

# **CHARO CHICKEN® FRANCHISE AGREEMENT**

## **EXHIBIT C-2**

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1. Approved Location and Protected Area
2. Authorization Agreement for Prearranged Payment
3. Nondisclosure and Noncompetition Agreement
4. Assignment of Telephone Numbers
5. Personal Guaranty and Subordination Agreement
6. Release of Claims
7. Receipt for Franchise Agreement

# CHARO CHICKEN® FRANCHISE AGREEMENT

## 1. PARTIES

This Agreement is signed on \_\_\_\_\_ [date], between Charo Chicken Systems, Inc. ("Charo Chicken," "we" or "us"), a California corporation with its principal office in Huntington Beach, California, and ^ \_\_\_\_\_ [franchisee's legal name] ("you").

## 2. RECITALS

### 2.1. Ownership of System

We have developed a unique branded system for operating fast-food restaurants featuring charbroiled chicken. We own certain intellectual property rights, including the trade name and mark, "CHARO CHICKEN®." We have spent time, effort, and money to develop business methods, proprietary recipes, brand concepts, operational processes, trade secrets, advertising materials, marketing strategies, information on sources of supply, unique trade dress, architectural design, employee uniforms, and training techniques for operating CHARO CHICKEN® Restaurants.

### 2.2. Objectives of Parties

We are willing to grant to you and you are willing to accept from us the right and obligation to own and operate a CHARO CHICKEN® Restaurant, using the CHARO CHICKEN® trade name, marks, and system, throughout the term of this agreement and according to its conditions.

## 3. DEFINITIONS

For purposes of this Franchise Agreement, when any of the following words and phrases begins with a capital letter, we define its meaning in this Article 3:

### 3.1. Agreement

"The Agreement" or "this Agreement" means "this Franchise Agreement."

### 3.2. Approved Location

"Approved Location" means "the location that we have approved in writing as the site at which you may own and operate a CHARO CHICKEN® Restaurant under the franchise granted by this Agreement."

### **3.3. Charo Chicken**

"Charo Chicken" means "Charo Chicken Systems, Inc. or any person or company to which we allocate part or all of our rights and obligations under this Agreement."

### **3.4. Designated General Manager**

"Designated General Manager" means "you in your role as general manager of a CHARO CHICKEN® Restaurant or the person whom you have appointed and we have certified as general manager of your Restaurant."

### **3.5. Franchise Network**

"Franchise Network" means "the interdependent network composed of us, all CHARO CHICKEN® franchisees, our Related Parties, and any other people or companies that we have licensed to use our Trade Name or Marks."

### **3.6. Good Standing**

"Good Standing" means "your timely compliance and that of your Related Parties with all provisions of this Agreement and the Manual, specifically including provisions for timely payment of money you owe to us or our Related Party."^

### **3.7. Index**

"Index" means "the Consumer Price Index: All Items/U. S. City Average - All Urban Consumers (1982-1984 = 100), published by the Bureau of Labor Statistics, U. S. Department of Labor, or a comparable index we select if the above-referenced index is no longer published."

### **3.8. Manual**

"Manual" means "the Manual that we will lend you or to which we will give you access on our intranet during the term of this Agreement, as updated from time to time, containing information, forms, and requirements for the establishment and operation of a CHARO CHICKEN® Restaurant and for use of our Trade Name and Marks."

### **3.9. Marks**

"Marks" means "the trademarks, service marks, trade dress, logotypes, slogans, and other commercial symbols we authorize you to use under this Agreement."

### **3.10. Proprietary Recipe**

"Proprietary Recipe" means "a confidential recipe that describes the ingredients and preparation process for a food item sold or used in a CHARO CHICKEN® Restaurant."

### **3.11. Protected Area**

"Protected Area" means "an area surrounding an Approved Location within which we agree to refrain from specified competitive activities."

### **3.12. Related Party**

"Related Party" or "Related Parties" means "people and companies associated with us or you, as the context suggests, including general partners, limited partners, shareholders, companies in which we or you have an interest, companies in which any person or company owning an interest in you also has an interest, or our officers, directors, agents or employees or your officers, directors, agents or employees."

^

### **3.13. ^Restaurant**

"Restaurant" means "a business that we have authorized a franchisee or licensee to conduct under our Trade Name, Marks, and System."

### **3.14. ^Restaurant Sales**

"Restaurant Sales" means "the total amount of money or other consideration you and your Related Parties receive for all goods sold and services rendered from the Approved Location or in association with our Trade Name or Marks, less sales tax, within an accounting period."

### **3.15. Start Date**

"Start Date" means "the date when your CHARO CHICKEN® Restaurant opens for business or two hundred forty (240) days after we sign this Agreement, whichever is first." The Start Date may be extended only with our written consent.

### **3.16. System**

"System" means "the intellectual property we license to you under this Agreement, including the right to use our business methods, proprietary products, brand concepts, operational processes, trade secrets, advertising materials, marketing strategies, information on sources of supply, unique trade dress, architectural design, employee uniforms, and training techniques."

### **3.17. Termination**

"Termination" means "expiration of this Agreement, nonrenewal of this Agreement, or termination of this Agreement before its normal expiration date."

### **3.18. Trade Name**

"Trade Name" means "the commercial name 'CHARO CHICKEN®.'"

### **3.19. Transfer**

Except as described in Section 9.5 of this Agreement, "Transfer" means "any sale, gift, or other change in ownership of all or any part of the rights and obligations: (1) of this Agreement, (2) of the capital assets of your CHARO CHICKEN® Restaurant, including the lease for the Approved Location, or (3) of an ownership interest in you."

### **3.20. You**

"You" means "the person or company that is named as 'you' in Article 1 of this Agreement." "You" means, in addition, "all people or entities that succeed to your interest by Transfer or operation of law."

## **4. FRANCHISED RIGHTS**

### **4.1. Granting Clause**

We grant to you the right and obligation and you accept from us the right and obligation to own and operate a CHARO CHICKEN® Restaurant at an Approved Location under our Trade Name, Marks, and System during the term of this Agreement and according to its provisions.

^

### **4.2. Protected Area**

Your Approved Location will be within a Protected Area specified in Attachment 1 to this Agreement. Except for the rights reserved below, we agree not to authorize any other franchisee or licensee to base a Restaurant within the Protected Area, base any company-owned Restaurant that uses the Trade Name or System within the Protected Area, or allow any other franchisee, licensee or company-owned Restaurant using the Trade Name or System to relocate to a site within the Protected Area.

### **4.3. Rights Reserved**

We reserve the exclusive right to conduct or control Internet promotion and marketing. We reserve the exclusive right to control catering activities. We reserve all other rights not expressly granted to you in this Agreement, including the rights to establish Restaurants anywhere outside your Protected Area, despite how close the Restaurants are to your Restaurant and the right to sell food items prepared according to Proprietary Recipes through any means of distribution other than a CHARO CHICKEN® Restaurant.

### **4.4. Relocation**

You may relocate the Restaurant within your Protected Area only with our prior written consent, which we will grant only if the following conditions are fulfilled:

- (a) You and your Related Parties are in Good Standing under the Franchise Agreement, any other Agreement between us or our Related Party and you, and the Manual,
- (b) You and any Related Parties that have signed the original Franchise Agreement have signed a copy of the Franchise Agreement that is currently effective at the time of relocation,

- (c) You agree to plan, construct, equip, and furnish your new Restaurant so that the premises meet the standards of appearance and function applicable to the premises of new CHARO CHICKEN® Restaurants at the time you relocate,
- (d) You and any Related Parties that are parties to the Franchise Agreement have signed a release of claims in a form satisfactory to us with respect to past dealings with us and our Related Parties,
- (e) You have paid us the relocation fee described in Article 6, and
- (f) We have given our prior written approval to the new site and the provisions of the lease for the new premises.

Subject to the conditions listed above, we will not unreasonably withhold or delay our consent.

#### **4.5. Term and Renewal**

##### **4.5.1. Initial Term**

The initial term of the franchise will begin on the Start Date and will continue for ten (10) years or the length of the lease and any renewals or extensions of the lease, whichever ends first.

##### **4.5.2. Renewal**

You will have the right to renew the franchise for two (2) additional ten- (10-) year terms on the same terms and conditions as those on which we are customarily granting new franchises at the times of renewal if at the times of renewal the following conditions have been fulfilled:

- (a) You are in Good Standing under this Agreement, any other Agreement between us or our Related Party and you, and the Manual,
- (b) You have notified us in writing at least one hundred twenty (120) days before the expiration date of this Agreement of your wish to renew,
- (c) You have signed a copy of the new Franchise Agreement not less than thirty (30) days before the expiration of this Agreement or thirty (30) days after you receive the new Franchise Agreement from us, whichever is later,
- (d) You have agreed that you will, before the renewal term begins, at your own expense, remodel, modernize and redecorate the Restaurant premises and replace and modernize the fixtures, equipment, and signs used in the Restaurant so that the premises of the Restaurant meet the standards of appearance and function applicable to the premises of a new CHARO CHICKEN® Restaurant at the time of renewal,
- (e) You have renewed or have the right to renew the lease for the Approved Location, and

- (f) You and any Related Parties that are guarantors to this Agreement have signed a release of claims in a form satisfactory to us with respect to past dealings with us and our Related Parties.

