
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 25, 2018

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission File Number 000-50972

Texas Roadhouse, Inc.

(Exact name of registrant specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

20-1083890

(IRS Employer
Identification Number)

6040 Dutchmans Lane, Suite 200

Louisville, Kentucky 40205

(Address of principal executive offices) (Zip Code)

(502) 426-9984

(Registrant's telephone number, including area code)

Indicate by check mark whether registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐.

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulations S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐
Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒.

The number of shares of common stock outstanding were 71,550,183 on October 24, 2018.

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PART I — FINANCIAL INFORMATION
ITEM 1 — FINANCIAL STATEMENTS
Texas Roadhouse, Inc. and Subsidiaries
Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)
(unaudited)

	September 25, 2018	December 26, 2017
Assets		
Current assets:		
Cash and cash equivalents	\$ 151,190	\$ 150,918
Receivables, net of allowance for doubtful accounts of \$27 at September 25, 2018 and \$43 at December 26, 2017	34,804	76,496
Inventories, net	16,336	16,306
Prepaid income taxes	779	—
Prepaid expenses	13,046	13,361
Total current assets	216,155	257,081
Property and equipment, net of accumulated depreciation of \$583,750 at September 25, 2018 and \$527,710 at December 26, 2017	940,955	912,147
Goodwill	121,040	121,040
Intangible assets, net of accumulated amortization of \$13,231 at September 25, 2018 and \$12,675 at December 26, 2017	2,144	2,700
Other assets	44,532	37,655
Total assets	\$ 1,324,826	\$ 1,330,623
Liabilities and Stockholders' Equity		
Current liabilities:		
Current maturities of long-term debt and obligation under capital lease	\$ 10	\$ 9
Accounts payable	55,021	57,579
Deferred revenue-gift cards	87,947	156,627
Accrued wages	32,945	29,678
Income taxes payable	3,508	2,494
Accrued taxes and licenses	24,835	21,997
Dividends payable	17,884	14,945
Other accrued liabilities	50,327	46,669
Total current liabilities	272,477	329,998
Long-term debt and obligation under capital lease, excluding current maturities	1,973	51,981
Stock option and other deposits	7,300	7,699
Deferred rent	46,285	42,141
Deferred tax liabilities, net	7,102	5,301
Other liabilities	48,391	42,112
Total liabilities	383,528	479,232
Texas Roadhouse, Inc. and subsidiaries stockholders' equity:		
Preferred stock (\$0.001 par value, 1,000,000 shares authorized; no shares issued or outstanding)	—	—
Common stock (\$0.001 par value, 100,000,000 shares authorized, 71,545,237 and 71,168,897 shares issued and outstanding at September 25, 2018 and December 26, 2017, respectively)	72	71
Additional paid-in-capital	250,480	236,548
Retained earnings	675,909	602,499
Accumulated other comprehensive loss	(206)	(39)
Total Texas Roadhouse, Inc. and subsidiaries stockholders' equity	926,255	839,079
Noncontrolling interests	15,043	12,312
Total equity	941,298	851,391
Total liabilities and equity	\$ 1,324,826	\$ 1,330,623

See accompanying notes to condensed consolidated financial statements.

Texas Roadhouse, Inc. and Subsidiaries
Condensed Consolidated Statements of Income and Comprehensive Income
(in thousands, except per share data)
(unaudited)

	13 Weeks Ended		39 Weeks Ended	
	September 25, 2018	September 26, 2017	September 25, 2018	September 26, 2017
Revenue:				
Restaurant and other sales	\$ 589,704	\$ 536,341	\$ 1,836,179	\$ 1,661,821
Franchise royalties and fees	4,891	4,166	15,358	12,634
Total revenue	594,595	540,507	1,851,537	1,674,455
Costs and expenses:				
Restaurant operating costs (excluding depreciation and amortization shown separately below):				
Cost of sales	191,990	176,498	598,824	545,862
Labor	197,621	169,355	593,298	514,287
Rent	12,330	11,257	36,300	33,238
Other operating	91,946	83,679	279,182	254,176
Pre-opening	4,378	4,548	13,529	14,302
Depreciation and amortization	25,843	23,534	75,492	69,236
Impairment and closure	20	2	128	13
General and administrative	35,023	26,123	100,202	94,594
Total costs and expenses	559,151	494,996	1,696,955	1,525,708
Income from operations	35,444	45,511	154,582	148,747
Interest expense, net	168	500	810	1,211
Equity income from investments in unconsolidated affiliates	(381)	(359)	(1,150)	(1,149)
Income before taxes	35,657	45,370	\$ 154,922	\$ 148,685
Provision for income taxes	5,398	13,046	22,321	41,159
Net income including noncontrolling interests	30,259	32,324	\$ 132,601	\$ 107,526
Less: Net income attributable to noncontrolling interests	1,134	1,310	4,708	4,618
Net income attributable to Texas Roadhouse, Inc. and subsidiaries	\$ 29,125	\$ 31,014	\$ 127,893	\$ 102,908
Other comprehensive (loss) income, net of tax:				
Foreign currency translation adjustment, net of tax of \$54, (\$55), \$46 and (\$82), respectively	(159)	88	(167)	131
Total other comprehensive (loss) income, net of tax	(159)	88	(167)	131
Total comprehensive income	\$ 28,966	\$ 31,102	\$ 127,726	\$ 103,039
Net income per common share attributable to Texas Roadhouse, Inc. and subsidiaries:				
Basic	\$ 0.41	\$ 0.44	\$ 1.79	\$ 1.45
Diluted	\$ 0.40	\$ 0.43	\$ 1.78	\$ 1.44
Weighted average shares outstanding:				
Basic	71,508	71,067	71,429	70,939
Diluted	72,006	71,532	71,906	71,449
Cash dividends declared per share	\$ 0.25	\$ 0.21	\$ 0.75	\$ 0.63

