry on marketing activities for the benefit of the Moxie's Restaurant system as a whole which include, but are not limited to, all forms of advertising and promotion of the Moxie's brand and restaurants. The Franchisee acknowledges that all matters pertaining to such marketing shall be in the sole discretion of the Franchisor including, without limitation, the following:

- (a) type and nature of such marketing;
- (b) selection of media;
- (c) timing of all marketing;
- (d) designation of trading areas to benefit from marketing; and
- (e) selection of advertising and marketing agencies and representatives, and promotion houses.

The Franchisee acknowledges and agrees that the Franchisor undertakes no obligation to ensure that any individual franchisee benefits directly or pro rata in his or its trading area from the placement of any marketing. The cost of such marketing shall be contributed to by the Franchisee in an amount equal to two percent (2%) of the Gross Sales of the Subject Restaurant calculated weekly, unless such marketing contribution cannot be charged on alcoholic beverage sales because of provincial statute, in which case the marketing contribution shall be two and half (2.5%) of the Gross Sales of the Subject Restaurant on which such contribution can be charged, calculated weekly. The said sum shall accompany the Royalty Fee required to be paid pursuant to Sub-article 3.2 and the weekly report and operating statement required to be provided pursuant to Sub-article 7.2. Upon payment to the Franchisor, the Franchisee agrees that such sums shall be and become the property of the Franchisor and the Franchisee shall have no legal or beneficial interest in same and shall not be entitled to any return or refund of such monies contributed. Notwithstanding the foregoing, the Franchisor agrees to set aside the funds received pursuant to this Sub-article 9.1 and from all franchisees pursuant to the corresponding Sub-article in their respective franchise agreements, and to apply the same for marketing purposes and expenses incurred in relation thereto. The Franchisee acknowledges that the allocation of such funds shall be determined by the Franchisor in its sole discretion pursuant to this Sub-article 9.1 and that the Franchisor shall not be required to account for same to the Franchisee.

9.2 Franchise Participation

(a) The Franchisee covenants and agrees to participate in all promotions initiated by the Franchisor, whether national, regional or local, which the Franchisor designates as applying to the Subject Restaurant.

(b) The Franchisor wishes to encourage active participation by the Franchisee in the community in which the Subject Restaurant is situated and the Franchisor is supportive of efforts by the Franchisee to conduct local market advertising promotions for the Subject Restaurant, provided that the Franchisee complies with the approval procedures set forth in this Sub-article 9.2(b). The Franchisee acknowledges and agrees that prior to conducting any local market advertising or promotions pursuant to this Sub-article 9.2(b) it shall obtain the prior approval of the Franchisor to all aspects of the advertising or promotion in question, including, without limitation:

- (i) nature of the advertising or promotion;
- (ii) choice of materials;
- (iii) selection of media;
- (iv) timing of advertising or promotion;
- (v) amount of proposed expenditure; and
- (vi) such other matters as the Franchisor may determine in its discretion.

The Franchisee agrees that it will submit all of the aforesaid details to the Franchisor not less than 10 business days prior to the date of commencement of the proposed advertising or promotion. The Franchisee further agrees that it will not proceed with any promotional activity in the event that the Franchisor shall not grant its approval thereto in writing.

9.3 **Signage, etc.** The Franchisee shall erect, install and replace such signage, including fascia sign or pylon signs, and other signs initially installed at the Subject Restaurant, or any other signage advertising the Subject Restaurant, as the Franchisor may direct from time to time, provided that such signage shall be permitted by the governing authorities and provided further that the Franchisee shall not be required to replace any such signs more often than once every three years. The Franchisee shall also install such pictures, photographs, transparencies and pricing inserts in the frames of the signs located within the Subject Restaurant and such point of sale materials as the Franchisor may direct from time to time. Any further advertising materials, posters or wall coverings in or about the Subject Restaurant shall not be displayed, erected or installed without the prior written approval of the Franchisor, which may be arbitrarily withheld. All signs and advertising material in, on or about the Subject Restaurant shall be erected, installed, maintained in good condition, repaired, updated and replaced at the sole expense of the Franchisee. Should the Franchisee fail to comply with the foregoing provisions, the Franchisor shall have the right to erect, install and replace any of such signage as it sees fit, the cost thereof to be borne by the Franchisee and the Franchisee shall forthwith on demand reimburse the Franchisor for any expenses it should incur in connection therewith, plus an administration fee of 15% of such amount, representing the Franchisor's overhead.

ARTICLE 10 RELATIONSHIP OF THE PARTIES

10.1 **Nature of Relationship** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of the license fee, royalty payments nor any other provision contained herein, nor any acts of the parties shall be deemed to create any relationship between the parties other than the relationship of licensor/franchisor and licensee/franchisee, nor is any fiduciary relationship between the parties intended or created.

10.2 **Limits on Relationship** Nothing herein contained shall in any way be construed as constituting the Franchisee or any of the Franchisee's employees, agents or representatives as an employee, agent or representative, partner or subsidiary of the Franchisor.

10.3 **Independent Contractor, Acknowledgement** The Franchisee is and shall hold himself or itself out to the public to be an independent contractor operating the Subject Restaurant pursuant to a license from the Franchisor.

The Franchisee or its principal shareholder or operator represents that it has conducted an independent investigation of the franchise and it has been afforded the opportunity to ask questions and review materials that it deems relevant in making the decision to enter into this Agreement and acquire the franchise.

The Franchisee acknowledges that it has been advised to receive advice of legal counsel as to all matters relating to the due diligence review of the franchise, including, but not limited to, the review of the Franchise Disclosure Document and this Agreement. In that regard, the Franchisee is required to provide an executed form of the Certificate of Independent Legal Advice attached to this Agreement as Schedule 7.

The Franchisee acknowledges that the success of the business venture contemplated herein involves substantial risks and depends upon its ability as an independent businessperson and its active participation in the daily affairs of the Subject Restaurant. The Franchisee represents that it has received and read a copy of the Franchisor's Franchise Disclosure Document prior to signing this Agreement, and the Franchisee represents that it has read and understood this Agreement.

The Franchisee acknowledges that no assurance or warranty, expressed or implied, has been given to it as to the potential success of this business venture or the earnings likely to be achieved. The Franchisee acknowledges that no statement, representation or other act, event or communication, except as set forth in this Agreement is binding on the Franchisor in connection with the subject matter of this Agreement, and that this Agreement supersedes any and all prior agreements and representations concerning this franchise.

10.4 Disclaimer of Liability and Obligations Notwithstanding anything contained in this Agreement, in the Franchisor's operations or training materials, or in any other of the Franchisor's documents shared with the Franchisee, the Franchisor shall not, by virtue of any advice which it may provide, assume responsibility or liability to the Franchisee, or any third parties, nor be taken to have agreed to lend money or guaranteed the obligations of the Franchisee in any way, and makes no representations, warranties or guarantees in respect thereof, expressed or implied, nor as to the potential volume, profits or success of the Subject Restaurant.

10.5 Indemnity It is agreed that under no circumstances shall the Franchisor, nor its agents, employees, directors, officers, partners, affiliates, successors or assigns be liable for any act, omission, contract, debt, penalty, fine or any other obligation of, or claim or judgement against, the Franchisee. The Franchisee and the Guarantor hereby covenant and agree to indemnify and hold the Franchisor and its directors, officers, employees and controlling persons harmless against any and all such claims (unless arising through the gross negligence of the Franchisor), directly or indirectly from, as a result of or in connection with the Franchisee's operation of the Subject Restaurant, and any claims resulting from the breach by the Franchisee of any of its duties, obligations, covenants, representations or warranties under this Agreement, and as well the costs, including solicitors' fees, charges and disbursements (on an as between a solicitor and his own client basis), of defending against any of such claims and the costs of preparing or providing evidence or otherwise participating in any investigation respecting any such claim, other than any such claim arising solely from the use by the Franchisee of the trade-marks and trade-names licensed hereunder. This indemnity shall survive the expiry or earlier termination of this Agreement.

10.6 Additional Franchisor Rights The Franchisee agrees that save as herein specifically set forth the license (franchise) herein granted is non-exclusive and that the Franchisor has and retains the right:

- (a) to grant additional licenses (franchises) to use its trade-marks, trade-names and other confidential information and material in addition to those licenses (franchises) granted to existing licensees (franchisees);
- (b) subject to Sub-article 2.5, to develop and establish other franchise systems for the same or similar products or services utilizing the same or similar trade-marks, trade-names which may or may not include the word "Moxie's" and to grant licenses (franchises) thereto without providing the Franchisee any right therein;
- (c) to develop and establish within and outside the Trading Area other franchise systems for the same or similar products or services under any proprietary marks not now or hereafter designated in writing as part of the system licensed (franchised) by this Agreement, and to grant licenses (franchises) thereto without providing the Franchisee any right or interest of any nature whatsoever therein;
- (d) to conduct its business either as presently carried on or as it may hereafter be carried on, save as expressly restricted by this Agreement; and
- (e) to establish other Franchisor restaurants within the Trading Area which are not utilizing the name "Moxie's".

ARTICLE 11 RESTRICTIVE COVENANTS

11.1 **Full Time and Effort** Subject to Sub-article 5.3, the Franchisee, Designated Operator and the Guarantor shall not, during the currency of this Agreement, perform any other profession, trade or calling for compensation of any type, nor engage in any other business activity, directly or indirectly, unless prior approval thereto is obtained in writing from the Franchisor.

11.2 **Notice of Other Activities** The Franchisee, Designated Operator and the Guarantor shall notify the Franchisor of his or its desire to participate or engage in any other profession, trade, calling or business activity, directly or indirectly, at least thirty (30) days before such activity is to commence and such participation shall be subject to the written approval of the Franchisor, which approval may be arbitrarily withheld.

11.3 **No Approval Required** Notwithstanding Sub-articles 11.1 and 11.2, but subject to Sub-article 11.9, the Franchisee, Designated Operator and Guarantor shall be entitled, without the approval of the Franchisor, to make such monetary investments as it sees fit at any time in any other industry, trade or opportunity, save and except any business, trade, venture, company, partnership or trust associated with the hospitality industry, including but without limiting the generality of the foregoing, the operation or ownership of any restaurant, pub, lounge, bar, nightclub, catering, fast food, banquet or similar businesses or ventures, which shall require the approval of the Franchisor in accordance with Sub-article 11.2.

11.4 **Conditions on Consents** Should the Franchisee, Designated Operator or the Guarantor obtain the consent of the Franchisor to perform any other specified profession, trade or calling for compensation of any type during the currency of this Agreement as contemplated by the provisions of Sub-article 11.1 or Sub-article 11.2, it is understood and agreed that such consent shall be subject to the following conditions:

- (a) the Franchisee shall be required to employ a manager (or managers) who has (have) taken the Franchisor's training courses and successfully completed the same and continuously meets the required standards of operation as required by Sub-article 5.4 above, unless the Franchisor deems the existing management to be adequate;
- (b) should any manager not comply with the foregoing requirements the Franchisee shall at the Franchisor's request discharge him from employment within ten (10) days after receipt of a written demand from the Franchisor to do so. Such termination from employment shall not be or be deemed to be an interference with the contractual relations between the manager and the Franchisee. Any notice or pay in lieu of notice, statutory or otherwise, or any other payment to be made to the manager shall be the responsibility of the Franchisee. In this regard, the Franchisee shall advise the manager of the required standards of operation and advise him that failure to comply therewith shall be considered by the Franchisee as constituting just cause for his dismissal. The manager shall signify in writing by letter addressed to the Franchisor and the Franchisee that the provisions of this Sub-article 11.4(b) have been read by him and explained to him by the Franchisee and that he acknowledges and agrees to the same as being incorporated by reference into his contract of employment with the Franchisee; and
- (c) in the event Sub-article 11.4(b) applies, the Franchisee will forthwith employ another manager who does comply.

11.5 **Non-Competition** Neither the Franchisee, Designated Operator nor the Guarantor shall in any capacity whatsoever, directly or indirectly, either individually or in partnership or in conjunction with any person, firm, association, syndicate, company, corporation, partnership, joint venture or other entity, as principal, consultant, agent, shareholder, employee or in any other manner whatsoever, carry on or be engaged in or concerned with or advise, lend money to, guarantee the debts of or obligations of, or permit his or its name or any part thereof to be used:

- (a) at the location and/or within the Trading Area of the Subject Restaurant; or
- (b) within five (5) km of the operating premises of any Shark Club, Bar One, Rockford, Chop, Moxie's Grill & Bar or other concept presently or hereinafter created, owned, franchised and/or operated by one or more of Northland Properties Corporation, Shark Clubs of Canada, Limited Partnership, Moxie's Restaurants, Limited Partnership, Chop Restaurants, Limited Partnership or any affiliates or subsidiaries of any of them, (the "Other Concepts"), in operation or under construction at the Commencement Date of this Agreement, during the Term or as

at the date that this Agreement expires or is terminated, save and except for locations that already exist and the Franchisee and/or Guarantor are engaged in or locations that are approved of by the Franchisor;

which is the same or similar to or competitive with the business of any of the Other Concepts, during the Term and for a period of five (5) years after its expiration or termination, for any reason whatsoever, unless prior approval of the Franchisor is obtained in writing.

11.6 Non-solicitation of Customers Each of the Franchisee, Designated Operator and the Guarantor covenants that during the term of this Agreement, and for a period of two years thereafter, except as otherwise approved in writing by the Franchisor, neither the Franchisee, Designated Operator nor the Guarantor or any affiliate(s) thereof shall, either directly or indirectly, for himself, or through, on behalf of or in conjunction with any person, firm, association, syndicate, company, corporation, partnership, joint venture or other entity solicit or attempt to solicit any business of, or any customer of, the Subject Restaurant, directly or indirectly, to any competitor of the Franchisor or of any franchisee of the Franchisor, by any means whatsoever, including through any media including social media, or do or perform, directly or indirectly, any other act injurious or prejudicial to the Franchisor's restaurant business or interests (which includes, without limitation, the goodwill associated with the Franchisor's trade-marks and trade-names) or to the same or similar businesses licensed to others by the Franchisor. For the purpose of this Agreement, "customer" shall mean anyone in the Trading Area that would reasonably go to a restaurant/lounge/pub/bar in the Subject Restaurant's Trading Area.

11.7 Confidential Information Each of the Franchisee, Designated Operator and the Guarantor covenants and agrees that neither they nor any of their affiliate(s) shall at any time both during the term of this Agreement and thereafter communicate or divulge to anyone or use for the benefit of themselves and/or any other person any information that is the confidential or proprietary information of the Franchisor, including but not limited to information concerning the method and nature of the Franchisor's operations or policies, or the methods of manufacturing, preparation, promotion, sale or distribution in a Moxie's Restaurant operation, or information or knowledge used for or employed by the Franchisor in and about its business and which may be communicated to the Franchisee, Designated Operator or the Guarantor or of which the Franchisee may be apprised by virtue of his or its operation under the terms of this Agreement, nor will the Franchisee, Designated Operator or the Guarantor do any acts prejudicial or injurious to the goodwill of the Franchisor. Notwithstanding the foregoing, and only during the Term, for the purpose of obtaining professional advice from a qualified person with appropriate degrees or designations for that purpose, the Franchisee may communicate or divulge to the extent necessary in the circumstances such confidential information as may be needed by such professional to provide the advice sought by the Franchisee, such as, for example, lawyers, accountants, engineers and architects (but explicitly excluding chefs and restaurant consultants), whose services are obtained for the purpose of operating, constructing, renovating, improving or considering the purchase of a Moxie's franchise, and shall instruct such persons to keep such information in confidence in accordance with the terms of this Agreement.

11.8 No Solicitation of Employees Each of the Franchisee, Designated Operator and the Guarantor covenants that during the term of this Agreement and for a period of two years thereafter

they will not induce any employee of the Franchisor or its affiliates, the Subject Restaurant (if its business continues) or another Moxie's Restaurant to leave his or her employ to work with the Franchisee, Designated Operator or the Guarantor or any of their associates, partners or affiliates.

11.9 **Financial Ratio** The Franchisee, covenants that during the Term it will not permit the ratio of total indebtedness of the Subject Restaurant (and any other debt pursuant to which the creditor thereof may have recourse against the Subject Restaurant, the leasehold improvements or trade fixtures therein, or any part thereof) to the total equity in the business of the Subject Restaurant to exceed one to one, all calculated in accordance with generally accepted accounting principles in Canada. Notwithstanding the foregoing and anything contained in this Agreement, the Franchisor acknowledges and approves the initial loan as described in Schedule 3, attached hereto with the understanding such loan is to be paid off no later than seven (7) years from the Opening Date of the Subject Restaurant. The Franchisee agrees and acknowledges that at no time (save as hereinbefore set out) shall the Franchisee permit the indebtedness of the business of the Subject Restaurant (and any other debt for which the holder thereof may have recourse against the Subject Restaurant or any part thereof) to exceed Two Hundred Thousand Dollars (\$200,000.00) in the aggregate without the Franchisor's prior written consent, acting reasonably. The Franchisee agrees and acknowledges that at no time shall the Franchisee cross collateralize the indebtedness of the business of the Subject restaurant with any other indebtedness the Franchisee may have without the Franchisor's prior written consent, in its sole discretion. The Franchisee confirms that at all times throughout the Term of this Agreement it shall maintain a minimum ratio of current assets to current liabilities (according to generally accepted accounting principles, save for current liabilities that shall exclude long term debt) of 1:1.

11.10 **Restrictions Reasonable** The Franchisee, Designated Operator and Guarantor agree that the restrictions contained in this Article 11 are reasonable in the circumstances and that in the event of a default in the terms of same by the Franchisee, Designated Operator or Guarantor, the Franchisor shall suffer irreparable and lasting harm, and that without limiting any other remedies available to the Franchisor, an injunction is an appropriate remedy as against the Franchisee, Designated Operator and Guarantor in the event of such breach.

11.11 **Survival of Covenants** The covenants contained in Sub-articles 11.4, 11.5, 11.6 and 11.7 shall survive the expiry or earlier termination of this Agreement.

11.12 **Ownership Agreement** In the event the Franchisee is or becomes a corporation or partnership, it shall provide to the Franchisor an Ownership Agreement among all of the shareholders of the Franchisee corporation or partners of the Franchisee, and an Ownership Agreement among the shareholders of each corporate shareholder of the Franchisee corporation or the corporate partners of the partners of the Franchisee, as the case may be. The form and content of the Ownership Agreement(s) must be approved in writing by the Franchisor, acting reasonably. No amendment to the Ownership Agreement(s) shall be made without the prior written consent of the Franchisor, such consent not to be unreasonably withheld. The Ownership Agreement shall be attached as a Schedule to this Agreement and shall form part of this Agreement.

ARTICLE 12

RESTRICTIONS ON ASSIGNMENT

12.1 Transfer Only With Consent

- (a) This Agreement, or any interest herein, shall not be assigned, transferred, conveyed, pledged, hypothecated, mortgaged, encumbered or otherwise disposed of, either directly or indirectly, by the Franchisee to any other person, firm, association, syndicate, company, corporation, partnership, joint venture or other entity except with the prior written consent of the Franchisor, which consent may be arbitrarily withheld, nor shall any transfer or assignment resulting from any act of the Franchisee or by operation of law be of any force or effect except with the prior written consent of the Franchisor.
- (b) Unless otherwise provided in the written consent of the Franchisor thereto, no transfer or assignment by the Franchisee shall in any way release the Franchisee or the Guarantor from its obligations to pay all amounts from time to time becoming due to the Franchisor under this Agreement or from the observance and performance of all of the terms, covenants, conditions and agreements contained in this Agreement on the part of the Franchisee or the Guarantor to be observed and performed, and, notwithstanding any such transfer or assignment, the Franchisee and the Guarantor shall remain jointly and severally liable with any transferee or assignee for the due and faithful performance of all such terms, covenants, conditions and agreements.

12.2 Conditions to Assignment In the event that the Franchisee is desirous of selling, assigning, transferring or conveying all of his or its right, title and interest in this Agreement and shall have requested the written approval of the Franchisor thereto, the Franchisee understands and agrees that if the Franchisor does grant its consent thereto it shall be on conditions including, but not limited to, that:

- (a) all amounts owing to the Franchisor by the Franchisee shall be paid in full;
- (b) the purchaser shall covenant directly with the Franchisor to be personally liable for all terms and provisions of this Agreement. In the event that the purchaser is a firm, association, company, corporation, partnership, joint venture or other entity, the security or interest holders who either individually or collectively hold more than fifty percent (50%) in interest in all voting securities or interests, however accomplished, shall execute personal guarantees in favour of the Franchisor to be jointly and severally liable for the payment of all sums due to the Franchisor hereunder and the due performance of each and every covenant and agreement of the Franchisee as contained herein to the same extent as if he, she or they had been personally named as the Franchisee herein;
- (c) the costs, expenses and disbursements (including without limitation the fees, charges and disbursements of the Franchisor's legal counsel on an as between a

solicitor and his own client basis) reasonably incurred by the Franchisor in connection therewith shall be paid by either the Franchisee or the purchaser;

- (d) The Franchisee agrees to reimburse the Franchisor for all of the Franchisor's cost in researching and approving the transfer/assignment, plus a transfer fee (the "Transfer Fee"), which Transfer Fee shall not exceed fifteen percent (15%) of the Franchisor's then current initial franchisee fee, as determined in the Franchisor's sole discretion, charged to first time franchisees in the system;
- (e) the proposed assignee meets the then current criteria of the Franchisor applicable to prospective licensees/franchisees including, but without limiting the foregoing in any way whatsoever, the financial capacity to complete the proposed transfer or assignment and meet all of the obligations of the assignee thereunder and hereunder. Such criteria shall be as established by the Franchisor in its absolute discretion from time to time but shall be consistently applied;
- (f) the proposed assignee submits an application to the Franchisor on its then current form for new franchises and provides such further information and material as the Franchisor may reasonably require, including without limitation personal and corporate financial records and information;
- (g) the Franchisor is provided with a fully executed copy of the letter of intent (if applicable) as well as a conditionally executed copy of the agreement of purchase and sale between the Franchisee and the proposed assignee and all documents referred to therein as relied upon by the parties. If any financial statements are included, the Franchisor shall be entitled but not obligated to question any figures relating to matters in respect of which the Franchisee is required to report to the Franchisor under this Agreement;
- (h) if the Franchisor consents to such assignment it shall be on the express condition that the assignee is represented by independent legal counsel and that assignee provides a statutory declaration to the Franchisor that the assignee has not relied on any representation or warranty or opinion of the Franchisor, or anyone whom the Franchisor may in law be responsible, and that the assignee and any guarantor(s) has/have voluntarily accepted the provisions of this Agreement;
- (i) if the Franchisor consents to such assignment it shall not be bound to recognize or comply with any provisions of any financing or other arrangements as between the Franchisee and any assignee;
- (j) subsequent to the closing of the agreement of purchase and sale between the Franchisee and the assignee, the Franchisor shall be provided with a copy of the documents of transfer and any purchase money financing;

- (k) the Franchisor may require the assignee to refurbish, remodel or redecorate the Subject Restaurant as set out in Sub-article 5.4(j), notwithstanding the fact that it has not required such from the Franchisee;
- (l) the Franchisee and each of its shareholders, directors and officers shall have executed and delivered to the Franchisor a general release of any and all claims and causes of action, except those claims and causes of action that cannot be released at law, against the Franchisor, its affiliated corporations, and their respective officers, agents and employees;
- (m) the Franchisee shall reimburse the Franchisor for any costs actually incurred by the Franchisor in considering and/or helping to implement any assignment hereunder, including the costs of legal (on a solicitor-client basis) or accounting services in considering the legal or financial suitability of the assignment; and
- (n) such further and other matters as determined by the Franchisor in its discretion.

12.3 Franchisee After Assignment From and after completion of a permitted assignment, for all purposes hereof, the term "Franchisee" shall extend and apply to any person, firm, association, syndicate, company, corporation, partnership, joint venture or other entity to which the interest, rights and obligations of the Franchisee herein may have been assigned or further assigned pursuant to the provisions hereof.

ARTICLE 13 CHANGE IN CONTROL OF FRANCHISEE

13.1 Transfer of Shares Except in respect of transmission on death to the estate of a deceased person only, and then only in respect of the period of time the estate holds same prior to distribution (subject to and in compliance with Sub-article 14.4(d) if applicable), if the Franchisee is at any time a firm, association, syndicate, company, corporation, partnership, joint venture or other entity, and securities or interests with voting rights of the Franchisee, or of an entity affiliated or associated with the Franchisee, are transferred by sale, assignment, bequest, inheritance, operation of law or otherwise, or are issued or cancelled, or if the Franchisee is amalgamated with any other entity, and the effect or result of any one or more of the foregoing is a change in the effective voting or other control of the Franchisee, or if any other events occur or proceedings or actions are taken which result in a change in the effective voting or other control of the Franchisee, as defined in Sub-article 1.6, such change in control shall be deemed to be an assignment of this Agreement to which Sub-article 12.1 applies and the Franchisor may, at its option and if prior written consent to such assignment has not been granted by the Franchisor, withhold the Franchisee's share of any rebates, allowances or other monies in accordance with Sub-article 14.11, terminate this Agreement as provided in Sub-article 14.5 and/or, without limiting its ability to pursue the foregoing remedies, pursue any other remedy available to the Franchisor in this Agreement, at law or in equity if the Franchisor has not consented thereto in writing or Sub-article 12.1 is not otherwise complied with. Notwithstanding anything contained herein, the Franchisee agrees and acknowledges that any request made pursuant to this Sub-article 13.1 shall be made in writing to the Franchisor in accordance with Sub-article 18.1 of this Agreement. The Franchisee shall reimburse the

Franchisor for any costs actually incurred by the Franchisor in considering and/or helping to implement any transfer of interest hereunder, including the costs of legal (on a solicitor-client basis) or accounting services in considering the legal or financial suitability of the transfer.