The provisions of the standard franchise agreement we use at the time of renewal may be materially different from this Agreement's provisions. Changed provisions may include but are not limited to increased royalties and Advertising Fund contributions.

## **5. OUR SERVICES**

We will perform the following services for you at times and places we select if you are in Good Standing under this Agreement, any other agreement with us or our Related Party and the Manual:

### **5.1. Construction and Decor**

We will give you prototype or sample plans and specifications, or plans and specifications for one or more existing Restaurants to guide you in constructing tenant improvements to, furnishing, and equipping your Restaurant. You must, at your own expense, tailor the plans and specifications we provide for your individual use and then submit the customized plans and specifications to us for written approval.

### **5.2. Training**

Before the opening of your Restaurant, we will conduct an initial training program in the operation of the Restaurant under the CHARO CHICKEN® System for you and as many as three (3) members of your management. You or, if you are a company, your Designated General Manager must attend and successfully complete the training program to our satisfaction before you may open your Restaurant. Your Restaurant must always be actively supervised by a person who has successfully completed our initial training program and who is certified by us to act as Designated General Manager.

### **5.3. Consultation**

We will use our best efforts to make our personnel available to you for telephone, fax, email or intranet consultation on all aspects of your business in a timely manner for no additional charge.

### **5.4. Manual**

We will lend you or make available to you on our intranet, should we establish one, a Manual (or manuals) containing explicit instructions for use of the Marks, specifications for goods that will be used in or sold by the Restaurant, sample business forms, information on marketing, management, and administrative methods developed by us for use in the Restaurant, names of approved suppliers, and other information that we believe may be necessary or helpful to you in your operation of the Restaurant. We will revise the Manual periodically to meet the changing needs of the Franchise Network and will distribute updated pages containing these revisions to you, or, if the Manual has been placed on our intranet, will post revised pages there.

## **5.5. Advertising Fund**

### **5.5.1. Administration**

We will administer the Advertising Fund, which we will account for separately on the general ledger. The purpose of the Fund is to pool our advertising money and that of our franchisees so as to achieve greater benefits for all in promoting the Trade Name and Marks. We may use the Fund to pay for market research, advertising materials, media space and time for a national or regional advertising program, a referral program and public relations activities. The Fund may also be used for advertising grants to franchisees, collectively or individually. In addition, the Fund may be used to pay for point-of-purchase materials or public relations projects. We may use up to twenty percent (20%) of Fund money to compensate ourselves for overhead and other expenses incurred in connection with our administration of the Fund. We will distribute to our franchisees, once a year, an Advertising Fund report that will state the total amounts of money collected and spent by the Fund during the past year and list, by general category, the manner in which we spent the money.

### **5.5.2. Allocation of Expenditures**

We will give preference to Advertising Fund projects that are systemwide in scope, but we may allocate some Advertising Fund money to regional groups of franchisees or individual franchisees when we consider it desirable. We reserve the unqualified right to decide, in our sole discretion, where, when and how Advertising Fund money will be spent.

### **5.5.3. Repayment of Advances**

We have the right to lend money to the Advertising Fund, without interest, and to repay ourselves from Fund money during the same or a subsequent fiscal year.

## **5.6. Approved or Designated Suppliers**

We will give you, in the Manual or otherwise in writing, names and addresses of approved or designated suppliers of specified goods and services that you may or must, respectively, use or sell in your Restaurant. In approving or designating a particular supplier other than ourselves, **we expressly disclaim any warranties or representations as to the condition of the goods or services sold by the suppliers, including, without limitation, expressed or implied warranties as to merchantability or fitness for any intended purpose.** You agree to look solely to the manufacturer or supplier for the remedy for any defect in the goods or services.

## 6. YOUR PAYMENTS

### **6.1. Initial Franchise Fee**

When you sign this Agreement, you will pay us in immediately accessible funds an initial franchise fee of twenty-five thousand dollars (\$25,000). The initial franchise fee is not refundable.

### **6.2. Royalties**

On Wednesday of each week, or on any other day that we designate in writing, you will pay us a weekly royalty of five percent (5%) of Restaurant Sales, as "Restaurant Sales" is defined in Article 3 of this Agreement, during the previous week, or a weekly minimum royalty, whichever is more. The weekly minimum royalty is three hundred fifty hundred dollars (\$350). We may increase or decrease the minimum royalty each year in an amount corresponding to the increase or decrease in the Index, as defined in Article 3 of this Agreement, for the immediately preceding year, but under no circumstances will we be obligated to decrease the minimum royalty to an amount that is less than it was on the Start Date. You must submit a statement of Restaurant Sales on the form we designate with each royalty payment.

### **6.3. Advertising Fund Contributions**

On Wednesday of each week during the term of this Agreement, you will pay to the Advertising Fund a weekly contribution of two percent (2%) of Restaurant Sales during the previous week. We have the right to increase the weekly Advertising Fund contributions to three percent (3%) in the future if we consider it necessary for the continued development of the Franchise Network.

### **6.4. Means of Payment**

You must sign the attached authorization agreement for prearranged transfer or any other document necessary to facilitate payment of royalties and Advertising Fund contributions by electronic funds transfer, pre-arranged draft or sweep of your bank account, at our option.

### **6.5. Audit**

We have the right to audit your books and records, including your tax returns, with respect to the Restaurant during normal working hours with no advance notice. The auditor may be our employee or an independent contractor and does not have to be an accountant. If an audit discloses an underpayment of royalties or Advertising Fund contributions payable under this Agreement, you must immediately pay these amounts to us together with accrued interest on the amount underpaid according to Section 6.10 of this Agreement. In addition, if we performed the audit because you did not provide required financial statements at the times and in the format specified in the Manual or if the underpayment exceeds three percent (3%) of the total royalty or Advertising Fund

contribution payable for any period covered by the audit, you must reimburse us for our expenses for the audit.

#### **6.6. Training Fees and Costs**

We will not charge a fee for the initial training program at which we train you or your Designated General Manager. However, if you later replace your Designated General Manager, we may charge a training fee for the new Designated General Manager's training. We may also charge a training fee for continuing education programs. For all training we offer, you must pay any costs of travel, lodging, meals, and other incidental expenses that you or your employees incur.

#### **6.7. Transfer Fee**

As a condition of Transfer of this franchise, you must pay, with your notice to us of your intent to Transfer, a transfer fee of five thousand dollars (\$5,000).

#### **6.8. Annual Meeting Registration Fee**

We may charge a registration fee of no more than five hundred dollars (\$500) for each person attending the CHARO CHICKEN® Annual Meeting. Payment is due at least one (1) week before the Meeting begins.

#### **6.9. Relocation Fee**

As a condition of relocating your franchised Restaurant, you must pay, before relocating, a relocation fee of five thousand dollars (\$5,000). This fee will help pay our expenses of reviewing and approving the new site and your plans for constructing, equipping, and furnishing it.

#### **6.10. Interest on Late Payments**

Any payment that we do not receive from you when due will bear interest at eighteen percent (18%) per year or at the highest rate allowed by applicable law on the date when payment is due, whichever is less. We charge interest on late payments to partially compensate us for loss of use of the funds and for internal administrative costs resulting from late payment that would otherwise be difficult to measure precisely. The fact that we impose these charges is not a waiver of our right to be paid on time.

#### **6.11. Application of Payments**

We may apply any payment you make to us, at our option, to any past due debt you owe us regardless of how you say the payment should be applied. We do not have to accept payments after they are due or extend credit or otherwise finance your operations, except as specifically provided in this Agreement. If you do not pay all amounts when due we may suspend our services and support until you cure the failure. If you do not make the payment within any applicable cure period, we have good cause to terminate this Agreement.

## **7. YOUR OBLIGATIONS**

### **7.1. Use of Trade Name and Marks**

#### **7.1.1. Context**

You may use the Trade Name and Marks only in the operation of a CHARO CHICKEN® Restaurant at an Approved Location. You may not use any other trade name or marks in connection with your Restaurant.

#### **7.1.2. Changes in Trade Name and Marks**

We have invested time, energy, and money in promoting and protecting our Trade Name and other Marks. We do not intend to change them. However, rights in intangible property such as the Trade Name and Marks are often difficult to establish and defend. Changes in the cultural and economic environment within which the System operates or third party challenges to our rights in the Marks may make it desirable or necessary to change the Trade Name and Marks. We therefore have the right to change our Trade Name and Marks and the specifications for each when we believe, in our reasonable discretion, that the changes will benefit the Franchise Network. You must promptly conform, at your own expense, to any such changes.

#### **7.1.3. Advertising Materials**

All advertising and promotion that you undertake must be completely truthful, conform to the highest standard of ethical advertising and comply with any applicable laws and regulations. You must submit to us copies of all promotional and advertising materials that you propose to use at least two weeks before the proof approval deadline. This requirement is also applicable to regional advertising cooperatives that have been formed under Subsection 7.5.3 below. We will review the materials within a reasonable time and will promptly notify you or the regional advertising cooperative, as applicable, whether we approve or reject them. We may not withhold our approval unreasonably. Even if we approve specified materials, we may later withdraw our approval if we reasonably believe it is necessary to make the advertising conform to changes in the System or to correct unacceptable features of the advertising.