13.2 Access to Records.

(a) The Franchisee shall, upon the request of the Franchisor, make available to the Franchisor for inspection, or copying, or both, all corporate, partnership or other similar books and records of the Franchisee which, alone or with other data, show whether the Franchisor has acquired the right to terminate this Agreement under Sub-article 13.1. If the Franchisee or any security or interest holder of or in the Franchisee, upon the request of the Franchisor, fails or refuses to furnish any such data to the Franchisor, or to have such data verified by a certificate of the said security or interest holder, or some other person having knowledge thereof, or a solicitor representing such person if so requested by the Franchisor, then, at the option of the Franchisor, this Agreement may be terminated by it on sixty (60) days' notice to the Franchisee.

(b) The Franchisee and Guarantor further covenant to produce to the Franchisor, for its prior written approval (which approval may be arbitrarily withheld) any document intended to be issued by or used by the Franchisee for purposes of raising or attracting funds for the Franchisee, whether by way of share issuance or issuance of new partnership interests or other securities or interests of any nature whatsoever (or the transfer of existing shares or partnership interests or other securities or interests) and whether such document be in the form of a prospectus, offering memorandum or circular, or any other form of document, and the Franchisee and Guarantor shall not issue such document, nor take any steps to raise such additional funds, until such time as the Franchisor's prior written approval has been obtained. It is understood and agreed that the provisions of this Sub-article 13.2(b) shall apply whether or not the effect of such financing is to change the effective voting or other control of the Franchisee.

13.3 Ownership Certificate. The Franchisee represents and warrants to the Franchisor that the certificate attached hereto as Schedule 4 is true and correct as of the date hereof and agrees to provide the Franchisor with an updated certificate each and every time there is a change in such information.

13.4 Designated Operator

(1) The Franchisee hereby appoints the Designated Operator as the designated operator of the Franchisee and the Designated Operator hereby accepts the appointment. As a result of such appointment the Designated Operator shall have the authority, responsibilities and duties as set out in Schedule 10 attached hereto as well as being subject to the covenants, terms and obligations ascribed to the Designated Operator provided in this Agreement.

(2) The Designated Operator of the Franchisee shall not be changed without:

(a) the execution of an assumption and appointment agreement made among the Franchisor, the Franchisee and the newly appointed designated operator (in a form to be approved by the Franchisor) for the appointment of the newly appointed designated operator

by Franchisee, and whereby the newly appointed designated operator acknowledges his/her obligation to abide by the then current authority, responsibilities and duties as set out in Schedule 10 of the Agreement, and the covenants and obligations of the Designated Operator provided for in this Agreement; and

(b) prior written approval of the Franchisor in the Franchisor's sole and unfettered discretion.

Any such change made without meeting the above two conditions, shall be deemed to be an assignment of this Agreement to which Sub-article 12.1 applies and in addition to the foregoing the Franchisor may, at its sole and unfettered discretion either, (i) withhold the Franchisee's share of any rebates, allowances or other monies in accordance with Sub-article 14.11; and/or (ii) terminate this Agreement as provided in Sub-article 14.5, without limiting its ability to pursue any other remedy available to the Franchisor in this Agreement, at law or in equity. Notwithstanding anything contained herein, the Franchisee agrees and acknowledges that any request made pursuant to this Sub-article 13.4 shall be made in writing to the Franchisor in accordance with Sub-article 18.1 of this Agreement. The Franchisee shall reimburse the Franchisor for any costs actually incurred by the Franchisor in considering and/or helping to implement any change hereunder, including the costs of legal (on a solicitor-client basis) or accounting services in considering the legal or financial suitability of the change.

ARTICLE 14 DEFAULT, FORFEITURE AND TERMINATION

14.1 Payment of Monies In the event that the Franchisee fails within seven (7) days after receipt of written notice from the Franchisor requiring the Franchisee to make payment, to pay the invoices and any other costs, charges or expenses relating to the operation of the Subject Restaurant, including but without limiting the generality of the foregoing, realty or business taxes, insurance, unemployment insurance or workers' compensation levies, the Franchisor may, but shall not in any way be obligated to, pay the same for and on behalf of the Franchisee and all such charges, costs and expenses incurred by or paid by the Franchisor in such manner shall be recoverable from the Franchisee and shall be added to the monies otherwise payable to the Franchisor hereunder, plus an administration fee of fifteen percent (15%) of such amounts.

14.2 Interest on Overdue Monies

(a) **Royalty Fee** Unless otherwise specifically stated herein, the Franchisee agrees to pay to the Franchisor a late payment charge equal to Prime plus five percent (5%) per annum, calculated on a daily basis and to accompany the Royalty Fee required to be paid pursuant to Sub-article 3.2, with interest on overdue and unpaid interest at the same rate, on any sums due and owing to the Franchisor until paid by the Franchisee to the Franchisor, with like powers of forfeiture and termination as herein set out for failure to do so. In the event of a default or a breach of this Agreement, the Franchisee shall pay the Franchisor all expenses, charges or costs incurred by the Franchisor in connection therewith, including its legal counsel's fees, charges and disbursements (on an as between a solicitor and his own client basis).

(b) **Franchise Agreement Payments** Unless otherwise specifically stated herein, the Franchisee agrees to pay to the Franchisor a late payment charge equal to Prime plus five percent (5%) per annum, calculated on a daily basis with interest on overdue and unpaid interest at the same rate, on any sums due and owing to the Franchisor (including, but not limited to, Franchise Fee to be paid pursuant to Sub-article 3.1 and Marketing Contribution to be paid pursuant to Sub-article 3.3), in excess of five (5) days past due until paid by the Franchisee to the Franchisor, with like powers of forfeiture and termination as herein set out for failure to do so. In the event of a default or a breach of this Agreement, the Franchisee shall pay the Franchisor all expenses, charges or costs incurred by the Franchisor in connection therewith, including its legal counsel's fees, charges and disbursements (on an as between a solicitor and his own client basis).

14.3 **Right of Inspection** The Franchisee shall permit the Franchisor and its agents to enter upon the Subject Restaurant without liability for trespass or other tort, for the purpose of ascertaining whether or not the provisions of this Agreement have been and are being complied with. If an inspection reveals that there is/are any breach(es) of this Agreement, the Franchisee shall remedy such breach(es) according to written notice from the Franchisor. If the Franchisee should fail to remedy any such breach(es) the Franchisor at its option may enter the Subject Restaurant and itself remove, replace, repair or remodel any items which do not conform with the Franchisor's then current standards and specifications, and make such other modifications or alterations as may be necessary to achieve such conformity, which may include the provision of additional training pursuant to the terms of Sub-article 5.5, and to bill the Franchisee for all costs and expenses reasonably incurred in doing so, plus an administration fee of 15% of such amounts. The Franchisor may exercise the rights set forth in this Sub-article 14.3 only if such non-conformity is in breach of the provisions of this Agreement. In the exercise of its rights under this Sub-article 14.3 the Franchisor agrees that it shall act reasonably and the Franchisee agrees that it shall cooperate with the Franchisor in every respect.

14.4 **Events of Default** Each of the following constitute an event of default under this Agreement (a "Default"):

- (a) if in the Franchisor's sole and unfettered opinion the Franchisee's participation in the Franchisor's initial training program pursuant to Sub-article 4.2 or the Franchisor's assessment training program pursuant to Sub-article 4.2 hereof discloses the Franchisee's or the Franchisee's key employees' inability to adequately manage and operate the Subject Restaurant. If such event of default leads to termination of this Agreement, the Franchisor shall retain the non-refundable Franchise Fee referred to in Sub-article 3.1;
- (b) if construction at the Subject Restaurant is not completed at the Subject Restaurant within eighteen (18) months of the date of the Franchise Agreement;
- (c) if the Franchisee or the Franchisee's estate, as the case may be, sells, transfers, assigns, pledges, encumbers, mortgages or otherwise deal with any right, title

or interest in this Agreement in contravention of the provisions set forth in this Agreement, including, but not limited to, Articles 12 and 13;

- (d) if the Franchisee, Designated Operator or Guarantor, if an individual, should die, or, become legally incapacitated in a manner which will continue for a period of six months or longer; provided that, subject to the restrictions set out in Article 12, the legal representatives shall have a period of ninety (90) days from the date of death or legal incapacity within which to submit an application for consent to assignment to a third party, which consent the Franchisor shall not unreasonably withhold. The provisions in this Sub-article 14.4(e) shall also apply in the event of the death or legal incapacity of a person holding 50% or more of the securities or other interests with voting rights in the Franchisee if the Franchisee is a firm, association, syndicate, company, corporation, partnership, joint venture or other entity;
- (e) if an order is made or an effective resolution passed for the winding-up of the Franchisee other than for the purpose of a bona fide re-organization which has had the prior written approval of the Franchisor;
- (f) if this Agreement or any of the goods and chattels of the Franchisee be at any time seized or taken in execution or in attachment by any creditor of the Franchisee, or if the Franchisee, Designated Operator or the Guarantor become insolvent or makes an assignment in bankruptcy for the benefit of creditors, or if a petition is filed under bankruptcy legislation against the Franchisee, Designated Operator or the Guarantor (which is not immediately *bona fide* contested by the Franchisee, Designated Operator or the Guarantor, as the case may be), or any authorized assignment is made or a receiver appointed under bankruptcy legislation or any other legislation or pursuant to any agreement (which is not immediately *bona fide* contested by the Franchisee, Designated Operator or the Guarantor, as the case may be), or if a proposal is made by the Franchisee, Designated Operator or the Guarantor to its creditors under bankruptcy legislation or other similar legislation, or if the Franchisee, Designated Operator or the Guarantor commits any act of bankruptcy, or if the Franchisee, Designated Operator or the Guarantor takes the benefit of any legislation now or hereafter in force for bankrupt or insolvent debtors;
- (g) if the Franchisee, Designated Operator or Guarantor approves proceedings for its dissolution or liquidation or amalgamation (or takes *or threatens* to take any action to liquidate its assets), other than for the purpose of a *bona fide* re-organization in circumstances where persons approved by the Franchisor to control, directly or indirectly, such entity at the time this Agreement was entered into, or as subsequently approved pursuant to Article 13, retain control;
- (h) if a distress or execution against any of the undertaking, business, property or assets of either the Franchisee, Designated Operator or the Guarantor shall not be discharged, varied or stayed within twenty (20) days after the entry thereof

or within such time period as action must be taken in order to discharge, vary or stay the distress or execution, whichever shall be the earlier;

- (i) if the Franchisee fails to observe or perform any of the rules, bulletins, directives or other notices set forth in the Manuals or sent directly to the Franchisee by the Franchisor and any such failure to observe or perform same shall continue for a period of ten (10) days after written notice thereof has been given to the Franchisee;
- (j) if the Franchisee fails to observe or perform any of the terms and conditions of any liquor licence, or other instruments under which the Franchisee has acquired the right to sell alcoholic beverages at the Subject Restaurant, and such right has been revoked or suspended by a cumulative total of thirty (30) days over any five (5) year period;
- (k) if the Franchisee threatens to cease to carry on business at the Subject Restaurant or ceases to carry on business at the Subject Restaurant;
- (l) if the Franchisee wilfully, negligently or fraudulently misrepresents any fact, condition or report required to be made to the Franchisor hereunder;
- (m) if the Franchisee understates Gross Sales by more than three (3%) percent on one or more Gross Sales reports;
- (n) if the Franchisee is not promptly paying its employees' source deductions in full for any given reporting period;
- (o) if the Franchisee or any of its principals or shareholders is charged with an offence under the *Criminal Code* of Canada;
- (p) if the Franchisee is charged with a regulatory offence as a direct or indirect result of the manner in which it carries out its business in or through the Subject Restaurant;
- (q) if final judgment for the payment of money in any amount in excess of ten thousand dollars (\$10,000.00) shall be rendered by any court of competent jurisdiction against either the Franchisee, Designated Operator or the Guarantor and such judgment is not satisfied, discharged, varied or execution thereof stayed within twenty (20) days after entry thereof or within such time period as action must be taken in order to discharge, vary or stay execution of the judgment, whichever shall be the earlier;
- (r) if Franchisee or the Guarantor fails to pay as and when due any sums required to be paid by the Franchisee (or the Guarantor), including, but not limited to, sums required to be paid by the Franchisee for any equipment, personal property, products, merchandise, food or beverages used or sold in the operation of the Subject Restaurant;

- (s) if the Franchisee stops making payments in the usual course of business;
- (t) if the Franchisee defaults in any loan obligation in which the chattels of the Subject Restaurant are pledged as security;
- (u) if the Franchisee fails to observe or perform any of the non-monetary terms and conditions of any lease, sub-lease, this Agreement, or other instruments under which the Franchisee has acquired the right to occupy the Subject Restaurant;
- (v) if there is a default pursuant to Sub-article 17.2 (Cross Defaults);
- (w) if the Franchisee fails to observe or perform any of the monetary terms and conditions (including, but not limited to, the payment of rent monies), of the Lease, Sublease, or other instruments under which the Franchisee has acquired the right to occupy the Subject Restaurant ("Rent Default"); or
- (x) if Franchisee or the Guarantor fails to observe, perform or pay as and when due any sums required to be paid by the Franchisee (or the Guarantor) hereunder, including, but not limited to, Franchise Fee, Royalty Fees, and Marketing Contribution ("Monetary Default").
- (y) if the Designated Operator is removed, resigns, withdraws, or is terminated from his/her responsibilities as Designated Operator without a newly appointed designated operator being appointed in accordance with the terms of this Agreement, including executing an assumption and appointment agreement and obtaining the written approval of the Franchisor as set out in Sub-article 13.4; or
- (z) if the Franchisee incurs a change of control as defined in Sub-article 13.1 without obtaining the Franchisor's prior written approval as set out in Sub-article 13.1.

14.4.1.1 **Material Default** For the purposes of Sub-article 14.5, an event of default under Sub-article 14.4(y) and Sub-article 14.4(z) shall constitute a "Material Default".

14.4.1.2 **Monetary Default** For the purpose of Sub-article 14.5, an event of default under Sub-articles 14.4 (n), (r), (s), (t) and (x) shall constitute a "Monetary Default".

14.4.2 **Non-Monetary Default** For the purposes of Sub-article 14.5, an event of default under Sub-articles 14.4(a) through to Sub-article 14.4(m), Sub-articles 14.4(o) through to Sub-article 14.4(q) and Sub-articles 14.4(u) and (v) shall constitute a "Non-Monetary Default".

14.4.3 **Accelerated Payment**

- (a) **Rent Default** Notwithstanding Sub-article 14.5(d) herein, upon the occurrence of two (2) or more events of Rent Defaults during the Term, regardless of whether such Rent Defaults may have been cured, the Franchisor shall be entitled to recover from the

Franchisee the full amount of the then current month's rent in respect of the Subject Restaurant together with the next three (3) months' installments of rent, all of which shall accrue on a day to day basis and shall immediately become due and payable as accelerated rent.

- (b) Monetary Default – Royalty Fee Notwithstanding Sub-article 14.5(d) herein, upon the Franchisee's receipt of two (2) notices of default from the Franchisor during the Term in relation to unpaid Royalty Fees (the "Royalty Default Arrears"), the Franchisor shall be entitled to recover from the Franchisee the full amount of the Royalty Default Arrears, plus a monetary sum equal to the average weekly Royalty Fee of the previous four (4) weeks due and owing under this Agreement multiplied by twelve (12), which shall immediately become due and payable as an accelerated Royalty Fee. If the Subject Restaurant has not been in operation for more than four (4) weeks prior to the Franchisor exercising this right, the accelerated Royalty Fee shall be an amount equal to the last weekly Royalty Fee paid or owing by the Franchisee multiplied by twelve (12).
- (c) Monetary Default - Marketing Contribution Notwithstanding Sub-article 14.5(d) herein, upon the Franchisee's receipt of two (2) notices of default from the Franchisor during the Term, in relation to unpaid Marketing Contributions (the "Marketing Contribution Arrears"), the Franchisor shall be entitled to recover from the Franchisee the full amount of the Marketing Contribution Arrears, plus a monetary sum equal to the average weekly Marketing Contribution of the previous four (4) weeks due and owing under this Agreement multiplied by twelve (12), which shall immediately become due and payable as an accelerated Marketing Contribution. If the Subject Restaurant has not been in operation for more than four (4) weeks at prior to the Franchisor exercising this right, the accelerated Marketing Contribution shall be an amount equal to the last weekly Marketing Contribution paid or owing by the Franchisee multiplied by twelve (12).

14.5 Termination on Default

- (a) Non-Monetary Default Notwithstanding anything else to the contrary, if Franchisee fails to remedy any Non-Monetary Default within ten (10) business days after written notice thereof has been given to the Franchisee, then the Franchisor may terminate this Agreement by giving to the Franchisee written notice of such termination.
- (b) Monetary Default Notwithstanding anything else to the contrary, if Franchisee fails to remedy any Monetary Default within five (5) business days after written notice thereof has been given to the Franchisee, then the Franchisor may terminate this Agreement by giving to the Franchisee written notice of such termination.
- (c) Rent Default Notwithstanding anything else to the contrary, if Franchisee fails to remedy any Rent Default within two (2) business days after written notice thereof has been given to the Franchisee, then the Franchisor may terminate this Agreement by giving to the Franchisee written notice of such termination.

- (d) Default on more than three Occasions If on more than three (3) occasions during the Term the Franchisee receives written notices of Non-Monetary Default, Monetary Default, Rent Default or any combination thereof from the Franchisor, notwithstanding that such above-referenced defaults may have been cured, then the Franchisor may in its sole discretion terminate this Agreement by giving to the Franchisee written notice of such termination.
- (e) Material Default Notwithstanding anything else to the contrary, if the Franchisee fails to forthwith remedy any Material Default, the Franchisor may, in its sole discretion, immediately terminate this Agreement by providing the Franchisee with written notice of such termination in accordance with Sub-article 18.1.
- (f) Interruption or Cessation If, without the Franchisor's consent:
- (i) the Franchisee ceases to do business at the Subject Restaurant for more than three (3) consecutive days or for more than fourteen (14) days in any thirty (30) consecutive day period (except for breakdowns of equipment, or for repairs, renovations or redecoration); or
 - (ii) if the Subject Restaurant is used by any person or entity other than such as are entitled to use same pursuant to the terms of this Agreement; or
 - (iii) if the Franchisee fails to notify Franchisor of any default notices for the Subject Restaurant, including, but not limited to, default notices from government authorities, the Landlord in relation to the Lease, utility service providers, or liquor board/commission, etc.; or
 - (iv) the Franchisee fails within two (2) business days following receipt of notice, to remedy any default under the Lease or Sublease for the Subject Restaurant which could lead to its termination; or
 - (v) the Franchisee otherwise forfeits the right or loses the right to do or transact business in the jurisdiction where the Subject Restaurant is located;

this Agreement may be terminated at the option of the Franchisor in its sole discretion, and the Franchisor shall be released from all obligations hereunder.

If, however, the Franchisee fails to do business or loses possession of the Subject Restaurant as a result of a situation of "force majeure" then this Agreement shall not be terminated for that reason if within sixty (60) days after the occurrence the Franchisee applies for approval to relocate for the remainder of the term hereof to other Premises within the Trading Area, or to rebuild the Subject Restaurant (which approval shall not be unreasonably withheld), but failing all of which this Agreement may be terminated at the option of the Franchisor in its sole discretion, on seven days' written notice thereafter, and the Franchisor shall be released from all obligations hereunder as aforesaid.

In the event that the Franchisee elects to rebuild the Subject Restaurant, construction thereof must be completed and the Subject Restaurant opened for business within two hundred and seventy (270) days from the date of occurrence of the event of "force majeure", failing which this Agreement may be terminated by the Franchisor in its sole discretion at any time after the expiry of such two hundred and seventy (270) day period and the Franchisor shall be released from all obligations hereunder.

- (g) Termination of Lease or Sublease In the event the Franchisor terminates this Agreement, the Sublease shall be deemed to be terminated on the same date as the termination of this Agreement. In the event the Sublease or Lease is terminated, this Agreement shall be deemed to be terminated on the same date as the termination of the Sublease or the Lease, as the case may be.
- (h) Extension of Time Wherever in this Agreement there is a specific period prescribed for the curing of any event of default, the period of time within which the Franchisee or the Guarantor may cure such default may be extended by the Franchisor, at its sole option and in its sole discretion, to such longer period of time as the Franchisor deems reasonable or necessary, provided always that the Franchisee or Guarantor, as the case may be, must demonstrate to the satisfaction of the Franchisor that it has undertaken steps to cure the default within the notice period and proceeds diligently to cure any such breach or default.

14.6 Meaning of Force Majeure For the purposes of this Agreement "force majeure" shall mean any event or events such as strikes, labour troubles, inability to procure materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, acts of terrorism, acts of God, outbreaks of disease, accident, fire or other casualty, expropriation or the exercise of eminent domain, or any other event or matter of a similar nature beyond the reasonable control of the Franchisee causing a bona fide delay or hindrance in the performance or discharge of an obligation of the Franchisee hereunder, but excluding events brought about by any financial failure of the Franchisee. Force majeure shall not include the situation where any head lease respecting the lands and Premises on which the Subject Restaurant is located has expired or been terminated by reason of affluxion of time or otherwise.

14.7 Additional Termination Rights At any time during the term of this Agreement (including any extension or continuation hereof) the Franchisor at its sole option and in its sole discretion may terminate this Agreement if the Franchisee deliberately and persistently engages in a course of action in the operation of the Subject Restaurant which damages or could damage the business being conducted therein or reflect adversely on the goodwill of the Franchisor connected with the operation of Moxie's Restaurants. This option may be exercised even if any prior default(s) have been cured by the Franchisee. This option may be exercised only after the Franchisee has been given written notice by the Franchisor that it intends to exercise the same on the occurrence of the next default of a similar or dissimilar nature. The Franchisee must immediately report to the Franchisor any acts, whether within or outside of the control of the Franchisee, that could damage the business being conducted therein or reflect adversely on the goodwill of the Franchisor connected with the operation of Moxie's Restaurants.

14.8 **Effect of Termination** On the termination of this Agreement:

- (a) all rights and privileges granted to the Franchisee hereunder shall immediately cease and determine;
- (b) the Franchisee shall immediately cease to operate the restaurant as a Moxie's Restaurant and shall not thereafter, directly or indirectly, represent to the public that the restaurant is a licensed Moxie's Restaurant, or hold himself or itself out as a present or former licensee/franchisee of the Franchisor;
- (c) the Franchisee shall not thereafter in any way whatsoever directly or indirectly use any of the products, supplies, plans, specifications, materials, layouts, trade-marks, trade-names, accounting procedures, methods of operation, signs, advertising materials or other materials or things associated with the Franchisor or a Moxie's Restaurant that were granted to the Franchisee or made available to the Franchisee by the Franchisor under this Agreement;
- (d) if so requested by the Franchisor at its sole option, the Franchisee shall at its expense make such modifications and alterations, to the interior and exterior of the Subject Restaurant, including removal of all signs and advertising materials, as necessary to protect the Franchisor's trade-marks, trade-names, distinctive building design, layout and related matters as the Franchisor may reasonably require such that any business to be carried on thereafter does not appear to be a Moxie's Restaurant. Should the Franchisee fail to comply with the foregoing requirements, the Franchisor may enter on the Subject Restaurant, and in so doing shall not be guilty of trespass, and itself make or do such of the foregoing not attended to within ten (10) days of the foregoing request of the Franchisor and shall be entitled to recovery of its costs and expenses of so doing from the Franchisee forthwith on demand, plus an administration fee of fifteen percent (15%) of such amount;
- (e) the Franchisee shall promptly pay all sums owing to the Franchisor. In the event of termination for any default of the Franchisee and provided that such default arose as a result of conditions over which the Franchisee had control, such sums shall include all damages, costs and expenses, including reasonable solicitors' fees, charges and disbursements (on an as between a solicitor and his own client basis), incurred by the Franchisor as a result of the default, which obligation shall give rise to and remain, until paid in full, a lien in favour of the Franchisor against any and all of the inventory, supplies, personal property, machinery, fixtures and equipment owned by the Franchisee and on or in the Subject Restaurant at the time of default;
- (f) the Franchisee shall pay to the Franchisor all damages, costs and expenses, including reasonable legal counsel's fees (on an as between a solicitor and his own client basis), incurred by the Franchisor subsequent to the termination or expiration of this Agreement in successfully obtaining injunctive or other relief for the enforcement of any continuing restrictive provisions of this Agreement and in any successful collection action(s);

- (g) Subject to Sub-article 7.1 regarding financial records of the Franchisee, the Franchisee shall immediately turn over to the Franchisor all Manuals, records, files, instructions, correspondence and any and all other materials relating to the operation of the Subject Restaurant in the Franchisee's possession or control, and all copies thereof (all of which are acknowledged to be the Franchisor's property), including electronic and hard copies, and shall retain no copy or record of any of the foregoing and destroy any electronic copies of same, excepting only the Franchisee's copy of this Agreement and of any correspondence between the parties, and any other documents which the Franchisee reasonably needs for compliance with any provision of law;
- (h) the Franchisor shall have the right (but not the obligation), to be exercised by notice of intent to do so within fifteen (15) days after termination or expiration, to purchase any or all marketing material (including without limitation advertising and promotional material), inventory, and any and all menus or other items bearing the Franchisor's trade-marks or tradenames, at the cost price thereof or the fair market value thereof, whichever is less. The Franchisor shall also have the right (but not the obligation) to be exercised by notice of intent to do so within thirty (30) days after termination or expiration, to purchase any pylon or fascia signs required to be removed from the Subject Restaurant pursuant to Sub-article 14.8(d) at the straight line depreciated cost price thereof (based on the appropriate amortization period determined in accordance with generally accepted accounting principles) or the fair market value thereof, whichever is less. If the parties cannot agree on fair market value within a reasonable time, the matter shall be determined by arbitration in accordance with the arbitration legislation in the jurisdiction in which the Subject Restaurant is located. If the Franchisor elects to exercise any option to purchase herein provided, it shall have the right to set off all amounts due from the Franchisee under this Agreement against any payment therefor; and
- (i) the Franchisee and the Guarantor shall comply with all covenants of this Agreement expressed to continue to apply after expiry or termination.

14.9 Option to Acquire

- (a) The Franchisee hereby grants to the Franchisor an option (but not an obligation), to acquire from the Franchisee all right, title, and interest that the Franchisee has in all or any portion of the chattels, fixtures, equipment, furniture, smallwares, inventories, or other tangible assets located on, in or used at the Subject Restaurant or used in connection therewith, (the "Franchisee's Assets") in relation to the Subject Restaurant (the "Option to Purchase").
- (b) The Option to Purchase is exercisable in the event that this Agreement is terminated for any reason whatsoever or expires and is not extended or replaced by a further franchise agreement respecting the Subject Restaurant.

- (c) In the event that the Premises are leased directly to the Franchisee, the Franchisor shall, subject to the approval of the Landlord (if required), have the automatic right (but not the obligation) to assume all of the Franchisee's right, title, and interest under the Lease for the Subject Restaurant.
- (d) In the event the Franchisor wishes to exercise the Option to Purchase herein granted, it shall within thirty (30) days of termination or expiration of this Agreement deliver to the Franchisee a written notice (the "Notice of Exercise of Option to Purchase").
- (e) Upon the foregoing Option to Purchase being exercised as provided for herein, a binding agreement for the purchase and sale of the Franchisee's Assets shall be formed between the Franchisor and the Franchisee on the terms and conditions as contained in this Sub-article 14.9.
- (f) Should the Franchisor deliver a Notice of Exercise of Option to Purchase, it shall be entitled to immediately thereafter enter on and take possession of the Subject Restaurant and the Franchisee's Assets and on its own account operate the Moxie's Restaurant business therein without interference from the Franchisee.
- (g) If the Franchisor should enter on and take possession of the Subject Restaurant and the Franchisee's Assets as aforesaid, then the Franchisee and the Guarantor(s) shall remain liable for and indemnify and save the Franchisor harmless from all losses, costs, damages and expenses resultant therefrom arising prior to the time that the Franchisor enters on and takes possession.
- (h) Subject to the provisions herein, in the event that this Agreement is terminated due to a uncured Default by the Franchisee, the purchase price (the "Termination Purchase Price") to be paid pursuant to the Option to Purchase the Franchisee's Assets shall be an amount equal to the lesser of:
 - (i) the depreciated book value defined by generally accepted accounting principles (GAAP) or any applicable replacement/successor standard designation;
 - (ii) the undepreciated capital cost (UCC) as shown in the most recent corporate income tax return of the Franchisee; and
 - (iii) seventy percent (70%) of the actual cost to the Franchisee of the Franchisee's Assets.
- (i) Subject to the provisions herein, in the event that this Agreement expires and is not terminated due to an uncured Default, the purchase price (the "Expiry Purchase Price") to be paid pursuant to the Option to Purchase the Franchisee's Assets shall be an amount equal to the fair market value of the Franchisee's Assets.

- (j) The following amounts shall be deducted from the Termination Purchase Price or the Expiry Purchase Price, as follows:
- (i) all proper business liabilities in relation to the Subject Restaurant assumed by the Franchisor as at the date the said purchase is completed;
 - (ii) any leasehold interest;
 - (iii) any monies and/or amount(s) outstanding to be paid by the Franchisee to the Franchisor (including without limitation any withholding of any rebates, allowances or other monies in accordance with Sub-article 14.11);
 - (iv) any adjustment to the Purchase Price with respect to the condition or state of repair of such assets; and
 - (v) any adjustment to the Purchase Price with respect to any rents that are in arrears under the Lease.

The amounts offset under Sub-article 14.9(j)(i) through to Sub-article 14.9(j)(v) inclusive shall constitute a "Deduction".

- (k) No value shall be attributed to any intangibles, including but not limited to, goodwill, trade marks, trade names, licenses, permits and permissions of the Moxie's Restaurant business formerly carried on by the Franchisee in the Subject Restaurant nor for any interest in the Lease.
- (l) In the event of a dispute or disagreement as to the interpretation and application of Sub-article 14.9, or, in the event the Termination Purchase Price, Expiry Purchase Price and/or the Deductions cannot be agreed to by the Franchisor and Franchisee acting reasonably and in good faith, within twenty-one (21) days following delivery of the Notice of Exercise of the Option to Purchase this matter shall be referred to a single arbitrator, to be mutually agreed upon by the parties, in the manner set out below.
- (m) If the parties can not settle upon an arbitrator (who shall be qualified by education, experience and training to make the relevant determination) within fourteen (14) days after delivery of written notice from either party to the other proposing a suggested arbitrator, then either party may apply to a court of competent jurisdiction for the appointment of a single arbitrator pursuant to the relevant arbitration legislation in the Province in which the Subject Restaurant is situated, and such determination by the said arbitrator shall be final and binding on the parties.
- (n) The purchase and sale contemplated and effected by the Notice of Exercise of Option to Purchase shall close thirty (30) days after the Termination Purchase

Price or the Expiry Purchase Price and the Deductions have been agreed to by the parties or finally determined by arbitration (as provided herein), which closing shall take place at the offices of the Franchisor no later than 2:00 p.m. on that date or, at such other time and/or place as to agreed to by the parties.

- (o) At the closing, the Termination Purchase Price or the Expiry Purchase Price less all Deductions shall be paid by way of cash or certified cheque upon confirmation of the Landlord's consent to the assignment of the Lease and of receipt and registration (as required) of all transfer documents effecting the sale of Franchisee's Assets by the Franchisee to the Franchisor, which transferred Franchisee's Assets shall be free and clear of all liens, charges and encumbrances whatsoever.

14.10 Additional Remedies The Franchisee expressly consents and agrees that, in addition to any other remedies the Franchisor may have at law, in equity or under this Agreement, in the event the Franchisee fails to cure an event of default by the expiration of the period provided for the remedying of such default, the Franchisor may obtain an injunction and/or appointment of a receiver which term includes a receiver and manager of the Subject Restaurant to terminate or prevent the continuation of any existing default, or to prevent the occurrence of any threatened further events of default by the Franchisee of this Agreement.

14.11 Withholding of Monies Due In addition to and not in substitution for any of the Franchisor's remedies contained in this Agreement, at law or in equity, in the event of a default by the Franchisee in its performance of any of its obligations set out in this Agreement, the Franchisor may, in its sole and unfettered discretion, as liquidated damages and not as a penalty, withhold and use for itself or for any other purpose in its sole discretion, all or any part of any rebates, allowances or other monies ordinarily payable by the Franchisor to the Franchisee pursuant to this Agreement or any Other Agreement, as defined in Sub-article 17.2 herein between the Franchisee or Franchisee Affiliate and the Franchisor or the Franchisor's Affiliates as franchisor, as defined in Sub-article 17.2 herein, including without limitation, in relation to other companies and brands, and may set off against such rebates, allowances or other monies any amounts due and owing to the Franchisor by the Franchisee and remaining unpaid.

14.12 Protection of Franchisor's Interest It is acknowledged that the Franchisor has an interest in preserving the operation of each Moxie's Restaurant once opened such that the public does not perceive rightly or wrongly that a particular restaurant has not been successful and further so as to retain its reputation and goodwill associated with such restaurant. The Franchisor also has an interest in establishing as many Moxie's Restaurants as practicable in order to increase the public awareness and acceptance generally of Moxie's Restaurants and the products sold therein. Recognizing the foregoing, the Franchisor has insisted on, and the Franchisee has agreed to, the provisions contained in Sub-articles 4.1 through to Sub-article 4.9 inclusive, Sub-articles 5.1 through to Sub-article 5.9 inclusive, 6.1, 8.8, 13.1, 13.4, 14.11, and 14.13.

14.13 Consistent Treatment The Franchisor agrees that in the enforcement of its rights under this Agreement it will act in a manner consistent with its standards of quality of product and

services in effect from time to time generally and consistently applied to other licensees/franchisees of Moxie's Restaurants, subject to the provisions of the applicable franchise agreements.

14.14 Failure to Act Not to Affect Rights The failure of the Franchisor to exercise any rights or remedies to which it is entitled upon the happening of any of the events referred to in this Agreement, including, but not limited to, Article 14 hereof, shall not be deemed to be a waiver of or otherwise affect, impair or prevent the Franchisor from exercising any rights or remedies to which it may be entitled, arising either from the happening of any such event, or as a result of the subsequent happening of the same or any other event or events provided for in this Agreement, including, but not limited to those set out above. The acceptance by the Franchisor of any amount payable by or for the account of the Franchisee under this Agreement after the happening of any event provided for in this Agreement, including, but not limited to Sub-article 14.4 and Sub-article 14.5(e) above, shall not be deemed to be a waiver by the Franchisor of any rights and remedies to which it may be entitled, regardless of the Franchisor's knowledge of the happening of such preceding event at the time of acceptance of such payment. No waiver of the happening of any event in this Agreement, including, but not limited to, under Sub-article 14.4 and Sub-article 14.5(e) above shall be deemed to be waived by the Franchisor unless such waiver shall be in writing.

14.15 Liquidated Damages In addition to all other provisions provided for in this Agreement, in the event the Franchisee fails to perform its obligations under this Agreement resulting in a termination of the Agreement, then the Franchisee will pay to the Franchisor a monetary sum equal to: (i) the sum of the Royalty Fees paid by the Franchisee during the eighteen (18) months preceding the termination, or (ii) if the Franchisee has not paid Royalty Fees for the full eighteen (18) months preceding the termination, the Franchisee will pay a monetary sum equal to the average weekly Royalty Fees due and owing under this Agreement multiplied by 4.3 weeks, and then multiplied by eighteen (18) months. The Franchisee and the Franchisor acknowledge and agree that the above amounts are a reasonable and fair payment in relation to any loss, damages, or expenses suffered or incurred by the Franchisor arising from the failure of the Franchisee to perform its obligations under this Agreement and that the above amounts shall be (i) paid as liquidated and ascertained damages and not as a penalty, (ii) shall be without prejudice to any of the Franchisor's other rights or remedies hereunder or in equity or at law, and (iii) shall be in addition to all other costs allowed under this Agreement, including, but not limited to, legal counsel's fees, charges and disbursement as stated in Sub-articles 14.1, 14.2(a), 14.2(b) 14.3, 14.8(d), 14.8(e), 14.8(f), 14.9.

ARTICLE 15 WAIVER-CUMULATIVE RIGHTS

15.1 Non-Waiver The failure of the Franchisor to insist upon strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that the Franchisor may have and shall not be deemed a consent, acquiescence or waiver of any subsequent breach or default in respect of any such agreement, terms, covenants and conditions whether of the same or a different character. No waiver shall be effective unless in writing signed by the Franchisor, and in each case such waiver shall relate solely to the rights as against the Franchisee with respect to a single occurrence and shall not operate as a waiver of any of the Franchisor's rights respecting any re-occurrence.

15.2 **Rights Cumulative** No right or remedy conferred upon or reserved to the Franchisor by this Agreement or the Lease, if any, is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy. Nothing herein shall bar the Franchisor's right to obtain injunctive relief against threatened conduct that may cause it loss or damage, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

15.3 **Rights Preserved on Transfer** The Franchisor's consent to a transfer or assignment of this Agreement shall not constitute a waiver of any claims it may have against the transferor Franchisee, nor shall it be deemed a waiver of the Franchisor's right to demand exact compliance with any of the terms of this Agreement by the transferee Franchisee.

ARTICLE 16 RIGHT OF FIRST REFUSAL TO PURCHASE

16.1 **Franchisor's Right of Purchase** If the Franchisee shall receive a bona fide offer to purchase the Subject Restaurant, or the business conducted therein, which it or he intends to accept (which shall be deemed to include any kind of transfer, assignment or change in control including but not limited to those defined in Article 12 and Article 13 of this Agreement), the Franchisee shall first serve the Franchisor with a written copy of the terms thereof, and the Franchisor shall have the option, within 30 days of receipt of such copy, of submitting an offer to purchase the assets, shares or units (as the case may be) of the Franchisee, containing substantially similar terms, and the offer submitted by the Franchisor shall be accepted and a binding agreement of purchase and sale in form and substance acceptable to the Franchisor shall be entered into. It is specifically understood and agreed that if the Franchisor should not submit such an offer the provisions of Articles 12 and 13 continue to apply.

ARTICLE 17 WARRANTIES AND CROSS-DEFAULTS

17.1 **Agreements on Franchise** This Agreement contains the agreement between the parties relating to the Subject Restaurant and no prior warranties or representations, collateral or otherwise, prior stipulations, agreements or understandings, verbal or otherwise, shall be valid or enforceable unless embodied in this Agreement.

17.2 **Cross Defaults** Should the Franchisee, Guarantor, or Designated Operator or any of the Franchisee's associated, affiliated, subsidiary, controlling or controlled entity, or its or their holding entity, or its principals or partners (collectively referred to as "Franchisee Affiliate"), be a licensee/franchisee, lessee or sublessee pursuant to another license/franchise, lease or sublease agreement (the "Other Agreement") with the Franchisor or any of the Franchisor's associated, affiliated, subsidiary, controlling or controlled entity, or its or their holding entity, or its principals or partners, including without limitation other companies and brands (collectively referred to as "Franchisor Affiliate"), an event of default under this Agreement shall, at the sole option of the Franchisor, constitute an event of default under such Other Agreement and vice versa, with like remedies available to the Franchisor and/or Franchisor Affiliate and should such Other Agreement be terminated or cease to be valid, binding and in full force and effect for any reason (other than the

expiration thereof in the ordinary course) this Agreement shall, at the sole option of the Franchisor, be forthwith surrendered by the Franchisee and terminated, and likewise should this Agreement be terminated or cease to be valid, binding and in full force and effect for any reason (other than the expiration hereof in the ordinary course), the Other Agreement shall, at the sole option of the Franchisor, be forthwith surrendered by the franchisee and terminated (the "Cross Default").

In addition to Cross Default and any other remedies available to the Franchisor under this Agreement, at law or in equity, in the event of a Monetary Default or a Rent Default under this Agreement, the Franchisor may, at its sole option, increase the Royalty Fee to be paid to the Franchisor under any Other Agreement of the Franchisee or any Franchisor Affiliate by up to an additional five percent (5%) of gross sales at the sole discretion of the Franchisor of such franchises as determined in accordance with such licences, franchise agreements, or Other Agreement and such increase shall remain in effect until the Monetary Default has been paid in full, including interest, or until the Rent Default has been cured, as applicable. It is expressly agreed that the foregoing increase in Royalty Fees shall apply as liquidated compensation for lost revenue to the Franchisor and not as a penalty.

ARTICLE 18 NOTICES

18.1 Notice to Franchisee or Guarantor Any notice, request, demand or other communication provided for hereunder, to be given to the Franchisee or the Guarantor, shall be in writing and shall be sufficiently given if delivered by personal hand delivery or by courier, mailed by prepaid registered mail, addressed as follows, as the case may require:

If to the Franchisee:

MCG Restaurants Ltd.
Attention: Robert Morris/Philip Clarke
#100, 10335 172 Street, Edmonton, AB T5S 1K9
Facsimile Number: 780-444-5978

If to the Guarantor:

Robert Morris
#100, 10335 172 Street, Edmonton, AB T5S 1K9
Facsimile Number: 780-444-5978

Phillip Clarke
#100, 10335 172 Street, Edmonton, AB T5S 1K9
Facsimile Number: 780-444-5978

18.2 Notice to Franchisor Any notice, request, demand or other communication herein provided for hereunder if given to the Franchisor shall be in writing and shall be sufficiently given if delivered by personal hand delivery or by courier, mailed by prepaid registered mail, addressed as follows:

MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP
Home Office
31 Hopewell Way N.E.
Calgary, Alberta T3J 4V7

Attention: President
Facsimile Number: (403) 543 - 2646

with a copy to:

NORTHLAND PROPERTIES CORPORATION
Suite 310, 1755 West Broadway
Vancouver, B.C. V6J 4S5

Attention: General Counsel
Facsimile Number: (604) 730 - 4645

18.3 **Notice Effective** Any notice, request, demand or other communication shall be conclusively deemed to have been given on the third business day after it was mailed by prepaid registered mail, or, in the event of personal hand delivery or courier, on the date such notice is delivered to the address specified herein and is left with the named individual or a person who appears to have management or control responsibilities with respect to the addressee. Any of the parties hereto may at any time give notice in writing to the other or others in accordance with the method of delivery provided for herein, of any change in address or other information for notice and from and after the giving of such notice, the changes therein specified shall be deemed to apply for the giving of notices herein.

ARTICLE 19 MISCELLANEOUS

19.1 **Additional Policy Matters** All questions of policy, including but not limited to marketing, distribution, use, merchandising and sale of the Moxie's brand and products, not specifically covered by this Agreement or about which there may be difference of opinion or disagreement between the parties shall be resolved and determined by the Franchisor in its sole discretion. This principle is to be recognized in the construction and interpretation of this Agreement and in resolving questions respecting the various matters mentioned in this Agreement, unless otherwise specified.

19.2 **Severability** If any covenant or other provision of this Agreement is invalid, illegal or incapable of being enforced by reason of any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision shall be deemed dependent upon any other covenant or provision unless so expressed herein.

19.3 **English Language** If any statute, law, order, rule or regulation requires that the parties specifically acknowledge and consent that this Agreement be prepared in the English language, the parties covenant and agree that the following provisions shall apply:

The parties have requested that this Agreement and related documents be drafted in English, that any notice to be given hereunder or thereunder be given in English, and that any proceeding between the parties relating to this Agreement or related documents be drafted in English.

Les parties aux presentes ont exige que cette convention et les autres documents qui s'y rapportent soient rediges en Anglais et que tous les avis a etre donnes soient rediges en Anglais, et que toutes procedures entre les parties soient redigees en Anglais.

19.4 **Time of Essence** Time is of the essence of this Agreement.

19.5 **No Recording** It is agreed by and between the parties that this Agreement shall not be recorded by the Franchisee or any party acting on its behalf and registration of this Agreement by the Franchisee shall constitute a default hereunder.

19.6 **Franchisor Discretion** Unless otherwise specified herein, whenever the approval of the Franchisor is required or wherever the discretion of the Franchisor may be exercised, such approval or discretion may not be withheld or exercised arbitrarily.

19.7 **Guarantor Matters** Any obligation or covenant of the Guarantor hereunder shall be deemed to be a joint and several obligation or covenant of all of the persons comprising the Guarantor.

19.8 **Enurement** This Agreement and everything herein contained shall, subject to the terms of this Agreement, extend to and bind and enure to the benefit of the respective heirs, executors, administrators, successors and permitted assigns (as the case may be) of each and every one of the parties hereto.

19.9 **Conflict of Terms** In the event of any conflict between the terms of this Agreement and the terms of the head lease, the Franchisee shall act in accordance with the stricter of such terms.

19.10 **Entire Agreement** This Agreement contains the entire agreement between the parties and no representations, promises, guarantees, contracts or other agreements not contained herein shall be binding upon or enforceable against, the parties hereto. Further, no amendment, waiver, or other alteration to the terms hereof shall be binding upon the parties unless in writing signed by all parties hereto.

19.11 **Execution** This agreement may be executed in counterparts with the same effect as if the parties hereto had signed the same document. All counterparts and adopting instruments shall be construed together and shall constitute one and the same agreement. Any signed

counterpart of this agreement may be delivered by facsimile or other electronic transmission, including without limitation, email, with the same legal force and effect as delivery of an originally signed document.

ARTICLE 20 GUARANTOR'S COVENANTS

20.1 **Guarantee and Indemnity** In consideration of the Franchisor entering into this Agreement with the Franchisee and in consideration of the sum of two dollars (\$2.00) and other good and valuable consideration, (the receipt and sufficiency whereof is hereby acknowledged by the Guarantor) the Guarantor hereby unconditionally guarantees to the Franchisor that the Franchisee will pay all amounts to be paid and otherwise observe and perform all terms and conditions to be so observed and performed, either in this Agreement, and/or any lease, sublease or other instrument under which the right to occupy the Premises has been obtained (the said lease, sublease, and any other said instrument to be hereinafter referred to individually and collectively as the "Lease Instrument"). If the Franchisee shall default in making any such payments or in the observance or performance of any such obligations, the Guarantor hereby covenants and agrees to pay to the Franchisor forthwith upon demand all amounts not so paid by the Franchisee and all damages that may arise in consequence of any such non-observance or non-performance.

Without in any way restricting or limiting the guarantee given by the Guarantor as set out above or any other rights and remedies to which the Franchisor may be entitled, the Guarantor hereby covenants and agrees to indemnify and save the Franchisor harmless against any and all liabilities, losses, suits, claims, demands, costs, fines and actions of any kind or nature whatsoever to which the Franchisor shall or may become liable for, or suffer, by reason of any breach, violation or non-performance by the Franchisee of any term, covenant, provision or condition of this agreement, the Lease Instrument or any other agreement made between the Franchisee and the Franchisor.

With respect to the guarantee and indemnification provided herein by the Guarantor, the Guarantor covenants and agrees to execute and deliver under separate instrument, at such time or times as the Franchisor may request, such forms of guarantee and/or indemnity evidencing its obligations under the provisions of this Article 20 as the Franchisor shall in its discretion determine.

If two or more individuals execute this Agreement as Guarantor, then the liability of each individual hereunder is joint and several.

20.2 **Waiver of Right to Proceed** In the enforcement of any of its rights against the Guarantor, the Franchisor may in its discretion proceed as if the Guarantor was the primary obligor under this Agreement, the Lease Instrument, or any other agreement made between the Franchisee and the Franchisor. The Guarantor hereby waives any right to require the Franchisor to proceed against the Franchisee or to proceed against or exhaust any security (if any) held by the Franchisor, or to pursue any other remedy whatsoever that may be available to the Franchisor before proceeding against the Guarantor.

20.3 **Any Dealings Binding on Guarantor** No dealings of whatsoever kind between the Franchisor and the Franchisee and/or any party from whom the right to occupy the Premises has been obtained and/or any other persons as the Franchisor may see fit, whether with or without

notice to the Guarantor, shall exonerate, release, discharge or in any way reduce the obligations of the Guarantor in whole or in part, and in particular, and without limiting the generality of the foregoing, the Franchisor may modify or amend this Agreement or the Lease Instrument, grant any indulgence, release, postponement or extension of time, waive any term or condition of this Agreement or the Lease Instrument or any obligation of the Franchisee, take or release any securities or other guarantees for the performance by the Franchisee of its obligations and otherwise deal with the Franchisee and/or any party from whom the right to occupy the Premises has been obtained and/or any other persons as the Franchisor may see fit without affecting, lessening or limiting in any way the liability of the Guarantor. The Guarantor hereby expressly waives notice of all or any non-performance, non-payment or non-observance or default on the part of the Franchisee of the terms, covenants, conditions and provisions of this Agreement.

20.4 Settlement Binding on Guarantor Any settlement made between the Franchisor and/or the Franchisee and/or any party from whom the right to occupy the Premises has been obtained and/or any other persons as the Franchisor may see fit to deal with, or any determination made pursuant to this Agreement or the Lease Instrument which is expressed to be binding upon the Franchisee, shall be binding upon the Guarantor.

20.5 Bankruptcy of the Franchisee Notwithstanding any receivership, appointment of a monitor or inspector, nor an assignment for the general benefit of creditors or any bankruptcy or any other act of insolvency by the Franchisee and notwithstanding any rejection, disaffirmance or disclaimer of this Agreement (including its agreement and covenant under this Article 20 and/or the Lease Instrument), the Guarantor shall continue to be fully liable hereunder and the Guarantor shall not be deemed to have been waived, released, discharged, impaired or affected by the release or discharge of the franchisee in any receivership, bankruptcy, winding-up or other creditors' proceedings or the rejection, disaffirmance or disclaimer of the Franchise Agreement in any proceeding.


20.6 Guarantor's Covenants Binding Without in any way limiting the generality of any other Article of this Agreement, the covenants and agreement of the Guarantor contained in this Article 20 shall enure to the benefit of and be binding upon the Guarantor and the heirs, executors, administrators, successors and assigns of the Guarantor.

20.7 Guarantor to be bound The Guarantor acknowledges reviewing all of the provisions of this Agreement and agrees to be bound by all of the provisions hereof insofar as applicable to the Guarantor, including without limitation, the provisions of 11.4, 11.5, 11.6, 11.7, 11.8, 14.8(i), 14.11 and Article 20, which, by his execution of this Agreement, the Guarantor covenants and agrees to abide by and be bound by.

20.8 Entire Agreement This Agreement sets forth the entire understanding of the parties as to the subject matter hereof and merges all prior discussions and agreements between them. Neither party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this Agreement other than as expressly provided for herein, or as is duly set forth subsequent to the date hereof and in writing signed by an authorized representative of the party to be bound thereby.

IN WITNESS WHEREOF the parties hereto have executed this Agreement under seal as of the day and year first written above.

**MOXIE'S RESTAURANTS, LIMITED
PARTNERSHIP** by its General Partner,
Moxie's Restaurants Management, Inc.

Per: 
Name: Robert Thomas Gaglardi
Title: Chief Executive Officer
I have the authority to bind the corporation.

MCG RESTAURANTS LTD.

Per: _____

Name: Philip Clarke
Title: President
I have the authority to bind the corporation.

Witness (signature)

Witness (print name)

Witness (signature)

Witness (print name)

Witness (signature)

Witness (print name)

Robert Morris Guarantor

Philip Clarke Guarantor

IN WITNESS WHEREOF the parties hereto have executed this Agreement under seal as of the day and year first written above.

**MOXIE'S RESTAURANTS, LIMITED
PARTNERSHIP by its General Partner,
Moxie's Restaurants Management, Inc.**

Per: _____
Name: Robert Thomas Gaglardi
Title: Chief Executive Officer
I have the authority to bind the corporation.

MCG RESTAURANTS LTD.

Per: Philip Clarke

Name: Philip Clarke
Title: President
I have the authority to bind the corporation.