#### **7.1.4. Legal Protection**

You agree to notify us immediately in writing if you become aware of any unauthorized use of our Trade Name, Marks, or System. You must promptly notify us in writing of any claim, demand, or suit against you or against your principals in connection with your use of the Trade Name, Marks, or System. In any action or proceeding arising from or in connection with any such claim, demand, or suit, we may select legal counsel and have the right to control the proceedings.

## 7.2. Quality Control

### 7.2.1. Initial Training Program

You or your Designated General Manager must faithfully attend all phases of the initial training program and complete it to our satisfaction, as certified by us in writing. Failure to successfully complete any aspect of the training program, as we determine in our sole discretion, constitutes grounds for immediate termination of your franchise, but we have the right to offer you one or more remedial courses of action, such as additional training or employment of supplemental personnel, if we believe the alternative or alternatives may make it unnecessary for us to terminate your franchise. If you do not accept the alternative course of action within the time we allow, we may terminate your franchise, effective immediately.

### 7.2.2. Site Development

You must plan, construct, equip and furnish your Restaurant according to our currently effective standards, as described in the Manual. You must submit all construction plans and designs to us for our prior written approval, which will not be unreasonably withheld or delayed. You will take all necessary action to develop your Restaurant in a timely manner in relationship to the Start Date stated in Article 3 of this Agreement or any written extension of the Start Date. Default under your lease or sublease, if noncurable or if uncured within any applicable cure period, is a noncurable default under this Agreement and may, at our option, be grounds for immediate termination of this Agreement.

### 7.2.3. Opening

You may not open the Restaurant to the public until we certify in writing that, in the view of our management, you and your employees are prepared to begin operation. We will not unreasonably withhold or delay certification. **By certifying that our management believes the Restaurant is prepared to open, we do not guarantee that your Restaurant will be successful.** Success is dependent on many factors that are not within our control.

### 7.2.4. Compliance with Manual

You must operate the Restaurant in total compliance with the standards and specifications stated in the Manual. We may make changes in our standards and specifications, when, in our reasonable discretion, change is needed for the continued success and development of the Franchise Network. Such changes may require the purchase of equipment, supplies, furnishings or other goods, completion of additional training by your employees, or other cost to you. You must promptly conform to the modified standards and specifications at your own expense. If you have a paper copy or copies of the Manual, you must at all times keep your copy of the Manual current by inserting in it any revised pages we give you and deleting superseded pages. If there is any dispute as to the requirements of the Manual at any point in time, the terms of our master copy of the Manual will control.

#### 7.2.5. Products and Services Offered

You must use and sell all the products and services and only the products and services that we have authorized you to provide. If we have designated a particular supplier as the source for goods or services you use or sell in your Restaurant, you may buy only from that supplier. If we tell you that you must obtain our approval of your supplier of a certain type of goods or services and you would like to buy these goods or services from a supplier that we have not previously approved, you must notify us in writing and, upon our request, give us product specifications, sample products, and/or information about the supplier. We will promptly give you our written approval or our reasons for withholding our approval. If you ask us to approve a supplier, you must reimburse us for any expenses we reasonably incur in inspecting the supplier's premises, checking the supplier's credentials, or testing the product. As a condition of approving a supplier of any product that bears the Trade Name or Marks, the supplier must sign our License Agreement to enable us to control the quality. We may withdraw our approval of a supplier if the supplier no longer meets our standards.

#### 7.2.6. Customer Satisfaction Program

We may use various techniques to obtain customer feedback concerning your Restaurant. If the feedback indicates that your performance does not meet our currently effective standards, as described in the Manual, or if we receive unusual numbers of customer complaints about your Restaurant, we may suggest ways in which you can improve your performance. You must subscribe to the secret shopper service we designate. You must distribute customer response cards in the form we prescribe for return by your customers to us. If your scores from the secret shopper service or customer response cards do not meet our currently effective standards, as described in the Manual, or if we receive unusual numbers of customer complaints about your Restaurant, we may suggest ways in which you can improve your performance. If you do not take immediate, effective steps to bring your operation up to our standards, your failure to do so will be a material breach of this Agreement.

#### 7.2.7. Maintenance and Upgrades

You agree to keep your Restaurant premises, equipment and furnishings clean and in excellent repair. Periodically, we will ask you to remodel the premises and to upgrade the equipment and furnishings to meet our currently effective standards. You must promptly comply with any such request.

#### 7.2.8. Professional Conduct

In all your dealings with us, your customers, your employees, your suppliers and others, you must adhere to the highest possible standards of professional conduct, honesty, integrity, ethical behavior, dependability, good faith and fair dealing. You may not engage in any conduct that, in our reasonable opinion, may injure the goodwill associated with the Trade Name and Marks. You must do everything you can to promote and maintain the excellent reputation of the CHARO CHICKEN® Franchise Network.

### 7.2.9. Inspections

We will conduct periodic quality assurance inspections of the Restaurant during normal business hours. You will cooperate with our representatives during inspections. We may make quality assurance inspections with or without prior notice. You must promptly correct any deficiencies in your operation of which we advise you. If you do not take immediate, effective steps to bring your operation up to our standards, your failure to do so will be a material breach of this Agreement.

### 7.2.10. Notification of Complaints

You must notify us promptly if you are served with a complaint in any legal or administrative proceeding that is in any way related to the Restaurant or if you become aware that you are the subject of any complaint to or investigation by a governmental licensing authority or consumer protection agency.

## **7.3. Attendance at Annual Meeting**

We may, at our sole discretion, arrange an Annual Meeting or other training programs to provide updates, offer continuing education, and encourage discussion of topics of importance to the Franchise Network. If we designate attendance at the Annual Meeting as mandatory, you or your Designated General Manager must attend at your own expense.

## **7.4. Personnel**

### 7.4.1. Management

You or your Designated General Manager must devote full time and best efforts to the management and operation of the Restaurant. If we, in our sole discretion, determine that a Designated General Manager is not properly performing his or her duties, we will advise you and you must immediately take steps to correct the situation. You must keep us informed of the identity of your Designated General Manager.

### 7.4.2. Employees

You must always employ a sufficient number of properly trained and qualified employees to operate the Restaurant according to our standards. You must see that your employees preserve good customer relations, comply with this Agreement and the Manual and follow our dress code.

## **7.5. Advertising Obligations**

### 7.5.1. Grand Opening

You must spend at least twelve thousand five hundred dollars (\$12,500) on a grand opening advertising program conducted in accordance with the general guidelines in the Manual for an initial advertising program.

### 7.5.2. Local Advertising

You must spend at least two percent (2%) of your Restaurant Sales per year on local advertising and promotion in a manner that conforms with the Manual. You must submit, on or before the fifteenth (15<sup>th</sup>) day of each calendar quarter, copies of invoices for advertising materials, public relations activities, and/or media space and time showing that you have complied with the provisions of this paragraph during the immediately preceding quarter. You may use advertising expenditures in excess of the required minimum in any quarter to offset shortfalls in any later quarter, as long as your total advertising expenditures for the calendar year, on a cumulative basis, equal or exceed the stated minimum.

Fifty percent (50%) of money you pay into a cooperative advertising account maintained by a regional advertising cooperative, as described below, may be credited against the local advertising spending requirement, in a maximum amount equal to one percent (1%) of Restaurant Sales.

### 7.5.3. Cooperative Advertising

When five (5) or more company-owned or franchised Restaurants have been established in your Designated Marketing Area ("DMA"), we will call a meeting of their representatives to determine whether they would like to establish a regional advertising cooperative for the region. For all cooperative decisions, representatives will be entitled to one vote for each Restaurant or company-owned Restaurant they operate within the region. A regional advertising cooperative will be established upon a two-thirds (2/3) majority vote. The cooperative will elect a chairperson for a one- (1-)year term and will decide, by simple majority vote, such matters as how often it will meet, what financial contribution it will assess from each member, and what advertising programs it will undertake. Regional advertising cooperative programs must be reasonably related to the general promotion of the Trade Name and Marks within the region. Fifty percent (50%) of your required contribution to a regional advertising cooperative, in the maximum amount of one percent (1%) of your Restaurant Sales for the period, may be offset against your local advertising obligation for the period.

### 7.5.4. Signs

Subject to applicable law and your landlord's consent, if required, you must permanently display, at your own expense, at your business premises and on all vehicles you use in the franchised Restaurant, signs of any nature, form, color, number, location and size, and containing any legends that we have designated in writing.

## **7.6. Financial Information**

### 7.6.1. Records

You must enable and permit us to poll the data on your electronic cash registers nightly. You must record all sales and all receipts of revenue on individual machine serial-numbered receipts. Cash registers must validate the receipts that you present to your customers. You must retain daily sales reporting forms and accompanying cash register

tapes for at least six (6) years after the dates of sale. If your electronic cash register must be repaired, you must use a replacement electronic cash register while it is absent.