[Signature]
Witness (signature)

Witness (print name) **DOUGLAS EVANCHUK**
Barrister and Solicitor

[Signature]
Witness (signature)

DOUGLAS EVANCHUK
Barrister and Solicitor
Witness (print name)

[Signature]
Witness (signature)

DOUGLAS EVANCHUK
Barrister and Solicitor
Witness (print name)

[Signature]
Robert Morris Guarantor

[Signature]
Philip Clarke Guarantor

AFFIDAVIT OF EXECUTION

CANADA)

PROVINCE OF ALBERTA)

TO WIT:)

THAT:)

I, Douglas I. Egan Gull

of the City of Edmonton, in the

Province of Alberta

MAKE OATH AND SAY

1. I am the witness to the signature of Robert Morris (the "signatory"), who did appear before me on March 28, 2014 and execute the attached document.
2. I was present and did see the signatory execute the attached.
3. I know the said signatory and know him to be the person named herein as signatory.

[or]

On the basis of identification presented to me by the signatory I believe the signatory to be the person named in the attached and whose signature I did witness.

4. I believe the signatory to be of at least the age of eighteen (18) years.

SWORN BEFORE ME this 28 day of
March, 2014, at the City of Edmonton
in the Province of Alberta


A Notary Public in and for the
Province of Alberta

)
)
)
)
)
)
)


Witness

THE GUARANTEES ACKNOWLEDGMENT ACT
CERTIFICATE OF NOTARY PUBLIC

I HEREBY CERTIFY THAT:

1. Rob Morris (Guarantor), of the City of Edmonton, in the Province of Alberta, the Guarantor in the guarantee dated the 14th day of March, 2014, made between MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP, ROB MORRIS and PHILIP CLARKE, which this certificate is attached to or noted upon, appeared in person before me and acknowledged that he had executed the guarantee.
2. I satisfied myself by examination of him that he is aware of the contents of the guarantee and understands it.

GIVEN at Edmonton, Alberta this 28th day of March, 2014, under my hand seal of office.

(SEAL)

DOUGLAS EVANCHUK
Barrister and Solicitor


A NOTARY PUBLIC IN AND FOR THE
PROVINCE OF ALBERTA

STATEMENT OF GUARANTOR

I am the person named in this certificate.


Name: Robert Morris (Guarantor)

AFFIDAVIT OF EXECUTION

CANADA)

PROVINCE OF ALBERTA)

TO WIT:)

THAT:)

I, Douglas T. Ewbank

of the City of Edmonton, in the

Province of Alberta

MAKE OATH AND SAY

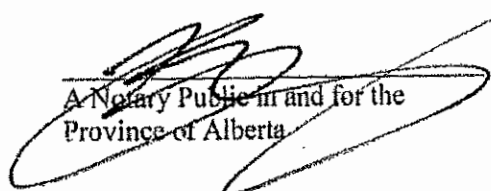
- 5. I am the witness to the signature of Philip Clarke (the "signatory"), who did appear before me on March 28, 2014 and execute the attached document.
- 6. I was present and did see the signatory execute the attached.
- 7. I know the said signatory and know him to be the person named herein as signatory.

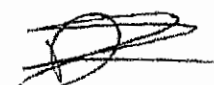
[or]

On the basis of identification presented to me by the signatory I believe the signatory to be the person named in the attached and whose signature I did witness.

- 8. I believe the signatory to be of at least the age of eighteen (18) years.

SWORN BEFORE ME this 28th day of March, 2014, at the City of Edmonton in the Province of Alberta


A Notary Public in and for the Province of Alberta

)
)
)
)
)
)
)


Witness

THE GUARANTEES ACKNOWLEDGMENT ACT
CERTIFICATE OF NOTARY PUBLIC

I HEREBY CERTIFY THAT:

2. Philip Clarke (Guarantor), of the City of Edmonton, in the Province of Alberta, the Guarantor in the guarantee dated the 14th day of March, 2014, made between MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP, ROB MORRIS and PHILIP CLARKE, which this certificate is attached to or noted upon, appeared in person before me and acknowledged that he had executed the guarantee.

2. I satisfied myself by examination of him that he is aware of the contents of the guarantee and understands it.

GIVEN at Edmonton, Alberta this 28th day of March 2014, under my hand seal of office.

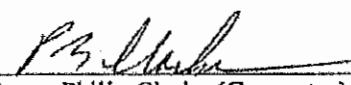
(SEAL)

DOUGLAS EVANCHUK
Barrister and Solicitor


A NOTARY PUBLIC IN AND FOR THE
PROVINCE OF ALBERTA

STATEMENT OF GUARANTOR

I am the person named in this certificate.


Name: Philip Clarke (Guarantor)

SCHEDULE 1

LOCATION AND TRADEMARKS

Location:

10628 Kingsway Avenue, Edmonton AB T5G 0W8

Located on the lands legally described as:

Firstly: Lot 274A, Block 7, Descriptive Plan 8921613, City of Edmonton, containing 29.6 acres more or less, excepting thereout all mines and minerals; and

Secondly: Lot 307, Block 6, Plan 8220371, City of Edmonton, containing 8.41 acres more or less, excepting thereout all mines and minerals.

Thirdly: Lot 273, Block 7, Plan 4297TR, City of Edmonton, containing 2.19 acres, more less, excepting thereout all mines and minerals; and

Fourthly: Lot 272, Block 7, Plan 4297TR, City of Edmonton, containing 1.1 acres more or less, excepting thereout all mines and minerals

Trademarks:

LIST OF PROPRIETARY MARKS OF THE FRANCHISOR

Name of Trademark	Date of Application/Registration	Trademark No./ Application No.
Moxie's	Registered: March 20/87 Renewed: March 20/02	TMA325,118
Moxie's Classic Grill	Registered: Jan 2/97	TMA468,137
Big Life	Registered: June 23/00	TMA529,730
Big Life & Design	Registered: August 29/00	TMA531,883
Life is Calling	Registered: June 4/02	TMA562,969
M Bar & Design	Registered: November 25/04	TMA626,627
M Bar	Registered: November 24/04	TMA626,534
Whatever You're In the Mood For	Registered: February 5, 2010	TMA758,896
Moxie's Classic Grill & Design (stacked logo design)	Registered: December 23/10	TM785,943
Moxie's Classic Grill & Design (semi-stacked logo design)	Registered: December 23/10	TM785,942
"M" Design	Pending	N/A
Moxie's Grill & Bar Design	Advertised	N/A

SCHEDULE 2

**DESCRIPTION OF TRADING AREA
PURSUANT TO ARTICLE 2**

The Trading Area shall be defined as three (3) kilometres in any direction from the Subject Restaurant.

SCHEDULE 3

FRANCHISEE LOANS

LENDER	LOAN NUMBER OR DESCRIPTION	TOTAL INDEBTEDNESS
RBC		\$ 3.3 million

**SCHEDULE 4
CERTIFICATE AS TO DIRECTORS, OFFICERS AND SHAREHOLDERS**

The Franchisee hereby certifies to the Franchisor that the following are its directors, officers and shareholders as of the date hereof:

SHAREHOLDERS - Common Shares (Voting)

Shareholder	Principal	Number of Shares Held	% of voting interest
Cedaridge Holdings Inc.	Brian Collins	2,420 Class A	27.5%
Blaskin and Sons Enterprises Inc.	Rick Blaskin	1,760 Class A	20.0%
1251211 Alberta Ltd.	Brendan Connolly	220 Class A	2.5%
Nashopro Management Services Ltd.	Philip Clarke	1,300 Class B	14.77%
857626 Alberta Ltd.	Philip Clarke	1,176 Class B	13.36%
RJ Consulting Inc.	Rob Morris	914 Class B	10.38%
657847 Alberta Ltd.	Rob Morris	1,010 Class B	11.48%
TOTAL		8,800	100.00

DIRECTORS:

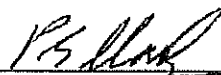
Philip Clarke
Brian Collins
Robert Morris
Rick Blaskin

OFFICERS:

Philip Clarke - President
Brian Collins - Vice President
Robert Morris - Treasurer
Rick Blaskin - Corporate Secretary

DATED at the City of Edmonton in the Province of Alberta, this 28th day of March, 2014.

MCG RESTAURANTS LTD.
(Franchisee)

Per: 

(c/s)

I have authority to bind the corporation.

**SCHEDULE 5
SUBLEASE**

[NTD: To be inserted]

SCHEDULE "6"

GENERAL SECURITY AGREEMENT

BETWEEN:

MCG RESTAURANTS LTD., a corporation incorporated under the laws of the Province of Alberta,

(the "Debtor")

- and -

MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP, a Limited Partnership formed under the laws of the Province of British Columbia and registered in the Province of Alberta, with its head office located in Calgary, Alberta;

(the "Holder")

WHEREAS by an agreement dated the 14 day of March, 2014 (the "Franchise Agreement") the Holder granted to the Debtor a franchise to operate a Moxie's subject to the terms and conditions of the Franchise Agreement;

AND WHEREAS pursuant to the terms of the Franchise Agreement the Debtor is required to execute and deliver to the Holder this Security Agreement;

NOW THEREFORE, in consideration of other good and valuable consideration and the sum of One Dollar (\$1.00) now paid to the Debtor (the receipt and sufficiency whereof is acknowledged), the parties agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

- 1.1 Words used in this Security Agreement which are defined in the Personal Property Security Act legislation of the province in which the franchise business is located, shall have the meanings given to such words by that Act, unless specifically modified by this Security Agreement. In addition, the following words shall have the following meanings:
- (a) "Act" - means the Personal Property Security Act legislation of the province in which the franchise business is located, or other similar legislation, as amended or re-enacted from time to time;
 - (b) "arm's length" - has the meaning, given thereto in the *Income Tax Act* (Canada), as amended or re-enacted from time to time;
 - (c) "Collateral" - means the property of the Debtor referred to in Article 2;
 - (d) "Franchise Agreement" - has the meaning given thereto in the recitals;

- (e) **"Franchised Business"** - means the operation of a Moxie's Grill & Bar franchised business whether pursuant to the Franchise Agreement or pursuant to any other franchise agreement now existing or subsequently entered into by the Debtor and the Holder;
 - (f) **"Interest Rate"** – means that annual rate of interest which is five (5%) percentage points above the floating annual rate of interest established and announced by Royal Bank of Canada from time to time as a reference rate for purposes of determining rates of interest it will charge on loans denominated in Canadian dollars;
 - (g) **"Obligations"** means the obligations, indebtedness and liability of the Debtor referred to in Section 2;
 - (h) **"Permitted Encumbrances"** means the encumbrances listed in Schedule "A" attached hereto and any purchase money security interest hereafter granted by the Debtor in respect of property acquired by the Debtor to secure payment of not more than seventy-five percent (75%) of:
 - (i) the purchase price of that property,
 - (ii) the value given to the Debtor by a person and applied by the Debtor to enable the Debtor to acquire that property, and any replacement, extension or renewal thereof if the amount secured thereby (including interest) at the time of such replacement, extension or renewal is not increased;
 - (i) **"Power(s) of Attorney Act"** means the legislation of the province in which the franchise business is located, or other similar legislation, as amended or re-enacted from time to time that deals with powers of attorney;
 - (j) **"Premises"** means the demised Premises identified in the Sublease;
 - (k) **"Security Interest"** means the security interest referred to in Article 2;
 - (l) **"Sublease"** means the sublease dated the 14th day of March 2014 which the Debtor and the Holder, or an affiliate of the Holder, have executed or will execute for those Premises from which the Debtor will conduct the Franchised Business.
- 1.2 This agreement shall be governed by and construed in accordance with the laws of the province in which the franchise business is located.
- 1.3 Time shall be of the essence of this Security Agreement.
- 1.4 In this agreement, the use of the singular number shall include the plural and vice versa, the use of the masculine gender shall include the feminine and neuter genders, and the word "person" shall include an individual, a trust, a partnership, a body corporate or political, an association and any other incorporated or unincorporated organization or entity. If the Debtor is more than one person, the covenants and obligations of the Debtor under this agreement shall be both joint and several.

- (a) This agreement shall enure to the benefit of and be binding upon the Debtor, the Holder and their respective heirs, executors, administrators, successors and assigns.

ARTICLE 2 THE SECURITY INTEREST

- 2.1 As security for the payment, observance and performance of all obligations, liability and indebtedness of the Debtor to the Holder (including without limitation the obligations of the Debtor under this Security Agreement, the Franchise Agreement, the Sublease and any and all other agreements heretofore or hereafter entered into by the Debtor and the Holder), present or future, direct or indirect, absolute or contingent, matured or unmatured, extended or renewed, wherever and however incurred and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Debtor is bound alone or with others and whether as principal or surety (such obligations, indebtedness and liability being hereinafter collectively called the "Obligations" and shall include any and all such Obligations of the Debtor to an affiliate of the Holder), the Debtor hereby grants to the Holder a continuing and specific security interest in all of the undertaking, property and assets of the Debtor now owned or hereafter acquired, both real and personal, movable and immovable, of whatever nature and kind and wherever situate, including, without limitation, all of the undertaking, property and assets in, at or upon the Premises. To the extent that the Obligations relate to an affiliate of the Holder, the Security Interest shall be held by the Holder for the benefit of such affiliate in respect of those of the Obligations, and for the benefit of the Holder itself in respect of those of the Obligations that relate to the Holder.
- 2.2 Property in and title to any item of Collateral supplied to the Debtor by the Holder shall remain in the Holder until the full purchase price of such item, together with all interest, financing charges and any other charges in respect thereof from time to time in effect shall have been paid in full. Receipt by the Holder of any instrument of or endorsed by the Debtor shall not constitute payment until the Holder receives in cash the full amount thereof. Risk of loss of each item of Collateral supplied by the Holder shall pass to the Debtor upon delivery thereof to the Debtor.
- 2.3 The Security Interest shall not extend or apply to and the Collateral shall not include the last day of the term of any lease or agreement to lease now or hereafter entered into by the Debtor, but the Debtor shall stand possessed of the reversion of one day remaining in the Debtor in respect of the term reserved by such lease or agreement upon trust, to assign and dispose of the same as the Holder or any purchaser of such term shall direct.
- 2.4 Until the Security Interest becomes enforceable, the Debtor may dispose of or sell inventory in the ordinary course of business and for the purpose of carrying on the same.
- 2.5 With respect to existing collateral of the Debtor, the Debtor and the Holder agree that the Security Interest shall attach upon the execution of this agreement by the Debtor. With respect to any Collateral hereafter acquired by the Debtor, the parties agree that the Security Interest shall attach to such Collateral at the earliest time that value is given and the Debtor has rights to such Collateral.

ARTICLE 3 COVENANTS OF THE DEBTOR

The Debtor agrees with the Holder that so long as the Obligations or any part thereof remain outstanding:

- 3.1 Except as otherwise provided in this Security Agreement, without the prior written consent of the Holder the Debtor will not grant, assume or have outstanding, except to the Holder and except for Permitted Encumbrances, any mortgage, charge, lien, security interest or other encumbrance on all or any part of the Collateral which ranks or purports to rank in priority to or pari passu with the Security Interest, or which is capable of being enforced in priority to or pari passu with the Security Interest. Subject to the foregoing, the Debtor shall keep the Collateral free from all mortgages, charges, security interests, liens or encumbrances of whatever kind, shall keep the Collateral free from all levies or attachments, whether arising by judicial process or otherwise, shall promptly pay when due all taxes, fees, assessments and all other charges now or hereafter imposed on the Collateral and shall at all times keep the Collateral in good and serviceable condition.
- 3.2 Without the prior written consent of the Holder, the Debtor will not lend money to, guarantee the debts or obligations of or invest money in any person not acting at arm's length with the Debtor, whether by way of loan, acquisition of shares, acquisition of debt or otherwise.
- 3.3 Without the prior written consent of the Holder, the Debtor will not permit any direct or indirect change in the ownership interests or voting control of the Debtor.
- 3.4 The Debtor will defend the Collateral against the claims and demands of all other persons claiming the same or any interest therein and will promptly notify the Holder of the details of any such claims and demands and of any loss of or damage to the Collateral.
- 3.5 The Debtor will carry on its business and maintain the Collateral in compliance with all statutes, by-laws, regulations and rules of all federal, provincial or municipal authorities having jurisdiction over the Debtor or the Collateral.
- 3.6 The Debtor will keep all equipment forming a part of the Collateral in good working order and condition, reasonable wear and tear excepted, and the Holder may, whenever it deems it to be necessary, either in person or by agent inspect any such equipment and make such repairs as it deems are necessary, and the cost of such inspection and repairs shall be payable by the Debtor to the Holder upon demand and until paid in full shall bear interest at the Interest Rate.
- 3.7 The Debtor will insure the Collateral and will keep the Collateral insured against loss or damage by any insurable peril, for the full replacement cost thereof with loss payable to the Debtor and to the Holder as their interests may appear. The Debtor shall, upon request of the Holder, deliver forthwith to the Holder certified copies of all policies of insurance then in force with respect to the Collateral. All such policies of insurance and any proceeds thereof which are received by the Debtor will be held in trust by the Debtor for the benefit of the Holder under the provisions of this security agreement. If the Debtor fails to insure the Collateral as required by this Section, the Holder may at its option

insure the Collateral and the premiums for such insurance shall be repayable to the Holder upon demand and until paid in full shall bear interest at the Interest Rate.

- 3.8 The Debtor will maintain its corporate existence, will not amalgamate with any other corporation without the prior written consent of the Holder, and will carry on its business in the ordinary course.
- 3.9 The Debtor shall give immediate written notice to the Holder of any loss of or damage to all or any portion of the Collateral or any disposition thereof, otherwise than by sale in the ordinary course of the Debtor's business.

ARTICLE 4 EVENTS OF DEFAULT

The Security Interest shall become enforceable upon the happening of any one or more of the following events:

- 4.1 If the Debtor is in default of any of the Franchise Agreement, Sublease and any and all agreements heretofore or hereafter entered into by the Debtor and the Holder and fails to cure such default within the time specified for cure in respect of such default.
- 4.2 If the Debtor commits an act of bankruptcy or becomes an insolvent person (as such terms are defined by the *Bankruptcy and Insolvency Act* (Canada), if a petition for a receiving order is filed against the Debtor, if a receiving order is made against the Debtor, or if proceedings for a composition with or proposal to the Debtor's creditors or for the winding-up, liquidation or other dissolution of the Debtor should be instituted by or against the Debtor under any federal or provincial law.
- 4.3 If a receiver or other custodian (interim or permanent) of the Collateral or any part thereof is appointed by private instrument or by court order, if any execution, sequestration, extent or other process of any court becomes enforceable against the Debtor or the Collateral or any part thereof, or if distress or analogous process is made against the Collateral or any part thereof.
- 4.4 If the Debtor ceases to carry on the Debtor's business, or makes or agrees to make any sale in bulk of the Debtor's assets.
- 4.5 If any mortgage, charge, lien, security interest or other encumbrance affecting any real or personal property of the Debtor becomes enforceable.
- 4.6 If the Holder, acting reasonably, deems itself to be insecure.

ARTICLE 5 - REMEDIES UPON DEFAULT

Upon the Security Interest becoming enforceable, the provisions of the Act dealing with rights and remedies on default under a security agreement, shall govern the rights, remedies and obligations of the parties in respect of the default in question, except as otherwise provided in this Article. Notwithstanding anything to the contrary contained in the Act or in any other agreement between the parties, upon the Security Interest becoming enforceable:

- 5.1 The Holder may at its option declare that the whole or any part of any indebtedness forming a part of the Obligations is immediately due and payable in full.
- 5.2 The Holder may at its option appoint by instrument in writing any person (including the Holder) as receiver or as receiver and manager of all or any part of the Collateral. Hereafter in this security agreement the word "receiver" shall include both a receiver and a receiver and manager. The Holder may from time to time remove or replace any receiver so appointed, or may institute proceedings in any court of competent jurisdiction for the appointment of a receiver of all or any part of the Collateral. Any receiver so appointed or replaced shall have and may exercise all powers conferred upon the Holder under this security agreement. Any receiver so appointed or replaced shall be considered to be the agent of the Debtor so far as the responsibility for his acts is concerned and the Holder shall not in any way be responsible for any act or omission on the part of such receiver, whether wilful, negligent, imprudent or otherwise. Where the Holder is hereafter in this security agreement referred to, the term shall, where the context permits, include any receiver so appointed or replaced and the officers, employees, servants and agents of such receiver.
- 5.3 The Holder may at its option take such steps as it considers necessary or desirable to obtain possession of all or any part of the Collateral and to that end the Debtor agrees that the Holder may, by its servants, agents or receiver, at any time during the day or night and without prior notice, enter upon lands and Premises where the Collateral may be found by any lawful means for the purpose of taking possession of or removing or immobilizing the Collateral or any part thereof. The Debtor shall upon request of the Holder assemble and deliver possession of the Collateral to the Holder, at such place or places as the Holder may designate.
- 5.4 In connection with the realization of the Collateral, the Holder may carry on all or any part of the business and undertaking of the Debtor and may enter upon, occupy and use all or any part of the real or personal property owned or used by the Debtor for such time as the Holder sees fit, free of charge, and Holder shall not be liable to the Debtor for any negligent or imprudent act or omission in so doing or in respect of any rent, charges, depreciation or damages in connection with such actions.
- 5.5 The Holder may seize, collect, realize, borrow money on the security of, sell, obtain payment, give valid receipts and discharges for, release to third parties or otherwise deal with the Collateral or any part thereof in such manner, upon such terms and conditions and at such time or times as may seem to it advisable, without notice to the Debtor. The mode of disposition of the Collateral or any part thereof shall be in the sole discretion of the Holder and it shall be deemed to be commercially reasonable for the Holder to dispose of the Collateral or any part thereof in the ordinary course of its business. The Holder may purchase all or any part of the Collateral at a private sale.
- 5.6 The Holder may charge on its own behalf and pay to others reasonable sums for expenses incurred and for services rendered (including legal fees on a solicitor and client basis and fees for receivers, managers, accountants and other professionals) in connection with the Holder's realizing the Collateral or otherwise dealing with the Collateral in accordance

with the provisions of this security agreement or the Act and all such sums shall be payable to the Holder on demand and until paid shall bear interest at the Interest Rate.

- 5.7 The Holder may, if it deems it necessary for the proper realization of all or any part of the Collateral, pay any claim, lien, security interest or other encumbrance that may exist or be threatened against the Collateral, in which event the amount so paid, together with all costs and expenses of the Holder incurred in connection therewith, shall be payable to the Holder on demand.
- 5.8 The Holder shall have the right to postpone indefinitely the sale of the Collateral or any part thereof and shall further have the right, pending any such sale, to lease the Collateral or any part thereof to any person for such period as the Holder in its absolute discretion deems necessary in order to recover or to attempt to recover any indebtedness forming a part of the Obligations.
- 5.9 The Holder shall not be liable or accountable for any failure to realize or otherwise deal with the Collateral or any part thereof and shall not be bound to institute proceedings for the purpose of effecting any of the foregoing or for the purpose of preserving any right of the Holder, the Debtor or any other person in respect of the Collateral.
- 5.10 All monies received or collected by the Holder in respect of the Collateral may be applied on account of such part of the Obligations as the Holder deems fit.
- 5.11 At its option the Holder may retain all or any part of the Collateral in full satisfaction of the Obligations.

ARTICLE 6 GENERAL

- 6.1 All remedies of the Holder at law and hereunder shall be cumulative and not in the alternative.
- 6.2 The Security Interest is in addition to and not in substitution of any other security now or hereafter held by the Holder.
- 6.3 Wherever in this Security Agreement any amount owing to the Holder is expressed to bear interest at the Interest Rate, such interest shall be calculated and payable daily, not in advance, both before and after default and judgment, with interest on overdue interest at the same rate. The Interest Rate shall be determined at the close of business on each day, to apply with respect to the said amount and accrued interest owing on the following day.
- 6.4 Upon the Debtor's failure to perform any of its obligations under this Security Agreement, the Holder may at its option perform such obligations and the expenses of the Holder in so doing shall be payable by the Debtor to the Holder upon demand, and until paid in full shall bear interest at the Interest Rate.
- 6.5 The Holder may waive any default by Debtor in the observance or the performance of any of the Obligations. No act or omission of the Holder in respect of any default by the

Debtor shall extend to or be taken in any manner whatsoever to affect any subsequent default of the Debtor or the rights of the Holder resulting therefrom.

- 6.6 The Holder may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, release any part of the Collateral to third parties and otherwise deal with any person as the Holder may see fit without prejudice to the liability of the Debtor or to the Holder's right to hold, realize and deal with the Collateral.
- 6.7 If the Holder assigns this Security Agreement, the Debtor waives notice of such assignment and agrees that the assignee shall not be subject to any equities that may exist between the Debtor and the Holder.
- 6.8 All notices required or permitted to be given hereunder or under the Act by one party to the other shall be given in writing by personal delivery or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) to the Debtor at:

MCG Restaurants Ltd.
Attention: Robert Morris/Philip Clarke
#100, 10335 172 Street, Edmonton, AB T5S 1K9
Facsimile Number: 780-444-5978

(b) to the Holder at:

MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP
31 Hopewell Way NE
Calgary, AB T3J 4V7
Attention: President

With a copy to:

NORTHLAND PROPERTIES CORPORATION
Suite 310, 1755 West Broadway
Vancouver, B.C. V6J 4S5
Attention: General Counsel

or at such other address as may be given by one of them to the other in writing from time to time. A notice given as aforesaid shall be deemed to have been received when delivered or, if mailed, three (3) days after date of mailing.

- 6.9 The Debtor will from time to time, at the request of the Holder and at the expense of the Debtor, make and do all such acts and things and execute and deliver all such agreements, mortgages, deeds and other documents and assurances as the Holder may deem necessary or desirable to perfect and preserve the Security Interest and in accordance with the Power(s) of Attorney Act, the Debtor hereby irrevocably appoints the Holder as its attorney in fact to do all such acts and things, with full power of substitution in the Premises, and the Debtor agrees to ratify and confirm all acts of the said attorney lawfully done in the Premises.

The Debtor acknowledges receipt of a duplicate executed copy of this agreement.

DATED and sealed this 29 day of March, 2014.

MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP *(by way of its General Partner, Moxie's Restaurants Management, Inc.)*

Per: _____

Authorized Signing Officer

Name: Laurids Skaarup

Title: President

I have authority to bind the corporation.

MCG RESTAURANTS LTD.

Per: 

Authorized Signing Officer

Name: Philip Clarke

Title: President

I have authority to bind the corporation.

Witness:


(Signature)

BRIAN DOOLAN
(Print name)

SCHEDULE "A" TO THE GENERAL SECURITY AGREEMENT

Permitted Encumbrances

Security granted to a Chartered Canadian bank for Franchisor approved loans made for the acquisition, establishment, renovation and/or remodel of the Franchised Business.

**SCHEDULE 7
CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

Date: March 28, 2014

TO: MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP and its General Partner,
MOXIE'S RESTAURANTS MANAGEMENT, INC.
(the "Franchisor")

Dear Sirs:

Re: Certificate of Independent Legal Advice for Philip Clarke

I have been consulted by Philip Clarke independently of all other interests, including the Franchisor for whom I do not act, in regard to the execution and/or delivery of the following documentation (the "Franchise Documents") relating to the grant of a Moxie's Restaurant:

Franchise Agreement dated March 29, 2014;

Sublease dated March 29, 2014; AND

General Security Agreement dated March 29, 2014.

Before executing and/or delivering the Franchise Documents:

I considered the Franchise Documents and explained them to Philip Clarke and their effect, and he understood these matters and appreciated the liability the transaction would impose on him and the rights and remedies of the Franchisor in connection therewith;

I satisfied myself that Philip Clarke would and/or has signed the Franchise Documents of his own free will and not under any undue influence exercised by the Franchisor or otherwise; and I have reviewed sufficient documentation to satisfy myself as to the identity of Philip Clarke.

Yours Truly,

NAME OF LAW FIRM: *McLennan Ross LLP*

Per:
Name:



DOUGLAS EVANCHUK
Barrister and Solicitor

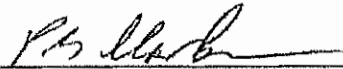
ACKNOWLEDGEMENT

I, Philip Clarke, residing in the City of Edmonton, in the Province of Alberta, do hereby acknowledge:

That the signatures appearing on the Franchise Documents are my signatures.

That I have signed the Franchise Documents of my own free will without coercion of any kind from the Franchisor or any other person and I fully understand the nature and consequences of the said Franchise Documents which were explained to me by separately and apart from the Franchisor by McKenyon Ross LLP.

DATED at Edmonton, Alberta this 28th day of March, 2014.



Philip Clarke

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

Date: March 28, 2014

TO: MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP and its General Partner,
MOXIE'S RESTAURANTS MANAGEMENT, INC.
(the "Franchisor")

Dear Sirs:

Re: Certificate of Independent Legal Advice for Robert Morris

I have been consulted by Robert Morris independently of all other interests, including the Franchisor for whom I do not act, in regard to the execution and/or delivery of the following documentation (the "Franchise Documents") relating to the grant of a Moxie's Restaurant:

Franchise Agreement dated March 29, 2014;

Sublease dated March 29, 2014; AND

General Security Agreement dated March 29, 2014.

Before executing and/or delivering the Franchise Documents:

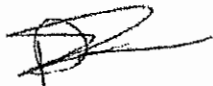
I considered the Franchise Documents and explained them to Robert Morris and their effect, and he understood these matters and appreciated the liability the transaction would impose on him and the rights and remedies of the Franchisor in connection therewith;

I satisfied myself that Robert Morris would and/or has signed the Franchise Documents of his own free will and not under any undue influence exercised by the Franchisor or otherwise; and I have reviewed sufficient documentation to satisfy myself as to the identity of Robert Morris.

Yours Truly,

NAME OF LAW FIRM: *Mechanicus Ross LLP*

Per:
Name:



DOUGLAS EVANCHUK
Barrister and Solicitor

ACKNOWLEDGEMENT

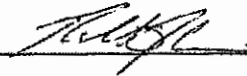
I, Robert Morris, residing in the City of Edmonton, in the Province of Alberta, do hereby acknowledge:

That the signatures appearing on the Franchise Documents are my signatures.

That I have signed the Franchise Documents of my own free will without coercion of any kind from the Franchisor or any other person and I fully understand the nature and consequences of the said Franchise Documents which were explained to me by separately and apart from the Franchisor by

Melanna Ross LLP.

DATED at Edmonton, Alberta this 28th day of March, 2014.

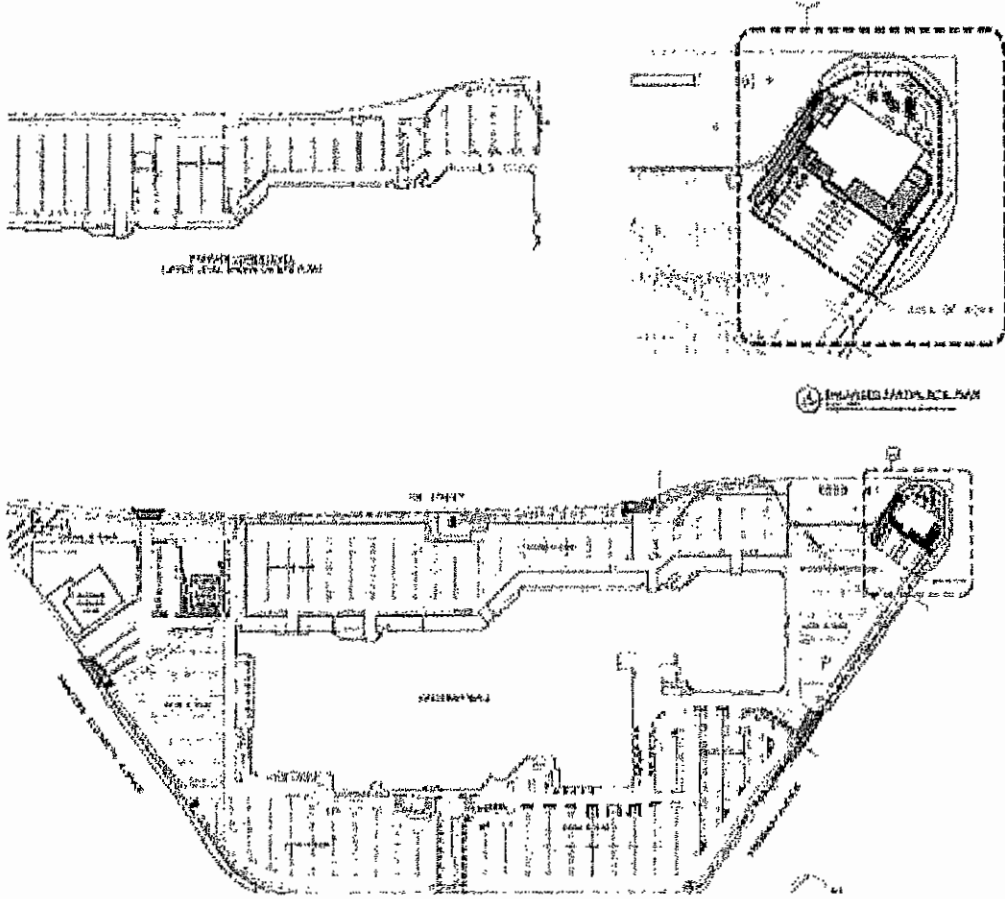


Robert Morris

**SCHEDULE 8
OWNERSHIP AGREEMENT**

[NTD: To be inserted]

**SCHEDULE 9
LOCATION OF SUBJECT RESTAURANT**



SCHEDULE 10

AUTHORITY, RESPONSIBILITIES AND DUTIES OF THE DESIGNATED OPERATOR

The Designated Operator of the Franchisee shall have the following authority, responsibilities and duties:

- 1) The Designated Operator shall have full and complete operational control of the Subject Restaurant and all affairs of the Franchisee in relation thereto, including and without limitation financial management and accounting, banking, budgeting, marketing, ordering of supplies and materials, staffing and making all decisions with respect to the Subject Restaurant.
- 2) The Designated Operator, unless otherwise agreed to by the Franchisor, shall faithfully, honestly and diligently perform his/her duties, always acting in the best interests of the operation of the Subject Restaurant; shall devote his/her entire working time, labour, skill and attention to the operation of the Subject Restaurant; and shall abide by and perform all the covenants, terms and obligations of the Designated Operator as provided in the Agreement unless otherwise agreed to in writing by the Franchisor.
- 3) In addition to the foregoing, the Designated Operator shall have the full, complete and unlimited authority to enter into any agreement on behalf of the Franchisee, including without limitation, to borrow funds and grant security therefor, to sell any assets of the Franchisee; and to enter into any other agreements concerning the Subject Restaurant, or the affairs of the Franchisee, subject to any shareholder's agreement requiring the consent of others to do so.



FRANCHISE FINANCE

This is Exhibit "C" referred to in the Affidavit of

Rob Morris

Sworn before me this 2nd day of

December A.D. 2019

A Notary Public, A Commissioner for Oaths in and for the Province of Alberta

EQUIPMENT LOAN AND SECURITY AGREEMENT

CANADIAN WESTERN BANK
6860 Century Ave, Suite 200
Mississauga, Ontario

CLIENT: MCG Restaurants Ltd.

ADDRESS: 660, 12220 Stony Plain Road
Edmonton (Alberta) T5N 3Y4

DARRIN R. BIEGANER
BARRISTER & SOLICITOR

CONTACT: Robert Morris
Tel.: 780 893 4280

EQUIPMENT LOCATION (if at address other than above)

See Schedule B which is an integral part of this Agreement

INSURANCE

EQUIPMENT

Table with columns: UNIT, MODEL, YEAR, DESCRIPTION, SERIAL NUMBER. Description: See Schedule A which is an integral part of this Agreement

FINANCED AMOUNT

Table with columns: Amount Advanced, Insurance Premium, Financing fees, Financed Amount. Values: \$7 333 000.00 CAD, +, +, \$7 333 000.00 = CAD

FINANCING RATE

Table with columns: Variable Rate, Prime Rate, Change in Prime Rate effective. Values: Variable Rate, Prime Rate: plus 2.30% p.a., Daily

INSTALMENTS

Table with columns: Instalments, Instalment date, Frequency, Number of Instalments, First Instalment date, Original Term. Values: See Schedule B, See Schedule B, monthly, See Schedule B, See Schedule B, See Schedule B

ADDITIONAL PROVISIONS

See Schedule B which is an integral part of this Agreement

In consideration of the loan (the "Loan") by Lender (as defined below) to Client in the amount specified under the heading "Financed Amount" above, the receipt of which Client hereby acknowledges, Client acknowledges itself indebted and promises to repay to Lender the Financed Amount. Client also acknowledges that it has agreed to grant to Lender a security interest in the Equipment described above to secure repayment of the Financed Amount on the terms and conditions set forth above, on all applicable schedules and other attachments hereto, all of which terms and conditions form part of this Equipment Loan and Security Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Equipment Loan and Security Agreement at Edmonton, Alberta this December 6, 2016.

MCG RESTAURANTS LTD.

("Client")

CANADIAN WESTERN BANK

("Lender")

By: Name: Title:

By: Name: Title:

By: Name: Title:

SIGNATURE OF AUTHORIZED OFFICERS

By: Name: Title:

SIGNATURE OF AUTHORIZED OFFICERS



FRANCHISE
FINANCE

SCHEDULE A

This SCHEDULE A is an integral part of the EQUIPMENT LOAN AND SECURITY AGREEMENT executed at Edmonton, Alberta this December 6, 2016

All present and after-acquired personal (movable) property, including all equipment, machinery, cash registers, computer equipment, wall vinyl, carpeting, bathroom fixtures, tile, paint, signs, china, glassware, artwork, silverware, fryers, grills, ovens, warmers, refrigerators, freezers, toasters, waste disposal units, dishwashers, beverage machines and dispensers, ice-cream makers, racks, display cases, salad and buffet equipment, tables, chairs, benches, other seating and counters, signage, menu boards, light fixtures, decor, playland equipment, and drive-through equipment, furniture and fixtures, and similar property of Client used in its operation of its business, wherever situated, and all present and after-acquired intellectual property, intangibles, attachments, accessories and accessions thereto and all spare parts, replacements, substitutions, exchanges and trade-ins therefore and all proceeds relating thereto (including cash in any bank account on which Client hereby grants control to the Lender) and all of the Client's present and after-acquired personal (movable) property which is derived directly or indirectly from any dealing with or disposition of the above-described collateral, including, without limiting the generality of the foregoing, all insurance and other payments payable as indemnity or compensation for loss or damage thereto and all chattel paper, documents of title, goods, instruments, intangibles, money and investment property.

MCG RESTAURANTS LTD.

("Client")

By: _____

Name:

Title:

By: _____

Name:

Title:

SIGNATURE OF AUTHORIZED OFFICERS

CANADIAN WESTERN BANK

("Lender")

By: _____

Name:

Title:

By: _____

Name:

Title:

SIGNATURE OF AUTHORIZED OFFICERS



FRANCHISE
FINANCE

SCHEDULE B

This SCHEDULE B is an integral part of the EQUIPMENT LOAN AND SECURITY AGREEMENT executed at Edmonton, Alberta this December 6, 2016.

The following provisions are in addition to, and shall be deemed to form part of, the terms and conditions attached hereto. Capitalised terms not defined herein shall have the meaning set forth in such terms and conditions.

"Advance" means each advance of the Financed Amount made by Lender to Client hereunder.

"Corporate Guarantor" means, collectively, 657847 Alberta Ltd., RJ Consulting Inc., Nashpro Management Services Ltd., 857626 Alberta Ltd., and any New Entity.

"Development Line of Credit" or "DLOC" means the portion of the Financed Amount that is a committed, non-revolving loan facility, in the aggregate principal balance of up to Cdn \$2,000,000.00 for the new build, renovation, or other debt takeout financing as approved by Lender.

"DLOC Advance" means any Advance made under the DLOC.

"DLOC Advance Accrued Interest" has the meaning set forth in the section entitled "Advances Under the Development Line of Credit" below

"DLOC Advance Financing Rate" has the meaning set forth in the section entitled "Advances Under the Development Line of Credit" below

"DLOC Advance Instalment(s)" has the meaning set forth in the section entitled "Advances Under the Development Line of Credit" below

"DLOC Term-Out Date" has the meaning set forth in the section entitled "Advances Under the Development Line of Credit" below

"DLOC Term-Out Loan" has the meaning set forth in the section entitled "Advances Under the Development Line of Credit" below

"Effective Date" means the date on which the Advance under the Term Loan is disbursed.

The definition of "Financed Amount" is hereby replaced by: "Financed Amount" means the total amount advanced under the Term Loan and DLOC or the total unpaid outstanding balance, as the context requires.

"New Entities" means any new legal entity to be formed or acquired and which will be an Affiliate of Client (each new entity a "New Entity" and collectively referred to as "New Entities").

"Personal Guarantor" means, collectively, Robert Morris and Philip Clarke.

"Sites" means any present or future location subject to a financing by the Lender and any location where Client operates its business including, but not limiting the following Sites (each location a "Site" and collectively referred to as "Sites"):

- Moxie's Grill and Bar restaurant located at 17109 10th Avenue NW, Edmonton, Alberta, T5X 3G7
- Moxie's Grill and Bar restaurant located at 4790 Calgary Trail Southbound, Edmonton, Alberta, T6H 5Z4
- Moxie's Grill and Bar restaurant located at 10628 Kingsway Avenue, Edmonton, Alberta, T5G 0W8
- Moxie's Grill and Bar restaurant located at 1739 102nd Street NW, Edmonton, Alberta, T6N 0B1
- Moxie's Grill and Bar restaurant located at 13551 St. Albert Trail NW, Edmonton, Alberta, T5L 5E7
- Moxie's Grill and Bar restaurant located at 1670-8882, 170th Street NW, Edmonton, Alberta, T5T 4M2

"Term Loan" means the portion of the Financed Amount to be used towards the repayment of the outstanding long-term debt owing to the Royal Bank of Canada and to the Client's shareholders.

PREPAYMENT

Notwithstanding the terms of Section 2.2, every twelve months, starting as of the Effective Date and upon 30-day prior notice to Lender, Client shall have the right to prepay up to 10% of the outstanding balance of the Financed Amount without any Liquidated Damages.



CLIENT'S GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 27 of the Agreement is amended by replacing the last two sentences with the following:

"Client agrees to furnish Lender a copy of its annual accountant prepared financial statements including a review engagement report promptly upon availability and in any event within 120 days of each fiscal year-end. Client agrees also to furnish its quarterly financial statements promptly upon availability and in any event within 45 days of each financial quarter-end."

For greater certainty, the beginning of Section 27 remains unchanged.

PERSONAL NET WORTH STATEMENTS – PERSONAL GUARANTORS

The Client hereby undertakes to obtain and furnish to Lender, on an annual basis, a net worth statement from each Personal Guarantor and this within 120 days of the Client's fiscal year-end

UNDERTAKING: RIGHT TO TERMINATE MANAGEMENT AGREEMENT

The Client hereby (i) confirms that no management agreement is in place with respect of any of the restaurants subject to the present loan and (ii) undertakes to obtain the Lender's consent prior to entering into any management agreement in respect of any such restaurant, which consent may be conditional upon obtaining a subordination undertaking from the manager. It is also agreed that should the Lender consent, in its sole discretion, to such management agreement, the manager shall be approved by the Lender.

NEGATIVE PLEDGE ON THE FRANCHISE AGREEMENT

The Client hereby undertakes and agrees that it shall not grant, create or cause to be created, accept the existence of or accept that the Franchise Parties assign any Franchise Agreement, nor grant, create or cause to be created, any lien, including hypothecs, in or on any Franchise Agreement.

LOAN FEE

Client shall pay to Lender at the disbursement of the Term Loan a non-refundable loan fee equivalent to 0.50% of the Term Loan ("Term Loan Fee"), whether funded or not. In addition, Client shall also pay to Lender at the disbursement of each DLOC Advance a non-refundable loan fee equivalent to 1% of the total of the DLOC Advance made by Lender to Client ("DLOC Fee"), whether funded or not (Term Loan Fee and DLOC Fee shall collectively be referred to as the "Loan Fee"). For the purposes of paying the Loan Fee, the Client agrees that Lender may, at its discretion, deduct the Loan Fee (or any portion thereof) from the funds to be advanced to Client, and/or (ii) if Client provided a good faith deposit to Lender, Lender may retain the whole or portion of the good faith deposit.

ADVANCES UNDER THE DEVELOPMENT LINE OF CREDIT

The following sub-sections a) to f) will apply to the Development Line of Credit only

a. General

Subject to the terms and conditions contained in this Agreement, the Lender agrees to make the Development Line of Credit available, on a non-revolving basis, to the Client and to be disbursed on or prior to the earlier of: i) the end of the a 24 month period beginning on the November 17, 2016, or ii) the date on which the Lender advises the Client in writing that it is not satisfied with the results of the most recent annual review relating to the Client and that the Lender will no longer make available any further Advances under the Development Line of Credit (the "DLOC Availability Period"). After the DLOC Availability Period, any undrawn portion of the Development Line of Credit shall no longer be available.

The Development Line of Credit shall be made available by way of multiple Advances. Each Advance shall be in a minimum amount of \$250,000.00 and funded to a maximum of 100% of acceptable costs. Any such Advance that the Lender agrees to make shall be subject to the terms and conditions of this Agreement and shall be subject to Lender's consent in its sole discretion. Each DLOC Advance shall be termed out (each a "DLOC Term-Out Loan") on or prior to the earlier of: (a) completion of the applicable new build, expansion, acquisition and renovation project or (ii) the date that is 6 months from the immediately preceding DLOC Advance (or 6 months from the first DLOC Advance in the case of the first DLOC Advance) (each a "DLOC Term-Out Date").



Client agrees that all Advances made under the Development Line of Credit shall become cross-collateralized, cross-defaulted and cross-guaranteed with all existing or future indebtedness, including other Advances and loan agreements. In addition, any new Site or New Entity acquired using any Advance made under the Development Line of Credit shall be included in the security package granted by the Client to the Lender and shall be secured by a guarantee and first-priority general security agreement, in a form acceptable to the Lender.

Client acknowledges and agrees that the continuing availability of, and the Lender's obligation to make, any Advance are subject to annual reviews conducted by the Lender, the results of which must be satisfactory to the Lender in its sole discretion. Any DLOC Advance shall be subject to an Incurrence test of 3.25 basis points within the Funded Debt to EBITDA covenant (as defined below). Furthermore, the Lender may impose any condition precedent to an Advance under the Development Line of Credit as it deems necessary, in its sole discretion.

Without limitation to the foregoing, if, at any time, the Client's fails to meet the financial covenants (as defined below), the Lender shall have no obligation to make any further Advances pursuant to the Development Line of Credit, which shall be deemed to be suspended, unless otherwise agreed to by the Lender in writing.

The Development Line of Credit is a non-revolving credit facility and any repayments in whole or in part of the Development Line of Credit may not be re-borrowed or utilized again hereunder and shall not entitle the Client to obtain further Advances in respect of such amounts repaid.

b. Manner of Borrowing the DLOC Advances

Client shall give Lender at least ten (10) business days' notice by sending a request for advance of DLOC proceeds in the form attached hereto as Schedule C (the "Request"). Each Request shall constitute a representation and warranty by Client that as at the date of the Request, no Default or event that, with the lapse of time or the giving of notice or both, would constitute a Default, has occurred or is continuing. This Request shall be accompanied by a copy of the invoices for Equipment to be paid from the proceeds of the DLOC Advance. Subject to the conditions stated in this Agreement, and when required by Lender, upon receipt from Client of proof acceptable to Lender that such invoices were paid by Client, Lender will disburse the amounts set out in the Request to Client

c. DLOC Advances Financing Rate and Instalments prior to the Term-Out Date

Each DLOC Advance shall bear interest at the DLOC Advance Financing Rate, as defined below, from each DLOC Advance Date to its Term-Out Date. The DLOC Advance Financing Rate shall be equal to the Prime Rate plus 2.30% per annum, computed daily ("DLOC Advance Financing Rate").

From the Advance Date of each DLOC Advance to its DLOC Term-Out Date, each DLOC Advance instalment, as defined below, shall consist of interest only payments payable monthly in arrears starting on the month following the disbursement of the DLOC Advance ("DLOC Advance Instalment(s)"). Unless otherwise agreed by the parties, the DLOC Advance Instalments are due each month on the same calendar day, which will be the same calendar day as the day that the DLOC Advance was disbursed. The DLOC Advance Instalment shall be payable to Lender by pre-authorized debit electronic fund transfer.

The amount of the DLOC Advance Instalments for each DLOC Advance shall be determined by Lender on the date of disbursement of each DLOC Advance based on the DLOC Advance Financing Rate, subject to an adjustment calculated at the DLOC Term-Out Date commencing from the first Instalment date, to reflect fluctuations in the Prime Rate.

For the purposes of the DLOC Advance(s), the following terms are amended as follows:

- (a) the term Instalments provided in Section 1.1 (s) of this Agreement shall include the DLOC Advance Instalments;
- (b) the term Financing Rate provided in Section 1.1 (m) of this Agreement shall include the DLOC Advance Financing Rate.

d. Payment of DLOC Advance(s) - Principal and Interest as of the DLOC Term-Out Date

At each DLOC Term-Out Date, the amount of all then outstanding DLOC Advance principal balances shall be deemed to become one amortizing DLOC Term-Out Loan and be part of, without novation, the Development Line of Credit. The terms applicable to the Development Line of Credit shall apply to the DLOC Advances as if they were advanced to Client as part of the Development Line of Credit.



If any, the outstanding accrued interest resulting from the DLOC Advance ("DLOC Advance Accrued Interest") shall be due and payable on its DLOC Term-Out Date. Client authorizes Lender to deduct the DLOC Advance Accrued Interest from the advance. Client acknowledges that the DLOC Advance Accrued Interest forms part of the Obligations as defined hereunder.

For clarification, the amount of each DLOC Advance shall not in any way increase the amount that Lender has agreed to make available to Client under the DLOC.

Client shall pay on demand any amount outstanding in excess of the amount that Lender has agreed to make available to Client under the Development Line of Credit, including without limitation the DLOC Advance Accrued Interest, fees and expenses. Nothing herein shall be construed to require Lender to advance any funds to or on behalf of Client at any time, including on the DLOC Term-Out Date, if a Default or event that, with the lapse of time or the giving of notice or both, would constitute a Default, has occurred or is continuing.

e. Acknowledgment of Receipt and Confirmation of Indebtedness

The receipt of the total amount that Lender has agreed to make available to Client under the Development Line of Credit and, as Lender may see fit, of each DLOC Advance shall be evidenced and acknowledged by Client in writing, in the form acceptable to Lender attached hereto as Schedule D.

Client hereby acknowledges and agrees that Lender's books and records in any form relating to this Agreement, including as they may relate to any and all Obligations thereunder from time to time, shall constitute prima facie, conclusive evidence of all such Obligations:

f. Security

The collateral described in Schedule A and all other security and guarantee agreements granted to Lender in relation to the present Agreement is a general and continuing security for the payment and performance of the Obligations, including the DLOC Advances and the DLOC Term-Out Loans.

CROSS DEFAULT

In addition to the Defaults provided in Section 19 of the present Agreement, (i) a Default under this Agreement shall be deemed a default under all other present and future agreements entered into between a corporation affiliated to the Client (or the Personal Guarantor or the Covenant Parties) and Lender or any Affiliate, nominee or agent of Lender ("Affiliate Agreement"), and (ii) a Default under the Affiliate Agreement shall be deemed a default under the present Agreement.

CROSS-COLLATERIZATION

The security granted under the Agreement is given also to secure the payment and performance of any and all debts, obligations and liabilities of any kind or description whatsoever (whether due or to become due) of Client or any affiliates of Client (or the Personal Guarantor or the Covenant Parties) to Lender under the Agreement and any other agreements with Lender or any Affiliate of Lender. This security shall be deemed to be a continuing security which will not be released or discharged in whole or in part until satisfaction in full of all such debts, obligations and liabilities.

FINANCING RATE FOR TERM LOAN

From the Advance Date of the Term Loan, the Term Loan shall bear interest at the Prime Rate plus 230 basis points per annum, calculated daily. For indication purposes only, the Prime Rate as December 6, 2016 is 2.70% per annum, resulting in a floating interest rate of 5.00% per annum.