#### 7.6.2. Reports

You must submit to us financial reports on the income and expenses of the Restaurant at the times and in the format specified in the Manual. We will require you to buy or lease computer and communications equipment and software that meet specifications stated in the Manual to create financial reports and transmit them to us electronically and to enable you to participate in our intranet, if we should establish one. You must give us access to your cash register or computer by cable modem at your own expense. You must submit to us, upon request, copies of all federal, state, and local income, sales, and property tax returns. We may use this data to confirm that you are complying with your obligations under this Agreement, to formulate earnings and expense information to show to prospective franchisees and to advise you on Restaurant operations.

#### 7.7. Insurance

You must purchase and maintain a policy or policies of comprehensive public liability insurance, including products liability coverage, covering all Restaurant assets, personnel, and activities on an occurrence basis with a combined single limit for bodily injury, death, or property damage of not less than two million dollars (\$2,000,000). We may increase the minimum coverage requirement annually if necessary to reflect inflation or other changes in circumstances. You must also carry (1) casualty insurance in a minimum amount equal to the replacement value of your interest in the Restaurant premises, including furniture, fixtures, and equipment, and (2) business interruption insurance in an amount sufficient to cover the rent of the Restaurant premises, salary, or wages of key personnel, minimum royalties, and other fixed expenses. In addition, you must maintain policies of workers' compensation insurance, disability insurance, and any other types of insurance required by applicable law. Each insurance policy that we require under this Agreement must contain a provision that the policy cannot be canceled without thirty (30) days' written notice to us. It must be issued by an insurance company of recognized responsibility, designate us as an additional named insured and be satisfactory to us in form, substance, and coverage. You must deliver a certificate of the issuing insurance company evidencing each policy to us as soon as the policy is issued or renewed.

#### 7.8. Financial and Legal Responsibility

##### 7.8.1. Compliance with Law

You must comply with all federal, state, and local laws and regulations pertaining, directly or indirectly, to your Restaurant. You must strictly follow all laws and regulations relating to unemployment insurance, workers' compensation insurance and withholding and payment of payroll taxes. You must keep current all licenses, permits, bonds, and deposits made to or required by any government agency in connection with your operation of the Restaurant.

### 7.8.2. Payment of Indebtedness

You must pay promptly when due all taxes and debts that you incur in the conduct of your business, particularly debts to approved or designated suppliers. You and your Related Parties must remain current in any financial responsibilities to your landlord and to us or our Related Parties. ^

## **8. RELATIONSHIP OF PARTIES**

### **8.1. Interest in Marks and System**

You may not at any time do or cause to be done anything contesting or impairing our interest in our Trade Name, Marks or System. You have not been granted any rights in our Trade Name, Marks or System except for your right to use them according to the express terms of this Agreement. We retain the right to grant other franchises or licenses to use the Trade Name, Marks, and System on any terms that we would like, subject only to your rights described in Article 4 of this Agreement.

### **8.2. Independent Status**

You are an independent contractor and must make this fact clear in your dealings with suppliers, landlords, government agencies, employees, customers, and others. You must rely on your own knowledge and judgment in making business decisions, subject only to the requirements of this Agreement and the Manual. You may not expressly or implicitly hold yourself out as our employee, partner, member, shareholder, joint venturer, or representative, nor may you state or suggest that you have the right or power to bind us or to incur any liability on our behalf. You may not use the CHARO CHICKEN® Trade Name as part of your legal name (corporate, limited liability company, or partnership name), although you may use it as prescribed as your fictitious business name.

### **8.3. Display of Statement**

You must conspicuously display a sign that says that "THIS CHARO CHICKEN® RESTAURANT IS AN INDEPENDENTLY OWNED AND OPERATED FRANCHISED BUSINESS" at the Approved Location. Business cards, stationery, purchase order forms, invoices, leases, tax returns, and other documents you use in your business dealings with suppliers, landlords, government agencies, employees, and customers must clearly identify you as an independent legal entity operating under a CHARO CHICKEN® franchise.

### **8.4. Confidentiality**

The information, ideas, forms, marketing plans, and other materials we disclose to you under this Agreement, whether or not included in the Manual, are our confidential and proprietary information and trade secrets. You agree to maintain the confidentiality of all such material. You may not disclose any such information to any third party, except to your employees and agents as necessary in the operation of the Restaurant and except as we authorize in writing. It is your responsibility compliance of your Related Parties with the provisions of this section. Each of your Related Parties must sign a written

nondisclosure agreement, in the form of Attachment 3 to this Agreement, when you sign this Agreement. You must obtain a nondisclosure agreement from each new Related Party with which you become affiliated during the term of this Agreement and promptly send a copy of the nondisclosure agreement to us.

### **8.5. Indemnification**

You must indemnify and hold us harmless from all expenses and liabilities of any kind arising from or in any way connected to any act or omission of yours other than the operation of your Business in strict compliance with this Agreement. If we are made a party to a legal proceeding in connection with your act or omission, we may hire counsel to protect our interests and bill you for all expenses and fees we incur. You must promptly reimburse us.

We must indemnify and hold you harmless from all expenses and liabilities of any kind arising from or in any way connected to any third party claim that your operation of a CHARO CHICKEN® Restaurant infringes its intellectual property rights or misappropriates its trade secrets. If you are made a party to a legal proceeding in connection with a claim of this type, we will hire counsel to protect our interests and will defend you at our own expense. Any settlement we negotiate will bind you, but we will reimburse you for your direct cost of compliance with the settlement agreement.

### **8.6. Covenant Not to Compete**

You may not, during the term of this Agreement and for two (2) years after its Termination, operate or own a beneficial interest in any company that is competitive with any Restaurant and that is located within <sup>^</sup> \_\_\_\_\_ [noncompete area]. You agree to obtain the individual written agreement of each of your Related Parties to the provisions of this section in the form of Attachment 3 to this Agreement.

### **8.7. Non-Solicitation**

During the term of this Agreement and for two (2) year after its Termination, you may not disrupt, damage, impair, or interfere with our business or that of any of our franchisees by directly or indirectly soliciting their employees to work for you or for any individual or company then in competition with the Franchise Network. You may not employ any of our employees or the employees of a CHARO CHICKEN® franchisee while they are still so employed or within one (1) year after they leave this employment without the employer's prior written consent. Violation of this clause is a material breach of the Franchise Agreement and may result in Termination of the franchise.

## **9. TRANSFER OF FRANCHISE**

### **9.1. Purpose of Conditions for Approval of Transfer**

We grant this franchise in reliance on your integrity, ability, experience, and financial resources. You may sell neither the franchise nor the Restaurant operated under it unless you have first obtained our written consent, which may not be unreasonably withheld. To ensure that no Transfer jeopardizes the Trade Name, Marks, or our interest in the successful operation of your Restaurant, we will consent to a Transfer only if you comply with the provisions of Sections 9.2 through 9.4 of this Agreement.

### **9.2. Notice of Intention to Transfer**

If you would like to Transfer this franchise, you must submit to us: (a) the form of franchise purchase application we currently use, completed by the prospective transferee, (b) a written notice, describing all the terms and conditions of the proposed Transfer, and (c) the Transfer fee described in Article 6 of this Agreement. If we do not approve the Transfer, we will return the Transfer fee to you after deducting our direct costs in connection with the proposed Transfer.

### **9.3. Consent by Charo Chicken, Right of First Refusal**

We must respond in writing to your written notice within fifteen (15) days after receiving it, or, if we request additional information, within the later date of fifteen (15) days after receipt of the additional information or the final day of the original fifteen- (15-) day period. We may either consent in writing to the Transfer, state in writing our reason for refusing to consent, or purchase the Restaurant from you ourselves on the same terms and conditions as those offered by the third party. Silence is not consent. If we consent to the Transfer, then you may Transfer the interest described in the notice only to the named transferee and only on the terms and conditions stated in the notice. Our consent to a particular Transfer will not be consent to any other or subsequent Transfer.

### **9.4. Conditions for Consent to Transfer**

Our consent to your Transfer will not be unreasonably withheld, but it will be subject to certain conditions, including, but not limited to:

- (a) Our determination, based on the information that you submit and any other information available, that the proposed transferee meets all of the criteria of character, business experience, financial responsibility, net worth, and other standards that we customarily apply to new franchisees at the time of Transfer,
- (b) Payment of all your outstanding debts to us and our Related Parties,
- (c) Cure of all defaults under the Franchise Agreement, any other agreement(s) between us and you or your Related Party, and the Manual,
- (d) At our sole option, signing by the transferee of an assumption of the rights and obligations of this Franchise Agreement or signing by the transferee of the

then-current form of franchise agreement, appropriately amended to adjust the term to the remainder of the existing term and to remove startup obligations that have already been performed by either party, and signing by the transferee's Related Parties of required ancillary agreements in the forms attached to the applicable franchise agreement,

- (e) Your payment of the Transfer fee described in Article 6 of this Agreement,
- (f) Completion by the transferee of the CHARO CHICKEN® initial training program to our satisfaction,
- (g) Signing by you and your Related Parties of a release of claims against us and our Related Parties in the form we prescribe,
- (h) Our determination, based on our review of the proposed purchase agreement or notice, that the agreement and any financing of the sale will give the buyer a reasonable chance to succeed as a CHARO CHICKEN® franchisee, and
- (i) Your opening an escrow for the franchise Transfer to ensure compliance with the bulk sales laws and fulfillment of the conditions for Transfer listed above.

#### **9.5. Changes of Ownership Not Considered To Be Transfers**

The conditions of Transfer described above do not apply to an assignment to:

- (a) Any Trustee, Guardian, Executor, or Conservator for the account and benefit of a spouse, ancestor, or decedent,
- (b) Any of your employees under any employee stock option plan or stock purchase plan, if any share certificate distributed in connection with a plan of this type is marked with a legend describing the restrictions and conditions of Transfer required by this Agreement,
- (c) Any business entity if the beneficial ownership of the franchisee immediately after the assignment is the same and in the same proportions as the beneficial ownership immediately before the assignment.

For an assignment under subsection (c) to be effective, you, if you are an currently an individual franchisee, or each of your owners, if you are not, must sign a personal guaranty. You must submit to us a list of owners of the assignee, the percentage of ownership, and the address where business records are maintained. Since the legal identity of the franchisee will change, the assignee must, at our option, assume the existing franchise agreement or sign the then-current form of franchise agreement, amended to reduce the term to the remainder of the existing term and to remove startup obligations that have already been performed by either party. The assignee's Related Parties must sign all required ancillary agreements in the forms attached to the applicable franchise agreement.

## **9.6. Change of Ownership Upon Death or Total Disability**

If you or your principal owner dies or becomes totally disabled while this Agreement is in effect, your heirs, successors or beneficiaries will have sixty (60) days within which to show to our satisfaction that they meet all of the criteria of character, business experience, financial responsibility, net worth, and other standards that we require of new franchisees at that time. We will not unreasonably withhold or delay our approval. If we approve your heirs, successors or beneficiaries as transferees of the franchise, we will waive any transfer fee in connection with the Transfer. If we advise your heirs or beneficiaries in writing that we do not approve them as transferees of the franchise, or if we do not approve or disapprove the Transfer within sixty (60) days following your death or total disability, your heirs or beneficiaries may have one hundred twenty (120) additional days from the date of disapproval of the Transfer or the end of the sixty- (60-) day period, whichever is first, within which to find and notify us of a proposed Transfer to a qualified transferee. If your heirs or beneficiaries do not advise us of a qualified transferee within the specified period, the franchise will automatically terminate at the end of that period unless we have granted a written extension of time.

## **9.7. Assignment by Charo Chicken**

To enable us to sell this company or its capital assets, if we should ever wish to do so, we may assign this Agreement or any rights or obligations created by it to the buyer without your consent upon the following conditions: (a) We reasonably believe that the assignee can perform our all obligations under this Agreement and (b) the assignee expressly agrees in writing to assume our obligations under this Agreement.

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# **10. TERMINATION OF FRANCHISE**

## **10.1. Termination by Consent of the Parties**

The parties may terminate this Agreement by mutual written consent.

## **10.2. Termination by Charo Chicken**

### **10.2.1. Notice of Default**

This Agreement will terminate thirty (30) days after written notice of default is given to you if any of the defaults described in subsections (a) through (d) below has not been cured. This Agreement will terminate ten (10) days after written notice is given to you if the default described in subsection (e) below has not been cured. This Agreement will terminate immediately when written notice is given to you if any of the defaults described in subsections (f) through (q) below occurs.

### **10.2.2. Acts of Default**

Upon the occurrence of any of the following defaults, we, at our option, may terminate this Agreement upon notice as described above:

- (a) If you do not submit to us in a timely manner any information or report we require you to submit under this Agreement,
- (b) If you do not develop your Restaurant at a pace that will enable you to open by the Start Date of this Agreement or if you do not begin operation of a Restaurant by the Start Date of this Agreement or if you operate your Restaurant in a manner that does not conform to this Agreement and the Manual,
- (c) If you unintentionally misuse the Trade Name, Marks or the System or engage in conduct that reflects unfavorably on the goodwill associated with them or use in your Restaurant any names, marks, systems, logotypes, or symbols that we have not authorized you to use, or if you fail to achieve a passing score on a Health Department inspection,
- (d) If you default in the performance of any material obligation under this Agreement not otherwise described in this list of defaults,
- (e) If you fail to make any payment when due under this Agreement or any other agreement between you or your Related Party and us or our Related Party,
- (f) If you fail to successfully complete the initial training program and we reasonably conclude that you are unable or unwilling to do so,
- (g) If you intentionally misuse the Trade Name, Marks or the System or engage in conduct that reflects materially and unfavorably on the goodwill associated with them or if you repeatedly or persistently use in your Restaurant any names, marks, systems, logotypes, or symbols that we have not authorized you to use,
- (h) If you or any of your Related Parties has any direct or indirect interest in the ownership or operation of any business that is confusingly similar to a Restaurant or that uses the System or the Marks without authorization from us, or if you fail to give us a signed copy of the Nondisclosure and Noncompetition Agreement of each of your Related Parties within ten (10) days after that party becomes a Related Party,
- (i) If you or your Related Party attempt to assign your rights under this Agreement or to transfer the Restaurant in any manner not authorized by this Agreement,
- (j) If you or your Related Party has made any material misrepresentation in connection with the acquisition of a Restaurant or to induce us to enter into this Agreement,
- (k) If any other agreement between you and us or our Related Party is terminated because of your material default,
- (l) If you act without our prior written approval or consent in regard to a matter for which this Agreement expressly requires our prior written approval or consent,
- (m) If you stop operating the Restaurant under circumstances that lead us to the reasonable conclusion that you do not intend to resume operation,

- (n) If you commit a material default and we have twice previously given you written notice of the same type of default within the preceding twelve (12) months, whether or not you have cured the defaults,
- (o) If we make a reasonable determination that the continued operation of the Restaurant will pose a threat to public health or safety and temporary closure is not a viable option under the circumstances,
- (p) Except as otherwise required by the United States Bankruptcy Code, if you become insolvent, are adjudicated a bankrupt, or file or have filed against you a petition in bankruptcy, reorganization, or similar proceeding, or
- (q) If you are convicted of criminal misconduct that is relevant to the operation of the Restaurant or any felony.

### **10.3. Rights and Obligations After Termination**

Upon Termination of this Agreement for any reason, the parties will have the rights and obligations:

- (a) We may stop performing our obligations under this Agreement.
- (b) You must give us a final accounting for the Restaurant, pay us within thirty (30) days after Termination all payments due to us, and return the Manual, marketing materials, proprietary forms, software, videotapes and any other property belonging to us or our Related Party or containing proprietary information.
- (c) Upon our written request, you must immediately and permanently stop using the Marks or any confusingly similar marks, the System, and any advertising, signs, stationery, or forms that bear identifying marks or colors that might give others the impression that you are operating a Restaurant,
- (d) You must promptly sign any documents and take any steps that in our judgment are necessary to delete your listings from classified telephone directories, disconnect or, at our option, assign to us any telephone numbers that have been used in connection with the Restaurant, and terminate all other references that suggest you are or ever were associated with us. By signing this Agreement, you irrevocably appoint us your attorney-in-fact to take the actions described in this paragraph if you do not do so yourself within seven (7) days after this Agreement is terminated,
- (e) You must maintain all records we require you to maintain under this Agreement for not less than six (6) years after final payment of any money you owe to us when this Agreement is terminated.
- (f) We have the right to buy or rent various assets of the franchised business from you, during sixty (60) days following the effective date of Termination, upon the following terms:
  - i. The physical assets of the Restaurant, including its equipment, supplies and inventory, during sixty (60) days following the effective date of

Termination, will be valued at the lower of depreciated cost or fair market value. We must send written notice to you within thirty (30) days after Termination of this Agreement if we elect to exercise the option to purchase. If the parties do not agree on a price for the physical assets within the option period, the option period may be extended for up to fifteen (15) business days to permit an appraisal by an independent appraiser who is mutually satisfactory to the parties. If the parties fail to agree on an appraiser within the specified period, each must appoint an appraiser and the two appraisers thus appointed must agree on a third appraiser within ninety (90) days after Termination who must determine the price for the physical assets of the Restaurant according to the standards specified above. This determination will be final and binding on both us and you.

- ii. Upon our request, you must give us copies of the leases for any equipment used in the Restaurant and allow us the opportunity, at a mutually satisfactory time, to inspect the leased equipment. We must advise you of our wish to assume any equipment lease within fifteen (15) days after we have received the information and/or inspected the equipment. We may assume any equipment lease in consideration of our assumption of future obligations under the lease. Upon our exercise of this option, we will indemnify you against future rents and other future liabilities under the equipment lease, but not from any debts to the lessor that already exist on the date when we assume the lease.
  - iii. If you rent the premises of the Restaurant, we may assume the lease in consideration of our assumption of future obligations under the lease. Upon our assumption of the lease, we will indemnify you against future rents and other future liabilities under the lease if the terms of the lease permit it, but not from any debts to the landlord that already exist on the date when we assume the lease.
  - iv. If you own the premises of the Restaurant, we may rent the premises from you in consideration of monthly rent at currently prevailing terms for similar property in the area under a standard commercial lease. We must send written notice to you within thirty (30) days after Termination of this Agreement of our election to exercise the option to rent. If we fail to agree on the rent of the property within the option period, each must appoint an appraiser and the two appraisers thus appointed must agree on a third appraiser within ninety (90) days after we have given notice of its election to rent. The appraisers, or a majority of them, must determine the fair rental rate the premises of the Restaurant. This determination will be final and binding on both us and you.
- (g) If the franchise granted in this Agreement is terminated because of either party's material default, the rights described in this section may not necessarily be the injured party's exclusive remedies, but will instead supplement any other

equitable or legal remedies available. If this Agreement is terminated because of either party's material default, the other party has the right to recover damages as compensation for lost future profits that it can prove with reasonable certainty.