FINANCING RATE FOR DLOC TERM-OUT LOANS

From each DLOC Term-Out Date, each DLOC Term-Out Loan shall bear interest at the Prime Rate plus 230 basis points per annum, calculated daily. For indication purposes only, the Prime Rate as December 6, 2016 is 2.70% per annum, resulting in a floating interest rate of 5.00% per annum.



TERM, INSTALMENTS AND FINANCED AMOUNT AMORTIZATION

The term for the Term Loan shall be of 48 months as of the Effective Date. The instalments for the Term Loan shall consist 47 consecutive and equal payments of blended principal and interest and one final balloon payment based on a 84 month amortization. The term for each DLOC Term-Out Loan shall be co-terminus with the term of the Term Loan and the Instalments shall consist of consecutive and equal payments of blended principal and interest and one final balloon payment based on an 84 month amortization. The Instalments for the Term Loan and each DLOC Term-Out Loan shall be determined by Lender on each Advance Date.

LOAN FINANCIAL COVENANTS

On an annual basis, Lender shall monitor the following financial covenants on the combined results of the Client:

Pre-Compensation Consolidated FCCR:

Minimum ratio of 1.30:1.00, as measured for the Client on the last day of the Client's reporting period.

Pre-Compensation Consolidated FCCR means, with respect to the 12-month period of time immediately preceding the date of determination, the ratio, calculated for the Client for such time period, each as determined in accordance with GAAP, of:

- (i) the sum of net income, interest expense, income taxes, depreciation, amortization, and operating lease expenses (rent expense), and officers' salaries expensed on the income statement, plus or minus other non-cash adjustments or non-recurring items (as allowed by Lender); to
- (ii) the sum of operating lease expenses (rent expense, not including common area maintenance or property taxes), principal payments on long term debt, the current portion of all capital leases, and interest expense (excluding non-cash interest expense and amortization of non-cash financing expenses).

Post-Compensation Consolidated FCCR:

Minimum ratio of 1.20:1.00, as measured for the Client on the last day of the Client's reporting period.

FCCR Post Ratio means, with respect to the 12-month period of time immediately preceding the date of determination, the ratio, calculated for the Covenant Parties for such time period, each as determined in accordance with GAAP, of:

- (i) the sum of net income, interest expense, income taxes, depreciation, amortization, and operating lease expenses (rent expense, not including common area maintenance or property taxes), plus or minus other non-cash adjustments or non-recurring items (as allowed by Lender), minus increases in officer or shareholder loan receivables and minus dividends or distributions not otherwise expensed on the applicable income statement(s); to
- (ii) the sum of operating lease expenses (rent expense, not including common area maintenance or property taxes), principal payments on long term debt, the current portion of all capital leases, and interest expense (excluding non-cash interest expense and amortization of non-cash financing expenses).

Senior Leverage Ratio

Maximum Consolidated Funded Debt to Consolidated EBITDA ratio of 3.50:1.00, as measured for the Client on the last day of the Client's reporting period.

"Consolidated Funded Debt" means the outstanding principal balance of all indebtedness of the Covenant Parties, including capital leases and the outstanding balances of any revolving lines of credit, as at the last day of the fiscal period being measured.

"EBITDA" means, the aggregate sum, for the 12-month period of time immediately preceding the last day of the fiscal period being measured, for the Covenant Parties, of all net income, interest expense, income taxes, depreciation, and amortization, but less non-recurring miscellaneous income and plus non-recurring miscellaneous expenses (as allowed by Lender), each as determined in accordance with GAAP.

ENTIRE AGREEMENT

This Agreement, including the related security documents, constitutes the entire agreement between Lender and Client with respect to the subject matter contained herein and supersedes all prior negotiations, undertakings, representations and understandings, whether written or oral, including any proposal letter.



INTERVENTION

Philip Clarke and Robert Morris hereby Intervene to the presents in their capacity as Personal Guarantor and in their capacity as agents and mandataries of the New Entities. Philip Clarke and Robert Morris hereby undertake for and on behalf of the New Entities that (i) all obligations, representations, warranties and undertakings provided hereunder for the Corporate Guarantors, Personal Guarantor, Franchise Parties and Lease Parties will be respected and abided by as if they were executing this present Agreement themselves; and (ii) the New Entities will execute any agreement Lender may reasonably require.

_____))
Witness) Philip Clarke

_____))
Witness) Robert Morris

SCHEDULES

- Schedule A – Equipment Description
- Schedule B – Provisions
- Schedule C – Request for Advance
- Schedule D – Acknowledgment of Financed Amount
- Schedule E – Conditions Precedent

MCG RESTAURANTS LTD. ("Client")

By: _____
Name:
Title:

By: _____
Name:
Title:

SIGNATURE OF AUTHORIZED OFFICERS

CANADIAN WESTERN BANK ("Lender")

By: _____
Name:
Title:

By: _____
Name:
Title:

SIGNATURE OF AUTHORIZED OFFICERS



**FRANCHISE
FINANCE**

IN WITNESS WHEREOF, the Corporate Guarantors and the Personal Guarantors have executed this Equipment Loan and Security Agreement, including Schedule A – "Equipment" and Schedule B – "Additional Provisions" at Edmonton, Alberta, this 6th day of December of 2016.

657847 ALBERTA LTD.

RJ CONSULTING INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:
SIGNATURE OF AUTHORIZED OFFICERS

By: _____
Name:
Title:
SIGNATURE OF AUTHORIZED OFFICERS

NASHPRO MANAGEMENT SERVICES LTD.

857626 ALBERTA LTD.

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:
SIGNATURE OF AUTHORIZED OFFICERS

By: _____
Name:
Title:
SIGNATURE OF AUTHORIZED OFFICERS

SIGNED, SEALED AND DELIVERED

In the presence of

Witness Name:

)
)
)
)

ROBERT MORRIS

SIGNED, SEALED AND DELIVERED

in the presence of

Witness Name:

)
)
)
)

PHILIP CLARKE



SCHEDULE C

This SCHEDULE C is an integral part of the EQUIPMENT LOAN AND SECURITY AGREEMENT executed at Edmonton, Alberta, this December 6, 2016.

FORM OF ADVANCE REQUEST

TO: CANADIAN WESTERN BANK (the "Lender")
FROM: MCG RESTAURANTS LTD. (the "Client")
RE: Equipment Loan and Security Agreement dated as of December 6, 2016 between the Client and the Lender (as amended, modified, supplemented, restated, replaced or otherwise modified from time to time, the "Loan Agreement")

This Advance Request is delivered to you pursuant to Schedule B of the Loan Agreement. All defined terms set forth in this Advance Request shall have the respective meanings set forth in the Loan Agreement.

1. The Client hereby requests an Advance under the Development Line of Credit as follows:
 - (a) Date of Advance: _____
 - (b) Amount of Advance: _____
2. The Client confirms that as at the date of this Advance Request:
 - (a) no Default or event of Default has occurred and is continuing or will have occurred and be continuing on the applicable Advance Date, or will result from the Advance requested in this Advance Request;
 - (b) except as set out in any updated Schedule which is/are attached as an Annex hereto, the representations and warranties contained in the Loan Agreement and the other Documents are true and correct in every respect with the same effect as if such representations and warranties had been made on and as of the date of this Advance Request (provided that if any such representation or warranty expressly speaks only as of a specific date, such representation or warranty is true and correct only as of such date); and
 - (c) the aggregate principal amount of all Advances under the Development Line of Credit made by the Lender as at the date of this Advance Request plus the principal amount of the Advance requested in this Advance Request is not greater than Cdn \$ 2,000,000.00
3. The Client confirms that there are no Liens in respect of the applicable existing Sites for which the proceeds of the Advance will be used.
4. All of the condition precedents to the Advance requested in this Advance Request, as specified in Schedule E of the Loan Agreement, have been satisfied including, but not limited to, those reports and documents described therein which are either attached as an Annex hereto or have been delivered separately to the Lender.

DATED this ___ day of _____, 20__

MCG RESTAURANTS LTD.

Per: _____
Name:
Title:



SCHEDULE D

This SCHEDULE D is an integral part of the EQUIPMENT LOAN AND SECURITY AGREEMENT executed at Edmonton, Alberta, this December 6, 2016

ACKNOWLEDGEMENT OF RECEIPT OF FINANCED AMOUNT

TO: CANADIAN WESTERN BANK (the "Lender")
FROM: MCG Restaurants Ltd. (the "Client")
RE: Equipment Loan and Security Agreement dated as of December 6, 2016 between the Client and the Lender (as amended, modified, supplemented, restated, replaced or otherwise modified from time to time, the "Loan Agreement")

_____ acknowledges receipt of an amount of \$ _____ (the "Financed Amount") as stated and in accordance with the Loan Agreement and acknowledged itself indebted and promises to repay the Lender the Financed Amount, together with interest and all other amounts owing in accordance with the terms and conditions of the Loan Agreement.

DATED this ____ day of _____, 20__

MCG RESTAURANTS LTD,

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE E

This SCHEDULE E is an integral part of the EQUIPMENT LOAN AND SECURITY AGREEMENT executed at Edmonton, Alberta this December 6, 2016.

CONDITIONS PRECEDENT

Prior to the Advance, each of the following conditions precedent shall have been satisfied, at Client's sole cost and expense, all as determined by Lender in its sole discretion. The Lender shall not be obliged to make any Advance hereunder unless it has received, in form and substance satisfactory to the Lender, each of the following conditions.

All conditions precedent to the obligation of the Lender to make the Advance are stipulated solely for the benefit of the Lender and may be waived by the Lender, in whole or in part, at any time and in its sole discretion.

- (a) Executed Equipment Loan and Security Agreement and all ancillary documents (including resolutions and articles of incorporation);
- (b) Executed general security agreement ("GSA") creating a priority lien on all present and after acquired personal property including any and all intellectual property, equipment used at or in connection with the Sites, as well as all improvements, additions, replacements and substitutions of the Equipment, and all proceeds thereof (including insurance proceeds), from Client and the Corporate Guarantors (and any control agreement with third party bank as required to perfect cash collateral security)
- (c) Executed joint and several (solidarily for the Province of Quebec) guarantee and indemnity agreements from all Corporate Guarantors together with subordination of claims of each such party;
- (d) Executed guarantee and indemnity agreements from all Personal Guarantors together with subordination of claims of each such party;
- (e) Executed postponement agreement from Client's shareholders regarding any shareholder loan;
- (f) All debt between Client and Corporate Guarantors to be jointly and severally (solidarily for the Province of Quebec) cross-collateralized, cross-defaulted and cross-guaranteed;
- (g) Reception by Lender of an acknowledgement letter from all shareholders of Client regarding the first rank GSA and guarantee provided by the Corporate Guarantors;
- (h) All fees required to be paid by Client;
- (i) No Default has occurred;
- (j) No Material Adverse Effect shall have occurred and be continuing on and as of the Advance Date, nor shall a requested Advance result in the occurrence of a Material Adverse Effect;
- (k) Reception by Lender of fully executed, complete copies of the Franchise Agreements with respect to each Site and with a term that is equal to, or greater than, the Term of the present Agreement;
- (l) Reception by Lender of fully executed, complete copies of the Lease and Sublease, if applicable, with respect to each Site and with a term that is equal to, or greater than, the Term of the present Agreement;
- (m) Reception by Lender of evidence that all insurance required by the present agreement has been obtained and is in full force and effect with respect to each Site;
- (n) Confirmation from Franchisor or Client's good standing with respect to Franchise Agreements, including but not limited to royalty payments and renovation schedules;
- (o) Performance of a site inspection by an officer of the Lender to confirm acceptability for financing;
- (p) Receipt of financial statements for years 2012, 2013, 2014, and 2015;
- (q) Receipt of Notice of Assessment for 2015;
- (r) Receipt of a Priorities Agreement between the Lender and Franchisor, and
- (s) Any other document reasonably required by the Lender (or its solicitors).

DEVELOPMENT LOAN ADVANCE CONDITIONS

In addition to the conditions mentioned above, each of the following conditions precedent (the "DLOC Advance Condition") shall have been satisfied, at Client's sole cost and expense, all as determined by Lender in its sole discretion, unless Lender, in its sole discretion, waives any such DLOC Advance Condition:

- (a) The representations and warranties of Client set forth in the Advance Request are and will be true, correct and complete, both before and after funding any DLOC Advance;
- (b) Draws shall be subject to maintenance of all Covenants and subject to Lender verification of incurrence test of 3.25 x within the Funded Debt to EBITDA;
- (c) Client shall have delivered to Lender and Lender shall have approved a development project budget of all costs to be incurred in connection with each New Construction Site and Client shall have paid that portion of total development project costs that are not being financed by Lender;
- (d) Prior to the first DLOC Advance for a particular New Construction Site, Client shall have delivered to Lender and Lender shall have approved a fully executed, complete copy of the Lease for the New Construction Site;
- (e) If a site that is proposed to be included in a development project is owned a New Entity and such site will not be the subject of an Acquisition, Lender shall have received and approved (i) evidence that the New Entity is an Affiliate of the Client and is in good standing under the laws of its formation state and in the state where such site is located and that the Person(s) executing documents on behalf of the New Entity are duly authorized to do so; and (ii) such additional loan documents, executed by the New Entity is a Corporate Guarantor, jointly and severally, whereupon such site will be deemed to be a Site as well as a New Construction Site;
- (f) In the event that the requested DLOC Advance shall be used to finance an acquisition, Client shall deliver to Lender a fully executed purchase and sale agreement or share-purchase agreement, as the case may be. Disbursement of the said DLOC Advance shall be subject to the Lender's review and approval of the aforementioned agreements;
- (g) In the event that the request DLOC Advance shall be used to finance a shareholder buyout, Lender shall review and approve said buyout;
- (h) Client shall have delivered to Lender such security agreements and other documents as Lender may require from the Person(s) owning each New Construction Site and from any other Person having any interest in each Construction Site and/or the business to be conducted thereat, each in form acceptable to Lender, granting to Lender a first priority lien on each such New Construction Site and all related personal property, and all such documents and related PPSA financing statements shall have been properly filed or recorded in the appropriate governmental office;
- (i) Reception by Lender of evidence that all insurance required by the present agreement has been obtained and is in full force and effect with respect to each New Construction Site;
- (j) Reception by Lender of Invoices for items to be covered from the previous DLOC Advance along with proof of payment prior to the next Advance and after each Advance thereafter; and
- (k) Any other document or condition reasonably required by the Lender (or its solicitors).



EQUIPMENT LOAN
AND SECURITY AGREEMENT

TERMS AND CONDITIONS

7. Interpretation

7.1 For the purpose of this Agreement:

- (a) "Accrued Liability" at any time means the amount equal to the sum of the Financed Amount, any Liquidated Damages and all other amounts then payable hereunder, including without limitation, any Overdue Payment and accrued interest.
- (b) "Advance Date" means the Business Day on which the Advance is made by Lender to Client hereunder.
- (c) "Affiliate" means in respect of a person, a person or persons that, directly or indirectly through one or more intermediaries, control, are controlled by, or are under common control with, such person.
- (d) "Agreement" means this Equipment Loan and Security Agreement and any applicable schedules hereto, unless the context otherwise requires, and "hereof", "herein", "hereby", "hereunder" and similar expressions refer to this Agreement.
- (e) "business day" means a day when the office of Client at the address stated on the face hereof is open for business dealings, but excludes Saturday, Sunday and any other day which is a statutory holiday in the province of the Client.
- (f) "Claims" has the meaning assigned in Section 23.
- (g) "Client" means the client of Lender stated on the face hereof and, in respect of any obligations regarding the Equipment, the Sites or other similar obligations, including all of the related obligations, covenants, undertakings, representations and warranties set out in Sections 4, 5, 6, 9, 14, 15, 17, 18, 19, 25, 26, and 27 the Covenant Parties (as defined in Schedule B).
- (h) "Collateral" has the meaning assigned in Section 5.1.
- (i) "control" means the power to direct or cause the direction of the management and policies of a person whether through the ownership of voting securities or otherwise.
- (j) "Conversion Rate" means the rate, expressed in CAD for the purchase of one US dollar, determined by adding 0.0100 CAD/USD to the highest rate which appears on the Bloomberg CAD GIT Page between 7 AM and 5 PM (EST).
- (k) "Default" means any of those events or circumstances specified in Section 19.
- (l) "Equipment" means all present and after-acquired personal property of a person.
- (m) "Equities" means existing or future rights of counterclaim, defence, set-off, compensation, abatement or offset, legal or equitable.
- (n) "Financed Amount" means the amount stated as such on the face hereof owing by Client to Lender or the unpaid outstanding balance thereof, as the context requires.
- (o) "Financing Rate" means the rate per annum stated as such on the face hereof, or in Schedule B, as the context requires.
- (p) "Franchise Agreement" means any franchise, license or area development agreement granted with regard to the Sites.
- (q) "Franchise Parties" means any party that entered into or will enter into a Franchise Agreement.
- (r) "GAAP" means generally accepted accounting principles in effect from time to time in Canada or IFRS applicable to the relevant person, applied in a consistent manner from period to period.
- (s) "Guarantor" means, collectively, the Corporate Guarantor and the Personal Guarantors, as applicable.
- (t) "Installments" means the periodic repayment instalments of the Financed Amount, together with interest calculated at the Financing Rate as provided on the face hereof, such instalments stated on the face hereof.
- (u) "Lease Agreement" means any lease, sub-lease or storage agreement with regard to the Sites.
- (v) "Lease Parties" means any party that entered into or will enter into a Lease Agreement.
- (w) "Lender" means the Lender stated on the face hereof.
- (x) "Lien" means any lien, privilege, mortgage, pledge, hypothec, charge, security interest, attachment, assignment, seizure, sequestration, distress, levy or other encumbrance of any nature or kind whatsoever.
- (y) "Liquidated Damages" means liquidated damages determined in accordance with Section 2.2.
- (z) "Loss of Equipment" means:
 - (i) a total or constructive total loss of Equipment, or damage thereto, or theft thereof which, in the reasonable opinion of Lender, renders it impossible or impractical to use the Equipment for its intended purpose; or
 - (ii) appropriation or confiscation of Equipment by any authority absolutely or for more than 180 days.
- (aa) "Material Adverse Effect" means, when used with reference to any event or circumstance or any person, an event, fact or circumstance that, either alone or when taken together with any other event, fact, circumstance, has or could reasonably be expected to have a material adverse effect on: (i) the business, assets, operations, prospects, property, or condition (financial or otherwise), of the Client, any Covenant Party or Guarantor, any of the Sites, the Equipment subject to the Lender's security or any portion thereof; (ii) the ability of the Client or any Guarantor to perform and discharge its respective obligations under this Agreement or any of the related documents; (iii) the validity or enforceability of any of such documents, including this Agreement or any of the Lender's security, or the Lender's ability to enforce any of its rights or remedies under any of such documents; or (iv) the existence or priority of any of the liens in favour of the Lender including any liens affecting any of the Sites or such Equipment.
- (bb) "Obligation" means any obligation by Client to pay any amount owing hereunder or under any documents, instruments or security delivered in connection herewith, including the Financed Amount, Overdue Payments and all other amounts owing hereunder, or to perform any other obligation of Client hereunder or under any documents, instruments or security delivered in connection herewith.
- (cc) "Overdue Payment" means any amount owing by Client hereunder and any sum disbursed by Lender pursuant to Section 21 which is not paid when due hereunder, or any portion thereof.
- (dd) "Paydown Amount" has the meaning assigned in Section 13.2.
- (ee) "person" includes any natural person, corporation, firm, partnership, trust, sole proprietorship or governmental agency, authority or other entity, however constituted or designated.
- (ff) "Prime Rate" means the variable reference rate of interest per year declared by the Lender from time to time to be its "Prime Rate" for Canadian dollar loans made by the Lender in Canada, such rate to be adjusted automatically, without notice, as of the opening of business on the effective date of any change in such rate by the Lender by public announcement or otherwise.
- (gg) "Supplier" means any manufacturer, supplier, vendor or dealer or any other person from whom Client has acquired any of the Equipment.
- (hh) "Taxes" means any and all taxes, imposts, levies, fees, duties and charges imposed by any taxing authority on Lender, Client, the Equipment, its purchase, sale, ownership, security interest thereon, delivery, possession, operation or use including, without limitation, sales, excise, use, health services, property, goods and services, business transfer and value added taxes (including any penalties or interest based on late or non-payment), but excluding taxes imposed on or measured by Lender's overall net income.
- (ii) "TTM" means on a trailing twelve month basis.
- (jj) "Unwinding Costs" means the costs the Lender incurs when a fixed rate loan is paid out early. The unwinding costs are based on an interest rate differential between the loan rate and the bid side yield for Government of Canada securities with the same maturity as the loan, for the remaining term of the loan at the time of repayment.

- (kk) "Warranties" means any and all warranties, guarantees, representations, service contracts, contracts to stock spare parts and similar agreements, oral or written, express, implied or statutory, relating to the Equipment.
- 1.2 In this Agreement, unless the context otherwise requires, the singular includes the plural and vice-versa and words importing gender include each gender.
- 1.3 All references herein to statutes include the statute as it may be amended, restated or replaced with legislation of comparable effect.
- 1.4 Other than payments, which shall be made on the date each payment is due, acts to be performed hereunder on non-business days shall be performed on the following business day.
- 2. Instalments**
- 2.1 Client hereby acknowledges that it has borrowed from Lender and is thereby, or has otherwise become, indebted to and agrees to repay to Lender, at the address of Lender stated on the face hereof or such other place notified by Lender to Client, the Financed Amount, together with interest thereon, by paying the Instalments stated on the face hereof or in Schedule B hereto. Unless otherwise stated, Instalments are due on the dates stated on the face hereof in each month, or other period (or the last day of the month, if there is no corresponding date), in arrears, throughout the term hereof. On the final Instalment date, Client shall pay Lender the outstanding balance of the Financed Amount, all accrued and unpaid interest thereon and all other amounts payable hereunder.
- 2.2 Client may not at any time prepay in whole or in part the unpaid outstanding balance of the Financed Amount, except as follows: Commencing 36 months after the Closing Date, upon 30-day prior notice to Lender, the Client will have the right to prepay all, but not less than all, of the outstanding balance of the Loan at any time during the remainder of the Loan Term provided the Client also pays all accrued interest and costs outstanding hereunder at the time of prepayment and liquidated damages determined as follows:
- (a) The Liquidated Damages shall be three (3) months' interest calculated on the unpaid principal balance at the rate provided herein plus, if Loan is fixed, a prepayment charge equal to Lender's Unwinding Costs.
- 2.3 Any portion of the Financed Amount prepaid shall be applied to the remaining Instalments in inverse order of maturity. No part of the Liquidated Damages shall be applied in reduction of said remaining Instalments. If a Default or a Loss of Equipment occurs, the Liquidated Damages shall also be payable by Client and shall be calculated by reference to the outstanding balance of the Financed Amount at the time of such Default or Loss of Equipment, as applicable.
- 3. Interest**
- 3.1 The Financed Amount shall bear interest at the Financing Rate from the date hereof until the Financed Amount is unconditionally paid in full to Lender, and shall be payable in arrears on each Instalment date.
- 3.2 In addition to interest payable under Section 3.1, each Overdue Payment shall bear interest from the date due until unconditionally paid in full to Lender at the rate of 18% per annum, and shall be payable on demand by Lender.
- 3.3 Interest payable hereunder shall accrue and be calculated daily upon the daily outstanding balance of the Financed Amount or an Overdue Payment, as applicable, on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be. All interest payments to be made under this Agreement in respect of the outstanding balance of the Financed Amount or any Overdue Payment, as applicable, shall be paid both before and after maturity and before and after Default and/or judgment, if any, until full and unconditional payment of the outstanding balance of the Financed Amount or such Overdue Payment is made. The yearly rate of interest to which each rate of interest expressed herein is equivalent is the product of: (a) such rate, multiplied by (b) the actual number of days in the calendar year in which the same is to be ascertained divided by 365.
- 3.4 If the Financing Rate is a variable rate based on Prime Rate, a change in Prime Rate automatically changes the rate of interest payable hereunder to the same extent and in the same manner effective with the frequency stated on the face hereof or in Schedule B hereto. Lender shall not be obliged to notify Client of any such change, any such right to notice being hereby irrevocably waived by Client.
- 3.5 In order to preserve the Lender's net economic return, Lender in its sole discretion may adjust the pricing at any time prior to disbursement to reflect: (1) changes in the pricing assumptions of this Agreement; (2) a change in the Lender's funding index rate; (3) tax law changes applicable to the Client or the Lender; and (4) general market conditions.
- 4. Title, Ownership**
- Title to, ownership of, and all property in the Collateral shall remain with Client, but subject always to the security interests and other provisions hereof, and at Client's sole risk, until full payment in cash of all amounts repayable hereunder; prior to such payment, Client's rights therein are to quiet enjoyment and use on the terms and conditions of this Agreement so long as a Default has not occurred.
- 5. Security Interest and Warranties as to the Collateral**
- 5.1 As general and continuing security for the payment and performance of the Obligations, Client hereby grants to Lender and Lender hereby takes a security interest in: (a) the Equipment, (b) all present and after-acquired intellectual property and other intangibles relating to the Equipment; (c) all present and after-acquired contracts, written or oral, for the sale, exchange, lease, license, rental or other disposition of any kind whatsoever of the foregoing; (d) all insurance claims and proceeds resulting therefrom with respect to any loss or damage to any of the foregoing; and (e) all proceeds of the foregoing in the form of chattel paper, documents of title, goods, instruments, intangibles, money, fixtures or investment property, (collectively, the "Collateral"), and as further general and continuing security for the payment and performance of the Obligations Client hereby mortgages, transfers, pledges, charges and assigns the Collateral to Lender.
- 5.2 Client represents and warrants to Lender that Client has, and shall continue to have at all times until while the Obligations remain outstanding, good and marketable title to the Collateral, free and clear of all Liens except for Liens granted in favour of or taken by Lender hereunder or pursuant to any other agreement between Client and Lender or any nominee or agent of Lender. Client agrees to comply with all Warranties accruing to Client pertaining to the Equipment; however, any failure by any receiver to comply with any Warranty shall not affect Client's Obligations to Lender.
- 6. Personal Property and Waivers**
- 6.1 The Equipment shall at all times be and remain moveable personal property. Notwithstanding any purpose for which the Equipment may be used or that it may become affixed or attached to land or any structure thereon, the Equipment shall remain subject to all rights of Lender hereunder as if it were not so affixed or attached.
- 6.2 Client agrees to obtain a waiver, if required by and in a form satisfactory to Lender, from any landlord, mortgagee, hypothecary creditor or other encumbrancer of the premises where Collateral is situated (and prior to any Equipment becoming affixed if it is to be affixed).
- 7. Postponement**
- All shareholder, Affiliate and related entity debt shall be subordinated and postponed to Lender's debt.
- 8. Cost Overruns**
- All cost overruns shall be borne by the Client. Any cost overruns in excess of 10% of the loan amount must be approved in writing by Lender.
- 9. Maintenance, Use, Operation, Alterations, Upgrades, etc.**
- 9.1 Client shall at its own expense:
- (a) maintain Equipment in good operating condition, repair and appearance, ordinary wear and tear only excepted;
- (b) comply with all recommendations or requirements of Suppliers so as to preserve all Warranties; and
- (c) at Lender's request, enter into a maintenance agreement for Equipment for the full term of this Agreement with a Supplier or a competent service and maintenance agent approved by Lender.
- 9.2 Client shall not, without Lender's prior written consent, make any alterations, additions, accessions or attachments to any Collateral. Such consent will only be granted if such changes:
- (a) do not materially decrease the value of Collateral or limit, interfere with or frustrate its intended use;