- (h) Termination of this Agreement will not end any obligation of either party that has come into existence before Termination. All obligations of the parties that by their terms or by reasonable implication are to be performed in whole or in part after Termination will survive Termination.

## **11. MISCELLANEOUS PROVISIONS**

### **11.1. Construction of Contract**

Section headings in this Agreement are for reference purposes only and will not in any way modify the statements contained in any section of this Agreement. Each word in this Agreement may be considered to include any number or gender that the context requires. If there is any conflict between this Agreement and the Manual, this Agreement will control.

### **11.2. Governing Law**

This Agreement is made in the State of California and its provisions will be governed by and interpreted under the laws of that State, with the following exceptions: (a) The Franchise Investment Law and the California Franchise Relations Act will not apply except to the extent that it would be applicable without this Agreement's designation of governing law, (b) the arbitration clause will be exclusively governed by and should be construed according to the Federal Arbitration Act, and (c) trademark rights will be governed by and construed according to the Lanham Act.

### **11.3. Notices**

The parties to this Agreement should direct any notices to the other party at the address below that party's name on the final page of this Agreement or at another address if advised in writing that the address has been changed. Notice may be delivered by facsimile (with simultaneous mailing of a copy by first class mail), email (with simultaneous mailing of a copy by first class mail), delivery service or first class mail. Notice by facsimile or email will be considered delivered upon transmission, by delivery service, upon delivery, and by first class mail, three days after posting. Notice of Termination or nonrenewal must be given by a receipted form of delivery.

### **11.4. Amendments**

This Agreement may be amended only by a document signed by all of the parties to this Agreement or by their authorized agents.

## **11.5. Waiver**

Waiver of any breach of this Agreement may not be interpreted as a waiver of any subsequent breach.

## **11.6. Integration**

This Agreement and any exhibits or attachments to it are the entire agreement between the parties concerning the franchise it grants. All other agreements and representations, other than the representations in the offering circular, are superseded by it.

## **11.7. Negotiation and Mediation**

### **11.7.1. Agreement to Use Procedure**

The parties have reached this Agreement in good faith and in the belief that it is mutually advantageous to them. In the same spirit of cooperation, they pledge to try to resolve any dispute without litigation or arbitration. They agree that, if any dispute arises between them, before beginning any legal action or arbitration to interpret or enforce this Agreement, they will first attempt to negotiate a settlement and, if either party files a mediation proceeding, participate in the mediation. Good faith participation in these procedures to the greatest extent reasonably possible is a precondition to maintaining any legal action or arbitration to interpret or enforce this Agreement.

### **11.7.2. Initiation of Procedures**

The party that initiates these procedures ("Initiating Party") must give written notice to the other party, describing in general terms the nature of the dispute, specifying the Initiating Party's claim for relief, and identifying one or more people with authority to settle the dispute for him, her, or it. The party receiving the notice ("Responding Party") has ten (10) days within which to designate by written notice to the Initiating Party one or more people with authority to settle the dispute on the Responding Party's behalf. These people are called the "Authorized People."

### **11.7.3. Direct Negotiations**

The Authorized People may investigate the dispute as they consider appropriate, but agree to meet in person, by prearranged teleconference, or by videoconference within fourteen (14) days from the date of the Initiating Party's written notice to discuss resolution of the dispute. The Authorized People may meet at any times and places and as often as they agree.

### **11.7.4. Mediation**

If the Dispute has not been resolved within thirty (30) days after the initial meeting, either party may, at its option, begin mediation procedures. Mediation will be conducted by and under the rules of the American Arbitration Association ("AAA") in Orange County, California. The parties must share the costs of mediation, such as the mediator's fee and cost of the facility, equally.

### **11.8. Arbitration**

Any dispute arising out of or in connection with this Agreement, if not resolved by negotiation or mediation as described above, must be determined by binding arbitration in Orange County, California, by the AAA. This arbitration clause does not deprive either party of any right it may otherwise have to seek provisional injunctive relief from a court of competent jurisdiction. The arbitrator must be an attorney with substantial experience in franchise law. There will be no discovery except that required by applicable state law. If proper notice of any hearing has been given, the arbitrator will have full power to take evidence or to perform any other acts necessary to arbitrate the matter in the absence of any party who fails to appear. The arbitrator will have no power to 1) stay the effectiveness of any pending Termination of franchise, 2) assess punitive damages against either party, or 3) make any award that modifies or suspends any lawful provision of this Agreement. All expenses of arbitration, such as the arbitrator's fee and cost of the facility, will be shared equally by the parties. Any award must include interest from the date of any damages incurred for breach of contract and from the date of the award until judgment on the award is paid in full. Judgment on any award may be entered by any court of competent jurisdiction.

### **11.9. Injunctive Remedy for Breach**

You will be a member of a Franchise Network and your acts and omissions may have a positive or negative effect on the success of other businesses operating in association with the Marks. Failure on the part of a single franchisee to comply with the terms of its franchise agreement is likely to cause irreparable damage to us and to some or all of our other franchisees and licensees. For this reason, you agree that if we can prove to a court of competent jurisdiction that there is a substantial likelihood of your breach or threatened breach of any of the terms of this Agreement, we will be entitled to an injunction restraining the breach and/or to a decree of specific performance, without showing or proving any actual damage, until a final determination is made by an arbitrator.

### **11.10. Limitation of Actions**

Neither party may maintain an arbitration petition against the other party unless (a) the party follows the negotiation and mediation procedures described above, and (b) files an arbitration petition within one (1) year after the event complained of occurs.

### **11.11. Individual Dispute Resolution**

Any arbitration or litigation between or among the parties to this agreement and any of their Related Parties will be conducted on an individual basis and not on a consolidated or class-wide basis.

### **11.12. No Attorney Fees**

If legal action, including any action on appeal, or arbitration is necessary to enforce the terms and conditions of this Agreement, neither party will be permitted to recover attorney fees from the other, unless either party is entitled to recover attorney fees

under applicable law if it prevails. In that case, if the opposing party prevails, it has a reciprocal right to recover attorney fees.

#### **11.13. Severability**

Each provision of this Agreement is severable. If any of its provisions is determined to be invalid or in conflict with any existing or future law or regulation, that provision will not impair the operation of the remaining provisions of this Agreement. The invalid provisions will be considered not to be a part of this Agreement. However, if we decide that the finding of illegality adversely affects the basic consideration for our performance under this Agreement, we may, at our option, terminate it.

#### **11.14. Approval and Guaranties**

If you are a corporation, all officers and shareholders with a ten percent (10%) or greater interest in you, or, if you are a partnership, all your general partners, or, if you are a limited liability company, all your members must approve this Agreement, permit you to furnish the financial information we require, and agree to the restrictions placed on them, including restrictions on the transferability of their interests in the franchise and the Restaurant and limitations on their rights to compete, and sign separately written guaranties of your payments and performance in the form of Attachment 5 to this Agreement.

#### **11.15. Acceptance by Charo Chicken**

This Agreement will not be binding on us unless and until it has been signed by our President and Chief Executive Officer, Ray Perry.

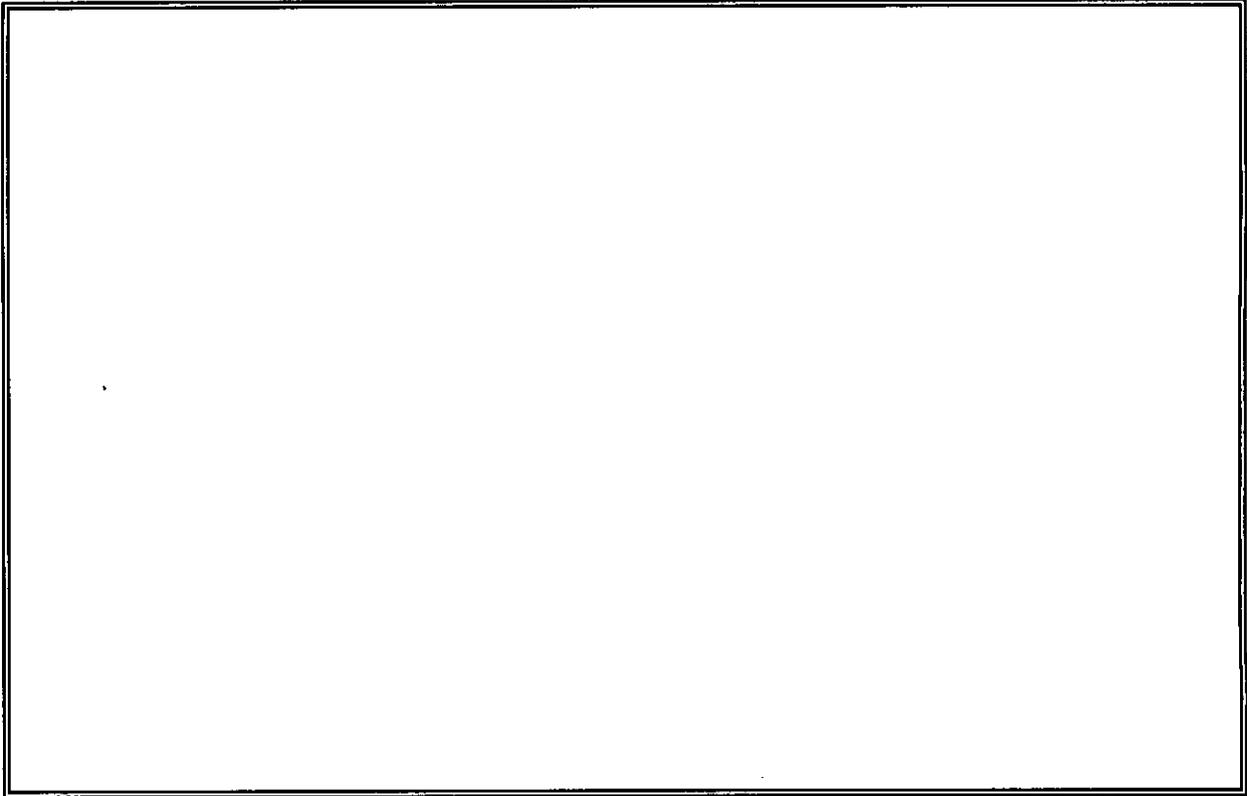
#### **11.16. Disclaimer of Representations**

WE MAKE NO REPRESENTATIONS OR PROMISES OF ANY KIND TO INDUCE YOU TO SIGN THIS AGREEMENT EXCEPT THOSE SPECIFICALLY STATED IN THE FRANCHISE OFFERING CIRCULAR THAT HAS BEEN DELIVERED TO YOU. YOU ACKNOWLEDGE THAT NEITHER WE NOR ANY OTHER PERSON HAS GUARANTEED THAT YOU WILL SUCCEED IN THE OPERATION OF THE CHARO CHICKEN® RESTAURANT OR HAS PROVIDED ANY SALES OR INCOME PROJECTIONS OF ANY KIND TO YOU OTHER THAN THOSE, IF ANY, INCLUDED IN THE OFFERING CIRCULAR. YOU HAVE MADE AN INDEPENDENT INVESTIGATION OF ALL IMPORTANT ASPECTS OF THE BUSINESS YOU WILL OPERATE UNDER THE FRANCHISE. YOU CONFIRM THAT WE HAVE ADVISED YOU TO CONSULT AN ATTORNEY REGARDING THIS AGREEMENT AND HAVE GIVEN YOU THE OPPORTUNITY TO DO SO.

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# APPROVED LOCATION AND PROTECTED AREA



## ATTACHMENT 1

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Approved Location and Protected Area  
March 10, 2006

# AUTHORIZATION AGREEMENT FOR PREARRANGED PAYMENT (DIRECT DEBIT)

The undersigned depositor ("Depositor") authorizes Charo Chicken Systems, Inc. ("Charo Chicken") to request debit entries and/or credit correction entries to the Depositor's checking and/or savings account(s) indicated below and the depository ("Depository") to debit the account according to Charo Chicken's instructions.

Depository	Branch
Street Address, City, State, Zip Code	
Bank Transit/ABA Number	Account Number

This authorization is to remain in full force and effect until Depository has received joint written notification from Charo Chicken and Depositor of the Depositor's termination of the authorization in a time and manner that will give Depository a reasonable opportunity to act on it. In spite of this, Depository will give Charo Chicken and Depositor thirty (30) days' prior written notice of the termination of this authorization. If an incorrect debit entry is made to Depositor's account, Depositor will have the right to have the amount of the entry credited to the account by Depository, if within fifteen (15) calendar days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to the entry or forty-five (45) days after posting, whichever occurs first, Depositor has sent Depository a written notice identifying the entry, stating that the entry was in error, and requesting Depository to credit the amount to the account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

Depositor	Depository
By	By
Title	Title
Date	Date

## ATTACHMENT 2

# NONDISCLOSURE AND NONCOMPETITION AGREEMENT

Confidant is about to undergo training by Charo Chicken Systems, Inc. ("Charo Chicken") or one of its franchisees. During this process, Confidant will learn a great deal about the CHARO CHICKEN® System, including information about its members' business affairs, finances, management, marketing programs, philosophy, customers and methods of doing business. Confidant will have access to confidential information developed and maintained at substantial cost by Charo Chicken. This information is proprietary to Charo Chicken. Its use by third parties could cause substantial and irreparable damage to the company.

Therefore, in return for either (a) his or her training by Charo Chicken Systems, Inc., Charo Chicken to operate a Restaurant or (b) his or her employment by Charo Chicken or by one of its franchisees, the undersigned ("Confidant") agrees as follows:

## **1. Nondisclosure of Trade Secrets and Confidential Information**

Confidant agrees, during the term of the Franchise Agreement and following termination, expiration, or assignment of the Agreement, not to disclose, duplicate, sell, reveal, divulge, publish, furnish, or communicate, either directly or indirectly, any Trade Secret or other Confidential Information of Charo Chicken to any other person or company unless authorized in writing by Charo Chicken. Confidant agrees not to use any Trade Secret or Confidential Information for his or her personal gain or for purposes of others, whether or not the Trade Secret or Confidential Information has been conceived, originated, discovered, or developed, in whole or in part, by Confidant or represents Confidant's work product. If Confidant has assisted in the preparation of any information that we consider to be a Trade Secret or Confidential Information or has himself or herself prepared or created the information, Confidant assigns any rights that he or she may have in the information as its creator to Charo Chicken, including all ideas made or conceived by Confidant.

## **2. Definition of Trade Secrets and Confidential Information**

For purposes of this Agreement, the terms "Trade Secret" and "Confidential Information" mean any knowledge, technique, processes, or information made known or available to Confidant that we treat as confidential, whether existing now or created in the future, including but not limited to information about the cost of materials and supplies, supplier lists or sources of supplies, sales and marketing information, pricing information, proprietary software, internal business forms, orders, customer accounts, manuals and instructional materials describing our methods of operation, including our Operations Manual, audiotapes and video tapes, products, drawings, designs, plans, proposals, and marketing plans, all concepts or ideas in, or reasonably related to our business that have not previously been publicly released by Charo Chicken, and any other information or property of any kind of Charo Chicken that may be protected by law as a Trade Secret,

## **ATTACHMENT 3**

confidential, or proprietary. The Trade Secrets and Confidential Information described in this Agreement are the sole property of Charo Chicken.

### **3. Return of Proprietary Materials**

Upon termination or expiration of franchise ownership or employment by Charo Chicken or a CHARO CHICKEN® franchisee, Confidant must surrender to Charo Chicken all materials considered proprietary by Charo Chicken, technical or nontechnical, whether or not copyrighted, that relate to a Trade Secret, Confidential Information, or conduct of the operations of Charo Chicken. Confidant expressly acknowledges that any such materials of any kind given to him or her are and will remain the sole property of Charo Chicken.

### **4. Solicitation of Customers**

During the term of Confidant's relationship with Charo Chicken or one of its franchisees, and for two (2) years after the relationship terminates, Confidant agrees that he or she will not, directly or indirectly or by action in concert with others, solicit, induce or influence or seek to solicit, induce or influence any customer or prospective customer with whom Confidant did business during his or her relationship with Charo Chicken or one of its franchisees for the purpose of promoting or selling any products or services that are competitive with those offered by Charo Chicken and its franchisees.

### **5. Solicitation of Employees**

Confidant further agrees that, during the term of his or her relationship with Charo Chicken or one of its franchisees and for two (2) years after its expiration, he or she will not, directly or indirectly or in concert with others, furnish to or for the benefit of any competitor of Charo Chicken, or the competitor's employees, agents, licensees, or franchisees, or the competitor's subsidiaries, the name of any person who is employed or engaged as an independent contractor by Charo Chicken or by any other franchisee of Charo Chicken. In addition, Confidant agrees that, during the term of his or her relationship with Charo Chicken or one of its franchisees, and for two (2) years after the relationship terminates, he or she will not, directly or indirectly or by action in concert with others, solicit, induce or influence, or seek to solicit, induce or influence any person who is employed by or engaged as an independent contractor by Charo Chicken to terminate his or her employment or engagement.