- (b) do not prejudice or adversely affect any Warranties; and
(c) are free from, and do not subject Collateral to, any Lien.
- 9.3 All replacement parts and components, alterations, additions, accessions and attachments to Collateral shall automatically become subject to the security interests created hereby as soon as they are acquired by or on behalf of Client.
- 9.4 Client shall affix and keep affixed to Collateral any labels supplied by Lender identifying its security interests in Collateral.
- 10. Inspection**
Any representative of Lender shall have the right to inspect Collateral at all reasonable times upon notice to Client.
- 11. Franchise Agreement**
11.1 Client represents and warrants to Lender that the copy of any Franchise Agreement together with all amendments, modifications and supplements thereto, provided to Lender or executed by the Franchise Parties is a true and complete copy, subject to no amendment and that Franchise Parties are in good standing thereunder.
11.2 The expiration, revocation or other termination of the Franchise Agreement or the assignment or other transfer of the Franchise Parties' rights under the Franchise Agreement, without Lender's prior written consent, shall, constitute a Default hereunder, and Lender may invoke any remedies permitted under the Agreement. The consent to any such sale or transfer shall be in Lender's sole discretion, and shall be subject to the execution by the purchaser or transferee, prior to such sale or transfer, of a written assumption agreement containing such terms as Lender may require. In addition, any such consent shall be conditioned upon payment by Client to Lender of (i) a fee equal to one percent (1%) of the then unpaid outstanding balance of the Financed Amount and (ii) all out-of-pocket costs and expenses incurred by Lender in connection with such consent, including, without limitation, legal fees.
- 12. Rented Facilities**
Client represents and warrants to Lender that the lease agreements for all sites together with all amendments, modifications and supplements thereto, provided to Lender are true and complete, subject to no amendments and that Client is in good standing thereunder.
- 13. Early Lease Expiry**
13.1 The Client covenants and agrees that, in the event the term of any Lease Agreement expires before the maturity date of the Agreement, it shall or shall force the Lease Parties to cause the term of such Lease Agreement to be renewed or otherwise extended to a date that occurs on or after the maturity date of the Agreement. Failure to do so shall constitute a Default and the Lender shall be entitled to exercise any and all rights and remedies it may have under the Agreement or at law.
13.2 Notwithstanding the foregoing, the Lender may, at its sole option, require the Client pay to the Lender an amount to be determined by the Lender at that time (the "Paydown Amount"). Failure to pay the Paydown Amount as required by the Lender shall constitute a Default and the Lender shall be entitled to exercise any and all rights and remedies it may have under the Agreement or at law. The Paydown Amount shall be deemed a payment of principal, shall be applied in the inverse order of maturity, and shall otherwise be applied in accordance with the terms of the Agreement.
- 14. Insurance**
14.1 Client shall at its own expense place and maintain with insurers acceptable to Lender:
(a) comprehensive all risks insurance on the Equipment for the greater of the Financed Amount or the full replacement value of the Equipment. Such insurance shall include: (i) a loss payable clause in favour of Lender and (ii) a waiver of subrogation clause in favour of Lender; and
(b) general public liability and property damage insurance with limits of liability at least equal to \$1,000,000 or such greater amount as Lender may require. Such insurance shall extend to all liabilities of Client under this Agreement arising out of its use or possession of Collateral and to any potential vicarious liability of Lender as holder of security interests in Collateral created hereby.
(c) business interruption coverage at least equal to the gross revenues for the last 12 months or such greater amount as Lender may require.
- 14.2 All such of insurance policies shall be in place at the effective date of this Agreement and shall contain endorsements providing that: (a) 30 days' written notice shall be given to Lender before the policy lapses or is materially altered or cancelled; (b) the insurance shall be primary and not contributory; (c) Lender's interests therein shall not be invalidated or otherwise adversely affected by any act or omission, deliberate, negligent or otherwise, of Client or its agents, servants or employees (the so-called "standard mortgage clause"); (d) Lender shall not be responsible for payment of any premiums; and (e) Lender may elect to have all proceeds of loss payable only to itself.
- 14.3 Client shall supply Lender with certified copies of all insurance policies, endorsements or other evidence of the required coverage satisfactory to Lender within 30 days of the effective date of this Agreement and on request.
- 14.4 In the event of damage to any item of Equipment amounting to Loss of Equipment, Lender shall be entitled to receive immediate payment of the amount equal to the Accrued Liability with respect to such item of Equipment. Lender may retain any monies received from the insurance proceeds in an amount equal thereto, Client remaining liable for any deficiency.
- 15. Taxes, etc.**
Client shall have the sole responsibility for and shall duly and punctually pay all Taxes and all licence and similar fees payable at any time upon, or in respect of, Collateral, this Agreement and any payments or transactions contemplated hereunder.
- 16. Additional Debt**
No additional debt (other than the loan(s) described herein) or guarantee of any kind shall be incurred by the Client or any Covenant Parties without the prior written consent of Lender.
- 17. Liens**
Client shall keep the Collateral free of all Liens, other than any Liens granted to, or taken by, Lender.
- 18. Laws and Regulations**
Client is and shall continue to be in compliance with all laws and regulations relating to use, operation or possession of Collateral or the security interests therein in favour of Lender, and those relating to the prevention of money laundering and terrorism.
- 19. Default**
It shall be a Default under this Agreement if:
(a) Client fails to pay any instalment within 10 days after its due date;
(b) any representation or warranty of Client made herein or in any instrument or document delivered to Lender in connection herewith is false or materially incorrect or misleading;
(c) any insurance coverage required to be obtained and maintained by Client under this Agreement shall lapse, expire or be cancelled;
(d) Client defaults in any other Obligation, or defaults in any obligation under any other agreement with Lender or any Affiliate, nominee or agent of Lender, and such default continues for 10 days after notice thereof by Lender or such Affiliate, nominee or agent, as applicable, to Client;
(e) any act of bankruptcy takes place respecting Client, or any proceeding, petition or notice, voluntary or involuntary, is commenced, made, given or filed, as the case may be, by Client or any other person, under any present or future statute or law relating to bankruptcy, insolvency or relief from or compromise or arrangement with creditors of Client;
(f) Client ceases or threatens to cease to carry on business or makes or proposes to make any sale of the whole or any substantial portion of its assets in bulk, or otherwise out of the normal course of business;
(g) any execution, sequestration, expropriation or similar process is brought or threatened, by way of notice or otherwise, against, or a distress or analogous process is levied upon the whole or any part of the property of Client or Collateral;
(h) any trustee, receiver, interim receiver, administrator, manager or similar official is appointed with respect to all or any part of the property, assets or undertaking of Client, whether pursuant to any private instrument or agreement or by order of any court;
(i) if ownership of or control and direction over the assets or undertaking of Client or the majority of its voting shares changes, by amalgamation, merger, sale, transfer of shares or otherwise, except pursuant to death of the shareholder, or Client passes any resolution concerning any matter referred to in paragraph (e) or with respect to, or any proceedings,

voluntary or involuntary, are commenced under, any present or future law relating to amalgamation, liquidation, winding-up or dissolution;

- (j) an event occurs which, in the opinion of Lender, could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), business, operations, assets, liabilities or prospects of Client; Client's ability to perform any Obligation, or any obligation under any other agreement with Lender or any Affiliate, nominee or agent of Lender, or on the rights and remedies of Lender thereunder, and continues for 10 days after notice thereof by Lender or such Affiliate, nominee or agent, as applicable, to Client;
- (k) Client fails to maintain any financial covenant under this Agreement;
- (l) the expiration, revocation or other termination of the Franchise Agreement or the assignment or other transfer of Franchise Parties' rights under the Franchise Agreement, without Lender's prior written consent;
- (m) Franchise Parties default under any Franchise Agreement and such default is not cured within any curative period provided for under such Franchise Agreement;
- (n) the expiration, revocation or other termination of any lease agreement between the Lease Parties and its landlord or the assignment or other transfer of the Lease Parties rights under such lease agreement, without Lender's prior written consent;
- (o) Client defaults under any lease agreement between the Lease Parties and its landlord for the rented facilities where any Equipment of any Covenant Party is located and such default is not cured within the curative period, if any, granted to the Lease Parties under such lease agreement;
- (p) any Affiliate of Client defaults in any obligation under any other agreement with Lender or any Affiliate of Lender and such default continues for 10 days after notice thereof by Lender or such Affiliate, as applicable, to Affiliate of Client;
- (q) the Covenant Parties create, grant or permit to exist any hypothec on the Sites or their present and future movable, corporeal and incorporeal property, other than hypothecs granted in favor of Lender. For greater certainty, no subordinate hypothecs shall be permitted without the prior written consent of Lender; or
- (r) any event or circumstance described in any paragraph (b) through (q) inclusive occurs with respect to any Covenant Parties, guarantor or surety of Client respecting this Agreement or any person who controls Client or any Affiliate of Client.

A Default under this Agreement shall be deemed a default under all other present and future agreements entered into between Client and Lender or any Affiliate, nominee or agent of Lender.

20. **Lender's Remedies on Default**

Upon Default, Lender shall be entitled to do one or more of the following:

- (a) declare this Agreement to be in default (with or without terminating this Agreement) whereupon all Obligations shall be immediately due, payable and enforceable without any notice or demand whatsoever;
- (b) declare any or all of the Obligations to be immediately due and payable, or be subject to immediate performance, as the case may be, without presentment, protest or notice of dishonour, all of which are expressly waived;
- (c) take possession of Collateral, without demand, notice or legal proceeding and enter on any premises of Client or any other person for such purpose;
- (d) sell, lease or otherwise dispose of Collateral by public or private transaction for such consideration payable immediately and/or deferred and on such terms, and conditions as Lender in its discretion determines;
- (e) whether or not this Agreement may have been or be deemed to have been terminated, demand, sue for and recover the amount equal to the Accrued Liability, less, if applicable, the net proceeds to Lender derived from the sale, lease or other disposition of the Collateral, after deducting all amounts payable by Client pursuant to Section 23 hereof; and
- (f) exercise any other rights or remedies and/or take any proceedings available to Lender hereunder, at law or in equity. In lieu of selling, leasing or otherwise disposing of Collateral, Lender may retain Collateral and cause Collateral to be valued by a qualified appraiser selected by it and such value shall be substituted for and deducted as net proceeds to Lender under subparagraph

(e) of this Section. Proceeds of sale, lease or disposal need be deducted only when received, unless Lender elects to take the present value of payments to be received, discounted at the Financing Rate then in effect, compounded monthly.

21. **Lender's Rights to Remedy Defaults**

If Client fails to perform or comply with any Obligation, Lender may, but has no obligation to, perform same in the name of Client or Lender and make all necessary disbursements in connection therewith, which shall be reimbursed by Client immediately on demand. Lender is hereby appointed Client's lawful attorney to take any such action in Client's name.

22. **Client's General Indemnities**

Client shall indemnify and save harmless Lender from and against all existing or future losses, costs, charges, expenses, liabilities, claims, demands, penalties, damages, suits, actions and causes of action of every nature and kind whatsoever, including strict liability in tort or in delict (collectively, "Claims") sustained or suffered by Lender, or for which Lender may become liable, resulting from or arising out of:

- (a) Lender's lawful exercise or performance of its rights or obligations under this Agreement;
- (b) the holding by Lender of a security interest in the Collateral;
- (c) any Default;
- (d) any personal injury or property damage or other commercial loss arising out of the sale or delivery to, installation, ownership, use, operation, maintenance, condition, return, removal and re-delivery of Collateral; or
- (e) any use or operation of Collateral which infringes any patent or other industrial or intellectual property right, unless caused by the gross negligence or willful misconduct of Lender, its employees, servants or agents.

23. **Fees and Expenses**

Client shall pay to Lender on demand Lender's prevailing fees and all costs, expenses and disbursements (including, without limitation, legal fees on a solicitor and his own client basis) that Lender incurs, pays or becomes liable for in connection with the preparation, negotiation and registration of this Agreement and any other agreement evidencing or relating to the Obligations, the perfection or preservation of any Liens granted to or taken by Lender, processing of payments, rendering statements to Client, the failure of Client to pay or perform any of the Obligations, the enforcement by any means of any of the Obligations or any provision of this Agreement, the exercise of any rights, powers or remedies under this Agreement or any other agreement evidencing or relating to the Obligations (including all such costs, expenses and disbursements in connection with recovering or taking possession of the Collateral, removing or taking custody of, the storing, preserving, processing, repair, reconditioning or dismantling of Collateral, preparing Collateral for lease, sale or other disposition and leasing, selling or otherwise disposing of Collateral) and any professional advice sought in connection with any of the foregoing.

24. **Pre-Authorized Payments**

Client shall execute and deliver to Lender from time to time upon request pre-authorized payment orders in such form as Lender may reasonably request. Lender is hereby authorized to deliver such orders to the financial institution named therein. Client hereby appoints Lender its lawful attorney to take all action contemplated by such payment orders to receive payment of any amount due under this Agreement. Lender may decline any other form of payment. All monthly payments under the Agreement by the Client are to be made via such pre-authorized payment.

25. **Location of Collateral; Client's Name**

25.1 Except as otherwise expressly permitted hereunder, Client shall not part with possession of Collateral nor remove any of same from Canada.

25.2 Client covenants that it shall not change its name or chief executive office or move the Collateral from the Locations stated herein without first providing at least 30 days prior written notice to Lender.

26. **Assignment and Leasing**

Client shall not assign any rights hereunder and Client shall not sell or attempt to sell Collateral nor lease or rent or attempt to lease or rent Collateral, in any case without the prior written consent of Lender, and such consent may be withheld by Lender in its sole and unfettered discretion. No action aforesaid by Client shall relieve Client of any of its Obligations.

27. **Client's General Representations, Warranties and Covenants**

Client represents and warrants to and covenants with Lender that:

- (a) Client has been duly incorporated, amalgamated, merged or

continued, as the case may be (or if Client is not a corporation, has been duly formed, created or established as a partnership, limited partnership, trust or other applicable entity) and validly exists under and is governed by the laws of its jurisdiction of formation, amalgamation, merger, continuance, establishment or creation, as the case may be, with the power and authority to own its assets and properly, carry on its business as currently conducted, and to enter into this Agreement; (b) this Agreement and all other agreements, documents and instruments delivered in connection with this Agreement or the transactions contemplated hereby have been duly authorized, executed and delivered by all necessary action on the part of Client and constitute legal and valid agreements binding upon Client enforceable in accordance with their respective terms; (c) all information as defined in Section 48 provided by Client to Lender is accurate; and (d) all payments to Lender are and will be derived from legal sources. Client agrees to furnish to Lender a copy of its most recent annual financial statements, audited if applicable, promptly upon availability and in any event, within 90 days of each financial year-end. Upon request by Lender, Client agrees also to furnish its quarterly financial statements promptly upon availability and, in any event, within 60 days of each financial quarter-end.

28. Statutory Waivers and Acknowledgement

28.1 Client waives its right to receive a copy of any financing statement or financing change statement registered by Lender and of any related verification statement.

28.2 Client waives, to the fullest extent permitted by law, the application of the provisions of (a) *The Limitation of Civil Rights Act* (Saskatchewan); and (b) *The Distress Act* (Manitoba). Client agrees that the provisions of this Agreement are commercially reasonable.

29. No Set-Off - Exclusion And Assignment Of Warranties

29.1 Client irrevocably and unconditionally waives all equities against any instalment and other amount due to lender hereunder and agrees to pay each such instalment and other amount without regard to any equities. Neither defects in, damage to, nor loss or destruction of collateral shall terminate this Agreement or reduce any Obligations, except as otherwise expressly provided herein.

29.2 Client represents and warrants to and covenants with Lender that Collateral is and will be used for commercial, industrial or business purposes only and not for personal, family, household or farming purposes;

29.3 (a) Lender shall not be bound by or be deemed to have made or be liable for any representation, warranty or promise made by Supplier or otherwise; (b) Lender shall not be liable for any failure of Equipment including any latent defect or alleged fundamental breach of this Agreement; (c) neither Lender nor any of its employees, servants or agents has made and does not now make any representation or warranty whatsoever, express or implied, with respect to Equipment or any intellectual or industrial property rights therein including, without limitation, the design, specifications, condition, quality, merchantability or fitness for Client's purposes and (d) Lender shall have no liability for any direct, indirect, punitive, exemplary, special or consequential damages or loss of profits, actual or anticipated, or for any damages based on strict or absolute tort or delictual liability or Lender's or Supplier's negligence. Nothing herein shall deprive Client of its rights against Supplier or any person other than Lender. Client shall make any claims with respect to Equipment directly against Supplier.

29.4 If Equipment is seized or sold by Lender, all warranties of Supplier and rights to all software, other intellectual and industrial property licenses accompanying goods shall be deemed assigned by Client to Lender.

30. Notices

Any notice, demand, consent or other communication required or permitted hereunder ("Notice") shall be in writing and may be delivered, or sent by prepaid registered mail, or by telex, telecopier or other means which produces a permanent written record (a "transmission"). Mailed Notice shall be deemed to have been given two business days after mailing provided there is no general disruption or stoppage of postal services then in effect, in which case delivery shall be made by one of the other methods permitted herein; delivered Notice shall be effective upon delivery during business hours to an apparently responsible adult, and transmissions shall be deemed to have been received at the opening of the business day immediately following transmission.

Addresses for Notice shall be those addresses stated on the face hereof and may be changed in accordance with the foregoing.

31. Remedies Cumulative

All rights and remedies of Lender hereunder are cumulative and not exclusive or alternative and may be exercised by Lender separately or together, in any order, sequence or combination.

32. Forbearance, Indulgence and Waivers

Forbearance or indulgence by Lender in any instance shall not constitute a general waiver of the obligation under this Agreement to which the same applies. Any waiver by Lender of its rights must be in writing and shall not extend to any other obligation or right.

33. Allocations

Client hereby irrevocably and unconditionally waives any present or future right to allocate any payment made to Lender to any specific Obligation due under this Agreement or under any other agreement with Lender or any Affiliate, nominee or agent of Lender. Lender may allocate and apply any payment received to any obligation due hereunder or under any other agreement with Lender or Affiliate, nominee or agent of Lender and may reverse, reallocate and re-apply any such payment as many times and in such manners as Lender from time to time sees fit. Payments received shall be allocated upon receipt of legal tender or cleared funds. Lender is hereby irrevocably authorized to combine and set off amounts payable by it to Client with amounts owing to it from Client (in each case whether matured or not and whether absolute or contingent) under the same or different agreements.

34. Time

Time is and shall remain of the essence of this Agreement.

35. Entire Agreement

There are no representations, warranties, covenants, agreements or acknowledgements by Lender affecting the Financed Amount, the Obligations, the Accrued Liability, this Agreement or the Collateral, other than expressed in this Agreement or expressed in the other documents, instruments or security delivered in connection herewith. No amendment, restatement, supplement or other modification to this Agreement will be valid or binding unless set forth in writing and duly executed by each of the parties hereto.

36. Severability

Any term, condition or provision of this Agreement which is deemed to be void, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be severed herefrom and ineffective to the extent of such invalidity, prohibition or unenforceability, without in any way invalidating the balance hereof.

37. No Merger in Judgment

The taking of any judgment by Lender under this Agreement shall not operate as a merger or novation of any term or condition hereof or of any Obligation.

38. Further Assurances and Power of Attorney

38.1 Client and Lender each shall do, execute and perform all such acts, deeds, documents and things as may be reasonably required to enable Lender to have the full benefit of all rights and remedies intended to be reserved or created hereby and to better assure, register and perfect the Liens granted or taken in relation to the Collateral or any part of the Collateral. Lender is hereby appointed Client's lawful attorney to complete and/or correct any information on the face hereof or in any Schedule hereto.

38.2 Each power of attorney granted in this Agreement is granted with full power of substitution, is irrevocable, is coupled with an interest, shall survive termination of this Agreement and may be exercised during any subsequent legal incapacity of Client or Lender.

39. Currency

Unless otherwise stated in this Agreement, all sums of money payable hereunder shall be paid in Canadian dollars. If any amount payable pursuant to this Agreement needs to be converted from US dollars to Canadian dollars, including for purposes of determining the amount of the Financed Amount or any instalment, such conversion shall be made by Lender on the relevant date at the Conversion Rate and Lender will notify Client of the Canadian dollar amount so converted.

40. Survival

Notwithstanding any other Section, any accrued Obligations, the Obligations of Client under Sections 14.4, 15, 21, 22, 23, 28, and 33 and all rights of Lender hereunder, whether accrued or not, shall survive the termination or expiration of this Agreement and the payment of the Accrued Liability and all other amounts payable hereunder.

41. Section Headings

Section headings in this Agreement are for convenience of reference only and do not affect the interpretation or construction hereof.

42. Assignment

42.1 Client shall not assign this Agreement or any Obligations or rights hereunder without the prior written consent of Lender, and such consent may be withheld by Lender in its sole and unfettered discretion. No action aforesaid by Client shall relieve Client of any of its Obligations.

42.2 Lender may assign or transfer in whole or in part its rights under this Agreement or the Collateral, and/or grant a security interest, mortgage, transfer, charge or assignment in its rights hereunder or in the Collateral and any assignee, transferee or beneficiary of such security interest, mortgage, transfer, charge or assignment ("Assignee") shall be unrestricted in the exercise of such rights. Client shall recognize any such assignment, transfer or grant and shall not assert against any Assignee any Claims or Equities which it may have against Lender respecting this Agreement or the Collateral and waives all Claims and Equities against Assignee's rights to enforce this Agreement based on Lender's alleged failure to perform same or any Supplier's breach of Warranties.

43. Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon Lender and Client, and each of their respective heirs, executors, administrators, personal representatives, successors and permitted assigns and lessees, including without limitation any successor or assign arising as a result of an amalgamation or other corporate or business reorganization.

44. Choice of Law

This Agreement shall be governed, construed, performed and enforced in accordance with the laws of the Province where the address of Client is located as stated on the face of this Agreement.

45. Language

The parties hereto have expressly required that this Agreement and all documents, agreements and notices related thereto be drafted in the English language. Les parties aux présentes ont expressément exigé que le présent contrat et tous les autres documents, conventions ou avis qui y sont afférents soient rédigés en langue anglaise.

46. Joint and Several Liability

If more than one person executes this Agreement as Client their obligations hereunder shall be joint and several and, where the context so admits, each reference in this Agreement to "Client" shall include reference to any one or more or all such persons and the acts or omissions of and such persons shall bind all of them.

47. Receipt of Agreement

Client acknowledges receipt of an executed copy of this Agreement.

48. Information

Client hereby consents and authorizes Lender and its Affiliates, agents, nominees, contractors and representatives, at any time, (a) to collect, verify, use, communicate with and disclose to third parties (including credit reporting agencies, financial institutions, creditors, vendors and other persons) any credit, financial and other information, including personal information (as applicable) and information related to the credit rating, financial capacity and payment history, with respect to Client ("Information"), as Lender deems necessary to process, complete, service and enforce the transactions hereby contemplated and any other existing or potential transactions, or as required or otherwise permitted by law; (b) to respond to inquiries from, and exchange any Information with, third parties concerning Client's credit rating, financial capacity and payment history; (c) to provide Information to persons to whom Lender considers assigning, granting a participation or otherwise disposing of rights or obligations under the transactions hereby contemplated; and (d) to provide to any person copies of this Agreement. This consent is in addition to and does not replace any consent previously given.

49. Fund off Fax

This Agreement may be executed in several counterparts and such counterparts together shall constitute one and the same instrument and shall be effective as of the formal date hereof. Each of the Client and the Lender agrees that if the original of this Agreement and/or related certificates, authorizations or other documents (collectively, the "Closing Documents") is not received by the Lender, then the Lender, in its sole discretion, may decide to treat and rely on the executed version of any such Closing Document

that has been transmitted to the Lender by facsimile transmission ("fax") or by the use of other electronic means such as email (any such other electronic transmission being herein referred to as "pdf") as the signed original of such Closing Document. Without limiting the generality of the foregoing, each of the Client and the Lender further agrees that any Closing Document signed and transmitted by fax or pdf shall be treated for all purposes as an original document, the signature of any party on such Closing Document shall be considered as an original signature and the Closing Document transmitted by fax or pdf shall have the same effect as a counterpart thereof containing original signatures. No party shall raise as a defense to the enforcement of any Closing Document that a facsimile, email or other electronic transmission was used to transmit any signature of a party to such Closing Document.

Search ID #: Z12123569

Transmitting Party

DUNCAN CRAIG LLP

2800 SCOTIA PLACE 10060 JASPER AVE
EDMONTON, AB T5J 3V9

Party Code: 50001320
Phone #: 780 428 6036
Reference #: 204417

Search ID #: Z12123569

Date of Search: 2019-Nov-13

Time of Search: 08:25:08

Business Debtor Search For:

MCG RESTAURANTS LTD.

This is Exhibit "D" referred to in the
Affidavit of

Rob Morris
Sworn before me this 2nd day of
December A.D. 20 19

A Notary Public, A Commissioner for Oaths in
and for the Province of Alberta

DARRIN R. BIEGANER
BARRISTER & SOLICITOR

Exact Result(s) Only Found

NOTE:

A complete Search may result in a Report of Exact and Inexact Matches.
Be sure to read the reports carefully.



Search ID #: Z12123569

Business Debtor Search For:

MCG RESTAURANTS LTD.

Search ID #: Z12123569

Date of Search: 2019-Nov-13 **Time of Search:** 08:25:08

Registration Number: 14040425653

Registration Date: 2014-Apr-04

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2039-Apr-04 23:59:59

Exact Match on: Debtor No: 1

Exact Match on: Debtor No: 2

Debtor(s)

Block

Status
Current

1 MCG RESTAURANTS LTD.
600, 12220 STONY PLAIN ROAD
EDMONTON, AB T5N3Y4

Block

Status
Current

2 MCG RESTAURANTS LTD.
#100, 10335 172 STREET
EDMONTON, AB T5S1K9

Secured Party / Parties

Block

Status
Current

1 MOXIE'S RESTAURANTS, LIMITED PARTNERSHIP
31 HOPEWELL WAY NE
CALGARY, AB T3J4V7

Collateral: General

Block

Description

Status

1 ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY. Current

Search ID #: Z12123569

Business Debtor Search For:

MCG RESTAURANTS LTD.

Search ID #: Z12123569

Date of Search: 2019-Nov-13 Time of Search: 08:25:08

Registration Number: 16120209091

Registration Date: 2016-Dec-02

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2026-Dec-02 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status
Current

1 MCG RESTAURANTS LTD.
600, 12220 STONY PLAIN ROAD
EDMONTON, AB T5N 3Y4

Block

Status
Current

2 657847 ALBERTA LTD.
201, 2004-14 STREET NW
CALGARY, AB T2M 3N3

Block

Status
Current

3 RJ CONSULTING INC.
52027 RANGE ROAD 270
SPRUCE GROVE, AB T7X 3L7

Block

Status
Current

4 NASHPRO MANAGEMENT SERVICES LTD.
17731 - 103 AVENUE NW
EDMONTON, AB T5S 1N8

Block

Status
Current

5 857626 ALBERTA LTD.
17731 - 103 AVENUE NW
EDMONTON, AB T5S 1N8

Search ID #: Z12123569

Secured Party / Parties

Block

1 CANADIAN WESTERN BANK
200, 6860 CENTURY AVENUE
MISSISSAUGA, ON L5N 2V8

Status
Current

Collateral: General

Block

Description

1 ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR.

Status
Current

Search ID #: Z12123569

Business Debtor Search For:

MCG RESTAURANTS LTD.

Search ID #: Z12123569

Date of Search: 2019-Nov-13 Time of Search: 08:25:08

Registration Number: 17013123115

Registration Date: 2017-Jan-31

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2020-Jan-31 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status
Current

1 MCG RESTAURANTS LTD.
600, 12220 STONY PLAIN ROAD
EDMONTON, AB T5N 3Y4

Secured Party / Parties

Block

Status
Current

1 CANADIAN WESTERN BANK
17603 100 AVENUE
EDMONTON, AB T5S 2M1
Phone #: 780 484 7407 Fax #: 780 489 8228

Collateral: General

Block

Description

Status

1 THE ENTIRE RIGHT, TITLE, CLAIM AND INTEREST OF THE DEBTOR IN AND TO ALL MONEYS OWING AND PAYABLE HEREAFTER OWING AND PAYABLE TO THE DEBTOR PURSUANT TO THE TERMS OF THE INSTRUMENT OR INSTRUMENTS, INCLUDING ANY RENEWAL, REPLACEMENTS AND SUBSTITUTIONS DESCRIBED AS GIC #101007836628 AND ALL PROCEEDS INCLUDING, WITHOUT LIMITATION, ALL GOODS, SECURITIES, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES AND MONEY (ALL AS DEFINED IN THE PPSA, ANY REGULATIONS THEREUNDER AND ANY AMENDMENTS THERETO). Current

Search ID #: Z12123569

Business Debtor Search For:

MCG RESTAURANTS LTD.

Search ID #: Z12123569

Date of Search: 2019-Nov-13

Time of Search: 08:25:08

Registration Number: 19102932744

Registration Date: 2019-Oct-29

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2024-Oct-29 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status

Current

1 MCG RESTAURANTS LTD.
#600, 12220 STONY PLAIN ROAD NW
EDMONTON, AB T5N 3Y4

Secured Party / Parties

Block

Status

Current

1 RYE INC.
C/O 10511 SASKATCHEWAN DRIVE NW
EDMONTON, AB T6E 4S1

Block

Status

Current

2 YOUNG, RIC
C/O 10511 SASKATCHEWAN DRIVE NW
EDMONTON, AB T6E 4S1

Collateral: General

Block

Description

Status

Current

1 SCHEDULE "A"
The undertaking of the Debtor and in all goods, chattel paper, documents of title, instruments, intangibles, money, securities and other property now or hereafter owned or acquired by or on behalf of the Debtor and all proceeds thereof, including all inventory, all equipment, tools, apparatus, plant, furniture, fixtures and vehicle of any kind, all accounts including book debts, all contractual rights and insurance claims and all goodwill, patents, trademarks, copyrights, and other intellectual property.

Result Complete

Deloitte.

November 15, 2019

To the Creditors of
MCG RESTAURANTS LTD.

Dear Sir/Mesdames:

RE: THE MATTER OF THE PROPOSAL OF MCG RESTAURANTS LTD.

Please be advised that on the 12th day of November, 2019, MCG Restaurants Ltd. (the "Company") filed a Notice of Intention to Make a Proposal (the "NOI") pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act*, and Deloitte Restructuring Inc. has consented to act as Licensed Insolvency Trustee (the "Trustee") under the Proposal.

We enclose for your records, the following information:

1. Notice of Intention to Make a Proposal;
2. List of known creditors, as per the Company's records;

As provided in Section 69(1) of the Act, no creditor has any remedy against the Company or the Company's property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim probable in bankruptcy (the "Stay of Proceedings"). During the Stay of Proceedings, the Company is required to complete the following:

1. Within ten days, file a Statement of Projected Cash-Flow with the Trustee;
2. Within thirty days, file a Proposal under Part III, Division I of the *Bankruptcy and Insolvency Act* with the Trustee, unless an extension is granted by the Court.

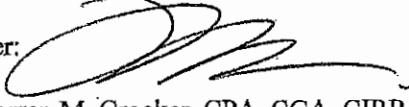
The Trustee is required to monitor the Company's business and affairs during this period and report any material adverse changes to the Official Receiver's office and/or the Court. Once a Proposal has been filed, the Trustee will provide you with a copy of the Proposal, the Report of the Trustee, a Proof of Claim form, a Voting Letter, a Proxy and a Notice to Creditors of the First Meeting of Creditors. If you disagree with the amounts listed in the attached list of creditors, you will have an opportunity to prove the amount owing to you when you file your Proof of Claim.

If you have any questions regarding the above, please contact the undersigned at your convenience.

Yours truly,

Deloitte Restructuring Inc.
In its capacity as Trustee in re:
The Matter of the Proposal of MCG Restaurants Ltd.
and not in its personal capacity

Per:


Darren M. Crocker, CPA, CGA, CIRP, Licensed Insolvency Trustee
Senior Vice-President

Enc.

This is Exhibit "E" referred to in the
Affidavit of
Rob Morris
Sworn before me this 2nd day of
December A.D. 2019
A Notary Public, A Commissioner for Oaths in
and for the Province of Alberta

DARREN R. BIEGANER
BARRISTER & SOLICITOR

District of:
Division No.:
Court No.:
Estate No.:

- FORM 33 -
Notice of Intention To Make a Proposal
(Subsection 50.4(1) of the Act)

In the matter of the proposal of
MCG RESTAURANTS LTD.
of the City of Edmonton, in the Province of Alberta

Take notice that:

1. MCG RESTAURANTS LTD., an insolvent corporation, states, pursuant to subsection 50.4(1) of the Act, that it intends to make a proposal to its creditors.
2. Deloitte Restructuring Inc. of 1500 Manulife Place, 10180 - 101 Street, Edmonton, AB, T5J 4K1, a licensed Trustee, has consented to act as Trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against the corporation are stayed as of the date of filing of this notice with the official receiver in its locality.

Dated at the City of Edmonton in the Province of Alberta, this 4th day of NOVEMBER, 2019.



MCG RESTAURANTS LTD.
Insolvent Corporation

To be completed by Official Receiver:

Filing Date

Official Receiver

- Creditor Mailing List -

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	967005 Alberta Ltd.		170th Street Landlord 10218 - 111 Street NW Edmonton AB T5K 1K9	41,274.66
	AA Johnny's Sewer and Drain Cleaning Service Ltd.		8221 Davies Road Edmonton AB T6E 4N1	11,208.09
	Access Gas Services		Suite 201 - 800 Carleton Court Delta BC V3M 6Y6	19,393.54
	Advanced Business Supplies		10546 - 169 Street Edmonton AB T5P 3X6	2,708.74
	Air West Mechanical		240 River Avenue Cochrane AB T4C 2C1	371.91
	Alberta Custom Gaskets		77 Granville Crescent Sherwood Park AB T8A 3C1	4,847.85
	Alsco		Acct # 011734 14630 - 123rd Avenue Edmonton AB T5L 2Y4	596.12
	April Glass & Mirror Ltd.		12774 - 115 Street Edmonton AB T5E 5E8	1,167.60
	BBSpro Service Inc.		Suite 270 19358 96th Ave Surrey BC V4N 4C1	4,048.58
	Canada Bread West		PO Box 4100 Main Post Office Vancouver BC V6B 5X4	2,479.26
	Canadian Linen Uniform Service		4525 Manilla Rd S.E Calgary AB T2G 4B6	2,353.03
	Citron Hygiene LP		555 Alden Road Markham ON L3R 3L5	4,631.37
	City Window Cleaners		#204, 1289 Highfield Cr. S.E. Calgary AB T2G 5M2	1,666.90
	CRA - Tax - Prairies	Pacific Insolvency Intake Centre	890379050 RT0001 Surrey National Verification and Collection Centre 9755 King George Blvd Surrey BC V3T 5E1 Fax: (866) 219-0311 cra-arc_tax-fisc_ins_t-f_g@cra-arc.gc.ca	136,122.71
	CRA - Tax - Prairies	Pacific Insolvency Intake Centre	890379050 RP0001 Surrey National Verification and Collection Centre 9755 King George Blvd Surrey BC V3T 5E1 Fax: (866) 219-0311 cra-arc_tax-fisc_ins_t-f_g@cra-arc.gc.ca	580,000.00
	Cushman & Wakefield Asset Services Inc.		St. Albert Tr. Landlord #41, 1200 - 37 Street SW Calgary AB T3C 1S2	43,827.26
	CWB Franchise Finance		long term loan 2000 Argentinia Road, Plaza 1, Suite 300, , L5N 2R7 Mississauga ON L5N 2R7	3,334,000.00
	Direct Energy Business		640001241127 C/O C15873C PO Box 1587 Station M Calgary AB T2P 3B9	57,271.99
	DSL		14520 128 Avenue Edmonton AB T5L 3H6	780.59

- Creditor Mailing List -

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	Dynamic Heating & Air Conditioning Inc.		9330 62 Avenue NW Edmonton AB T6E 0C9	7,999.75
	Ecolab		PO BOX 4090 STN A Toronto ON M5W 0E9	1,277.54
	Fire Protection		6748 59 Street Edmonton AB T6B 3N6	1,009.05
	Gordon Food Service		83839 - Moxie's 170th St. 13511 - 163 Street N.W. Edmonton AB T5V 0B5	61,193.69
	Gordon Food Service		83842 - Moxie's Calgary Tr. 13511 - 163 Street N.W. Edmonton AB T5V 0B5	31,789.49
	Gordon Food Service		83853 - Moxie's St. Albert Tr. 13511 - 163 Street N.W. Edmonton AB T5V 0B5	89,553.65
	Gordon Food Service		83857 - Moxie's WEM 13511 - 163 Street N.W. Edmonton AB T5V 0B5	101,221.79
	Gordon Food Service		83891 - Moxie's Kingsway 13511 - 163 Street N.W. Edmonton AB T5V 0B5	88,698.21
	Gordon Food Service		83918 - Moxie's 102ST (SEC) 13511 - 163 Street N.W. Edmonton AB T5V 0B5	84,902.53
	Hermitage Liquor Express		12727 - 50 Street Edmonton AB T5A 4L8	51,198.40
	Hotel Equipment & Supply Co.		13421 St. Albert Trail NW Edmonton AB T5L 4X1	1,538.88
	Intercity Packers LTD		13503 163 Street NW Edmonton AB T5V 0B5	778.22
	J&K Building Maintenance		157, 52328 Highway 21 Sherwood Park AB T8B 1J9	9,613.34
	Key Food Equipment Services		P.O BOX 7199 Station Terminal Vancouver BC V6B 4E2	3,594.67
	Kingsway Mall		Kingsway Landlord 85761 Suite 320, 109 Street & Princess Elizabeth Avenue Edmonton AB T5G 3A6	64,659.24
	Moxie's Leaseholds (Four Corners), Inc.		Sublease (St. Albert Trail) 31 Hopewell Way NE Calgary AB T3J 4B7	1.00
	Moxie's Leaseholds (Kingsway), Inc.		Sublease (Kingsway) 31 Hopewell Way NE Calgary AB T3J 4B7	1.00
	Moxie's Leaseholds (SEC), Inc.		Sublease (South Common) 31 Hopewell Way NE Calgary AB T3J 4B7	1.00
	Moxie's Leaseholds (West Edmotnon Mall), Inc.		Sublease (Wested Mall) 31 Hopewell Way NE Calgary AB T3J 4B7	1.00
	Moxie's Leaseholds (Whitemud), Inc.		Sublease (Calgary Trail) 31 Hopewell Way NE Calgary AB T3J 4B7	1.00

- Creditor Mailing List -

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	Moxie's Restaurants LP		Franchisor for our locations 31 Hopewell Way NE Calgary AB T3J 4B7	21,510.46
	Moxie's Restaurants, Limited Partnership		Sublease (170th Street) 31 Hopewell Way NE Calgary AB T3J 4B7	1.00
	OLS Canada		1464 Crumlin SideRoad London ON N5V 1S1	1,260.00
	Praxair		P.O. Box 2531 Station M Calgary AB T2P 0S6	5,150.59
	Professional Electrical		P.O. Box 22540 Southbrook Edmonton AB T6W 0C3	3,986.33
	Quickfyre Innovations Inc. O/A Ameego		P.O Box 70057 1-1660 Kenaston Blvd. Winnipeg MB R3P 0X6	3,069.36
	Ric Young		loan 8441 Coronet Rd NW Edmonton AB T6E 4N7	60,000.00
	Rye Inc.		loan 8441 Coronet Rd NW Edmonton AB T6E 4N7	500,000.00
	SF Property		1611 37 Street Edmonton AB T6L2N5	5,518.80
	South Edmonton Common		SEC Landlord 10180 - 111 Street Edmonton AB T5K 1K6	47,052.36
	Specialty Beverage Solutions Inc.		7519 Flint Road SE Calgary AB T2H 1G3	456.34
	Squirrel Systems Canada		05-0063812 and 05-0063806 8585 Baxter Place Burnaby BC V5A 4V7	2,851.37
	Stanley Access Technologies		PO Box 9218, Postal Station A Toronto ON M5W 3M1	569.70
	Steritech		PO BOX 278 Station Main Milton ON L9T 4N9	504.00
	Susan Morris		loan 52027 RR270 Spruce Grove AB T7X 3L7	250,000.00
	Temp-Rite Refrigeration & Air Conditioning		10557 172 Street Edmonton AB T5S 1P1	3,517.98
	Universal Lighting		2789 Saint Antoine Ave. Vaudreuil-Antoine QC J7V 8P2	457.66
	Universal Workwear		Bay 11, 2135-32 Avenue N.E. Calgary AB T2E 6Z3	3,155.72
	West Edmonton Mall		Wested Mall Landlord/utilities #1755, 8882 170 Street Edmonton AB T5T 4J2	218,959.26

This is Exhibit "F" referred to in the Affidavit of Rob Morris sworn before me this 2nd day of December A.D. 2019

A Notary Public, A Commissioner for Oaths in and for the Province of Alberta
GARRETT R. BIEGANER
 BARRISTER & SOLICITOR

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
 IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
 MCG RESTAURANTS LTD.
 OF THE CITY OF EDMONTON, IN THE PROVINCE OF ALBERTA
 STATEMENT OF PROJECTED CASH-FLOW
 FOR THE PERIOD OF NOVEMBER-13, 2019 TO FEBRUARY 18, 2020

District of Alberta
 Division No.: 01 - Edmonton
 Court No.: 24-2582587
 Estate No.: 24-2582587

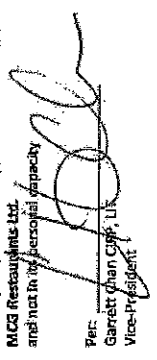
CDNS unaudited	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Total
Wk #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
Week ending:	19-Nov-19	26-Nov-19	3-Dec-19	10-Dec-19	17-Dec-19	24-Dec-19	31-Dec-19	7-Jan-20	14-Jan-20	21-Jan-20	28-Jan-20	4-Feb-20	11-Feb-20	18-Feb-20	
Operating receipts:															
Cash sales	359,403	384,898	363,320	382,824	414,559	316,152	421,545	314,855	310,808	323,150	326,714	280,674	322,728	445,454	4,926,871
GST Collected	17,478	18,398	17,967	17,343	18,816	15,112	20,350	15,038	14,861	15,447	15,617	12,460	15,426	21,282	235,564
Total operating receipts	376,881	403,296	381,287	380,167	433,375	331,262	441,895	329,893	325,770	338,596	342,331	293,135	338,152	466,736	5,162,435
Operating disbursements:															
Purchases - Cost of Goods Sold	86,579	92,893	87,485	87,349	98,836	76,174	101,425	76,698	75,048	77,923	78,829	62,674	77,733	107,266	1,188,988
Advertising & Promotions	16,862	18,050	17,073	17,053	19,484	14,886	19,813	14,785	14,313	15,469	15,365	12,262	15,168	20,936	231,563
Bank & CC Charges	5,391	5,773	5,460	5,442	6,218	4,742	6,323	4,718	4,864	4,847	4,801	3,810	4,841	6,682	62,708
Repairs and Maintenance	11,298	12,066	11,409	11,369	13,005	9,927	13,159	9,914	9,835	10,209	10,354	8,216	10,147	14,022	73,903
Supplies	8,435	8,941	8,694	8,559	7,502	5,730	7,503	5,684	5,691	5,886	5,979	4,719	5,625	8,127	165,011
Quality Control Meals	17,262	18,498	17,448	17,425	16,509	15,183	20,246	16,106	14,930	15,518	15,888	12,520	15,469	21,398	89,144
Royalties	-	-	-	-	-	-	-	-	-	-	-	-	-	-	236,809
Salaries - Variable	187,805	187,805	188,701	188,701	188,701	188,701	188,701	188,701	188,701	188,701	188,701	188,701	188,701	188,701	1,228,112
Salaries - Fixed - Yearly	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	63,192	442,348
Payroll source reimbursements 11.72% of Salaries	14,336	14,336	14,441	14,423	15,561	13,052	16,128	13,149	13,073	13,427	13,547	11,546	13,376	17,043	199,589
Group benefits - 0.3% sales	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	1,492	12,312
WCB - 1.02 per 100 payroll \$	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	10,439	84,781
Cleaning - Yearly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	31,487
Waste Removal - Yearly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	57,625
Equipment & Technology Costs - Yearly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9,750
Rent - Base - Yearly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	57,925
Common Area Costs/Fees - Yearly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9,750
Utilities - Yearly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	26,825
Professional fees - Yearly by store	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	134,443
Head Office Charges	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	7,315	48,908
GST reimbursements	-	-	-	-	-	-	-	-	-	-	-	-	-	-	235,499
Total operating disbursements	188,683	446,762	311,992	471,762	196,679	415,028	293,924	479,928	201,842	384,023	184,182	502,644	189,900	425,301	4,848,389
Cash from Operations	188,198	356,534	67,295	108,405	236,696	33,234	147,971	149,965	123,928	54,573	158,149	190,491	148,252	241,435	514,046
Financing receipts and disbursements:															
CWS Loan Interest Cost	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(60,925)
Cash from financing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(60,925)
Net cash flow	188,198	356,534	67,295	108,405	236,696	33,234	147,971	149,965	123,928	54,573	158,149	190,491	148,252	241,435	453,121
Opening Cash	297,809	653,906	68,603	61,990	239,597	129,000	147,700	147,830	129,428	544,398	688,526	760,769	851,359	699,612	287,765
Closing Cash	485,654	481,658	501,484	408,898	647,585	543,952	691,722	544,398	668,526	623,100	786,769	551,358	699,612	740,636	740,636

This Statement of Projected Cash-Flow is prepared in accordance with Subsection 50.4(2) of the Bankruptcy and Insolvency Act and should be read in conjunction with the Trustee's Report on Cash-Flow Statement.

Dated this 22nd day of November 2019

DELOITTE RESTRUCTURING INC.
 In its capacity as Trustee in re: The Notice of Intention to Make a Proposal of
 MCG Restaurants Ltd.
 and not in its personal capacity

MCG RESTAURANTS LTD.

Per: 
 Rob Morris
 Director

District of: Alberta
Division No. 01 - Edmonton
Court No. 24-2582587
Estate No. 24-2582587

-- FORM 29 --
Trustee's Report on Cash-Flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

The attached statement of projected cash flow of MCG Restaurants Ltd., as of the 22nd day of November 2019, consisting of monthly projections for the period of November 13, 2019 to February 13, 2020, has been prepared by the management of the insolvent person (or the insolvent debtor) for the purpose described in the notes attached, using the probable and hypothetical assumptions set out in the notes attached.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by: the management and employees of the insolvent person or the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by: management or the insolvent person for the probable assumptions and preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects,

(a) the hypothetical assumptions are not consistent with the purpose of the projection;

(b) as at the date of this report, the probable assumptions developed are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or

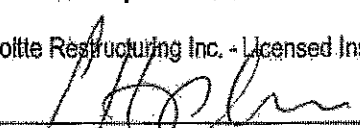
(c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in the notes attached, and readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Edmonton in the Province of Alberta, this 22nd day of November 2019.

Deloitte Restructuring Inc. - Licensed Insolvency Trustee


1500 Marquette Place, 10180 - 101 Street
Edmonton AB T5J 4K1

Phone: (780) 401-3913 Fax: (780) 421-3782

District of: Alberta
Division No. 01 - Edmonton
Court No. 24-2582587
Estate No. 24-2582587

FORM 29 - Attachment
Trustee's Report on Cash-flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

Purpose:

This Statement of Projected Cash-Flow is prepared in accordance with Subsection 50.4(2) of the Bankruptcy and Insolvency Act.

Projection Notes:

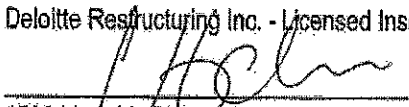
Sales at St. Albert location down 5% from same period last year
Sales at West Edmonton Mall location up 5% from same period last year
Sales at South Common location down 3% from same period last year
Sales at 170 Street and Kingsway locations remain at same levels as same period last year
Fixed costs do not increase by a material amount beyond management estimates
Variable costs and margins remain at same levels as previous year

Assumptions:

Creditors take no steps to terminate the stay of proceedings
The Company is able to fulfill the terms of its franchise agreement
The Company is supported by its critical vendors throughout the proposal proceedings

Dated at the City of Edmonton in the Province of Alberta, this 22nd day of November 2019.

Deloitte Restructuring Inc. - Licensed Insolvency Trustee


1500 Manulife Place, 10180 - 101 Street
Edmonton AB T5J 4K1
Phone: (780) 401-3913 Fax: (780) 421-3782

District of: Alberta
Division No. 01- Edmonton
Court No. 24-2582587
Estate No. 24-2582587

- FORM 30 -

Report on Cash-Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the Act)

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

I, MCG Restaurants Ltd., have developed the assumptions and prepared the attached statement of projected cash flow of the insolvent person, as of the 22nd day of November 2019, consisting of ~~monthly~~ *weekly* projections for the period of November 13, 2019 to February 18, 2020.

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in the notes attached, and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions are disclosed in the notes attached.


Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in the notes attached, using a set of hypothetical and probable assumptions set out in the notes attached. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Edmonton in the Province of Alberta, this 22nd day of November 2019.



MCG Restaurants Ltd.
Debtor



Name and title of signing officer

Name and title of signing officer

District of: Alberta
Division No. 01 - Edmonton
Court No. 24-2582587
Estate No. 24-2582587

FORM 30 - Attachment
Report on Cash-Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the Act)

In the Matter of the proposal of
MCG Restaurants Ltd.
of the City of Edmonton, in the Province of Alberta

Purpose:

This Statement of Projected Cash-Flow is prepared in accordance with Subsection 50.4(2) of the Bankruptcy and Insolvency Act.

Projection Notes:

Sales at St. Albert location down 5% from same period last year
Sales at West Edmonton Mall location up 5% from same period last year
Sales at South Common location down 3% from same period last year
Sales at 170 Street and Kingsway locations remain at same levels as same period last year
Fixed costs do not increase by a material amount beyond management estimates
Variable costs and margins remain at same levels as previous year

Assumptions:

Creditors take no steps to terminate the stay of proceedings
The Company is able to fulfil the terms of its franchise agreement
The Company is supported by its critical vendors throughout the proposal proceedings

Dated at the City of Edmonton in the Province of Alberta, this 22nd day of November 2019.



MCG Restaurants Ltd.