### **6. Noncompetition**

Confidant agrees and covenants that because of the confidential and sensitive nature of the Confidential Information and because the use of the Confidential Information in certain circumstances may cause irrevocable damage to Charo Chicken, Confidant will not, during the term of the employment relationship between Confidant and Charo Chicken or the franchisee that employs him or her, or of the ownership interest of Confidant in a CHARO CHICKEN® franchise, engage in, own an interest in, or serve as an officer, director, employee, agent, independent contractor, partner, shareholder, member or principal, directly or indirectly, or through any organization or Related Party, in any food service facility that features charbroiled chicken or Mexican food. Confidant will not, until

the expiration of two (2) years after the termination of the employment relationship between Confidant and Charo Chicken or the franchisee that employs him or her, or termination of the ownership interest of Confidant in a CHARO CHICKEN® franchise, engage in, own an interest in, or serve as an officer, director, employee, agent, independent contractor, partner, shareholder, member or principal, directly or indirectly, or through any organization or Related Party, in any food service facility that features charbroiled chicken or Mexican food that is located within two (2) miles of any Charo Chicken Restaurant.

### **7. Saving Provision**

Confidant agrees and stipulates that the agreements and covenants not to compete contained in the preceding paragraph are fair and reasonable in light of all the facts and circumstances of the relationship between Confidant and Charo Chicken. However, Confidant and Charo Chicken are aware that in certain circumstances courts have refused to enforce certain agreements not to compete. Therefore, to give effect to the provisions of the preceding paragraph, Confidant and Charo Chicken agree that if a court or arbitrator should decline to enforce its provisions, that paragraph must be considered modified to restrict Confidant's competition with Charo Chicken to the maximum extent, in both time and geography, that the court or arbitrator finds enforceable.

### **8. Irreparable Harm to Charo Chicken**

Confidant understands and agrees that Charo Chicken will suffer irreparable injury that cannot be precisely measured in monetary damages if Confidential Information or proprietary information is obtained by any person, firm, or corporation and is used in competition with Charo Chicken. Accordingly, Confidant agrees that it is reasonable and for the protection of the business and goodwill of Charo Chicken for Confidant to enter into this Agreement. If there is a breach of this Agreement by Confidant, Confidant consents to entry of a temporary restraining order or other injunctive relief and to any other relief that may be granted by a court having proper jurisdiction.

### **9. Binding Effect**

This Agreement will bind Confidant's heirs, executors, successors, and assignees as though originally signed by them.

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**10. Applicable Law**

The validity of this Agreement will be governed by the laws of the State where Confidant lives. If any provision of this Agreement is void or unenforceable in that State, the remainder of the Agreement will be fully enforceable according to its terms.

CONFIDANT

---

*[Signature of Confidant]*

# ASSIGNMENT OF TELEPHONE NUMBERS, EMAIL ADDRESS AND URL'S AND SPECIAL POWER OF ATTORNEY

1. <sup>^</sup> \_\_\_\_\_ [Franchisee's legal name] ("Franchisee"), to induce Charo Chicken Systems, Inc. ("Charo Chicken") to grant Franchisee a franchise, assigns to Charo Chicken all telephone numbers, email addresses, and URL's and listings Franchisee advertises, publicizes, or otherwise makes known to customers or the public in the operation of a CHARO CHICKEN® franchised Restaurant, both now and in the future, in the city where the Restaurant is operated.

2. This assignment will automatically become effective immediately upon Termination (meaning "termination, expiration, or nonrenewal") of Franchisee's CHARO CHICKEN® franchise. When the franchise is terminated, Franchisee agrees to do whatever is necessary to cause the companies providing service to the Restaurant to promptly transfer its telephone numbers, email addresses and URL's and associated directory listings to Charo Chicken or its designee.

3. Franchisee agrees to pay these service providers, on or before the date when the franchise is Terminated, all amounts Franchisee owes it in connection with the telephone numbers, including payment for any advertisements or listings in a classified directory or directories. Franchisee further agrees to indemnify Charo Chicken for any money Charo Chicken must pay the service providers before the service providers will carry out this agreement.

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## ATTACHMENT 4

4. Franchisee appoints Charo Chicken as attorney-in-fact to sign any documents and do any things necessary to carry out this agreement if Franchisee fails to sign or do them within three (3) business days after termination of the franchise agreement. Franchisee further agrees to indemnify Charo Chicken for any expenses, including legal fees, that Charo Chicken incurs which would not have been incurred if Franchisee had performed as promised under this agreement.

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

*Sign here if Franchisee is an individual:*

FRANCHISEE

*Signature:* \_\_\_\_\_  
*Print Name:* \_\_\_\_\_  
*Print Address:* \_\_\_\_\_  
\_\_\_\_\_

*Sign here if Franchisee is a company:*

FRANCHISEE

*Print Company Name:* \_\_\_\_\_

*Signature:* By: \_\_\_\_\_  
*Print Name:* \_\_\_\_\_  
*Print Title:* \_\_\_\_\_  
*Print Address:* \_\_\_\_\_  
\_\_\_\_\_



The undersigned further agrees that as long as the Franchisee owes any money to Franchisor (other than royalty and Advertising Fund payments that are not past due), the Franchisee will not pay and the undersigned will not accept payment of any part of any indebtedness owed by Franchisee to any of the undersigned, either directly or indirectly, without the consent of Franchisor.

In connection with any litigation or arbitration to determine the undersigned's liability under this Personal Guaranty, the undersigned expressly waives the undersigned's right to trial by jury, if any, and agrees to pay costs and reasonable attorney fees as fixed by the court or arbitrator.

If this Personal Guaranty is signed by more than one individual or if more than one Personal Guaranty has been signed, each person signing a Personal Guaranty will be jointly and severally liable for the obligations created in it.

This Personal Guaranty will remain in full force and effect until all obligations arising out of and under the Franchise Agreement, including all renewals and extensions, are fully paid and satisfied.

IN WITNESS TO THE FOREGOING, the undersigned signed this guaranty on \_\_\_\_\_ [date].

^

\_\_\_\_\_  
[Signature of guarantor]

# RELEASE OF CLAIMS

This Release of Claims is signed on \_\_\_\_\_ [date], at Huntington Beach, California, by \_\_\_\_\_ [name of releasor], referred to in this Release as "Releasor," in favor of Charo Chicken Systems, Inc., referred to in this Release as "Releasee."

## RECITALS

This Release is made and delivered with reference to the following facts:

A. Releasee and Releasor are parties to a CHARO CHICKEN® franchise agreement dated ^ \_\_\_\_\_ [date] (the "Franchise Agreement").

B. Releasor would like to assign the Franchise Agreement and the franchised business operated under it to a Transferee described in the accompanying documents

-OR-

B. Releasor would like to renew the Franchise Agreement.

C. Releasee is willing to consent to Releasor's request on condition that Releasor meets the conditions for consent stated in the Franchise Agreement. One of these conditions is that Releasor must sign a release of claims in favor of Releasee.

D. For the above-described consideration, the value and adequacy of which Releasor acknowledges, Releasor signs and delivers this Release.

## RELEASE

1. Releasor, on behalf of Releasor and Releasor's Related Parties, as the term "Related Parties" is defined in the Franchise Agreement, now and forever releases and discharges Charo Chicken Systems, Inc. and its successors, attorneys, insurers, brokers, principals, officers, directors, shareholders, partners, agents, employees, and contractors, from any and all claims, demands, losses, expenses, damages, liabilities, actions, and causes of action of any nature, *except those that may not be waived in advance under applicable law*, that in any manner arise from or relate to the franchise relationship described above.

2. This Release extends to and includes any and all claims, liabilities, injuries, damages, and causes of action that the parties do not presently anticipate, know, or suspect to exist, but that may develop, accrue, or be discovered in the future. RELEASOR EXPRESSLY WAIVES ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of signing the release, which if known by him must have materially affected his settlement with the debtor." Releasor represents and warrants that Releasor has considered the possibility that claims, liabilities, injuries, damages, and causes of action that Releasor does not presently know or suspect to exist

## ATTACHMENT 6

in Releasor's favor may develop, accrue, or be discovered in the future, and that Releasor voluntarily assumes that risk as part of the consideration received for this Release.

3. Releasor covenants and agrees that Releasor will not make, assert, or maintain any claim, demand, action, or cause of action that is discharged by this Release against any Releasee named or described in this Agreement. Releasor agrees to indemnify, defend, and hold each Releasee named or described in this Release, and their successors in interest, harmless against any claim, demand, damage, liability, action, cause of action, cost, or expense, including attorney fees, resulting from a breach of the covenant contained in this paragraph.

I, the undersigned, have read this Release and understand all of its terms. I sign it voluntarily and with full knowledge of its significance.

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

\_\_\_\_\_  
*[Signature of releasor]*

\_\_\_\_\_  
*[Print name of releasor]*

# RECEIPT FOR FRANCHISE AGREEMENT

Under federal law, we may not grant you a franchise unless you have had a signature-ready copy of the franchise agreement and all attachments, with all the blanks except for the date of the agreement filled in, for at least five (5) business days before you pay us any money in connection with the agreement or sign the agreement.

To show that we have complied with the law, please fill in the date when you received the franchise agreement from us:

Date You Received Franchise Agreement: \_\_\_\_\_



Please return this receipt to us as soon as you have filled in the date. We can proceed further only after you return this receipt.

Thank you for your careful attention to this matter.

## ATTACHMENT 7