See accompanying notes to condensed consolidated financial statements.

Texas Roadhouse, Inc. and Subsidiaries
Condensed Consolidated Statement of Stockholders' Equity
(in thousands, except share and per share data)
(unaudited)

	Shares	Par Value	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Total Texas Roadhouse, Inc. and Subsidiaries	Noncontrolling Interests	Total
Balance, December 26, 2017	71,168,897	\$ 71	\$ 236,548	\$ 602,499	\$ (39)	\$ 839,079	\$ 12,312	\$ 851,391
Net income	—	—	—	127,893	—	127,893	4,708	132,601
Other comprehensive loss, net	—	—	—	—	(167)	(167)	—	(167)
Noncontrolling interests contribution	—	—	—	—	—	—	2,551	2,551
Contribution from executive officer	—	—	1,000	—	—	1,000	—	1,000
Distributions to noncontrolling interest holders	—	—	—	—	—	—	(4,481)	(4,481)
Acquisition of noncontrolling interest	—	—	(75)	—	—	(75)	(47)	(122)
Dividends declared (\$0.75 per share)	—	—	—	(53,605)	—	(53,605)	—	(53,605)
Shares issued under share-based compensation plans including tax effects	580,861	1	(1)	—	—	—	—	—
Indirect repurchase of shares for minimum tax withholdings	(204,521)	—	(11,812)	—	—	(11,812)	—	(11,812)
Cumulative effect of change in accounting principle	—	—	—	(878)	—	(878)	—	(878)
Share-based compensation	—	—	24,820	—	—	24,820	—	24,820
Balance, September 25, 2018	71,545,237	\$ 72	\$ 250,480	\$ 675,909	\$ (206)	\$ 926,255	\$ 15,043	\$ 941,298

See accompanying notes to condensed consolidated financial statements.

Texas Roadhouse, Inc. and Subsidiaries
Condensed Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

	39 Weeks Ended	
	September 25, 2018	September 26, 2017
Cash flows from operating activities:		
Net income including noncontrolling interests	\$ 132,601	\$ 107,526
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	75,492	69,236
Deferred income taxes	2,146	(5,647)
Loss on disposition of assets	4,339	3,490
Contribution from executive officer	1,000	—
Equity income from investments in unconsolidated affiliates	(1,150)	(1,149)
Distributions of income received from investments in unconsolidated affiliates	521	585
Provision for doubtful accounts	16	19
Share-based compensation expense	24,820	18,826
Changes in operating working capital:		
Receivables	41,676	31,129
Inventories	(30)	805
Prepaid expenses	315	1,689
Other assets	(6,582)	(5,729)
Accounts payable	918	(3,162)
Deferred revenue—gift cards	(68,680)	(59,302)
Accrued wages	3,267	3,541
Prepaid income taxes and income taxes payable	235	9,535
Accrued taxes and licenses	2,838	3,785
Other accrued liabilities	2,593	3,536
Deferred rent	4,144	4,158
Other liabilities	5,100	5,199
Net cash provided by operating activities	<u>225,579</u>	<u>188,070</u>
Cash flows from investing activities:		
Capital expenditures—property and equipment	(110,906)	(117,037)
Acquisition of franchise restaurants, net of cash acquired	—	(16,528)
Net cash used in investing activities	<u>(110,906)</u>	<u>(133,565)</u>
Cash flows from financing activities:		
Debt issuance costs	—	(476)
Proceeds from noncontrolling interest contribution	2,551	3,457
Distributions to noncontrolling interest holders	(4,481)	(4,042)
Proceeds from stock option and other deposits, net	14	438
Indirect repurchase of shares for minimum tax withholdings	(11,812)	(10,097)
Principal payments on long-term debt and capital lease obligation	(50,007)	(555)
Proceeds from exercise of stock options	—	1,485
Dividends paid to shareholders	(50,666)	(43,223)
Net cash used in financing activities	<u>(114,401)</u>	<u>(53,013)</u>
Net increase in cash and cash equivalents	272	1,492
Cash and cash equivalents—beginning of period	150,918	112,944
Cash and cash equivalents—end of period	<u>\$ 151,190</u>	<u>\$ 114,436</u>
Supplemental disclosures of cash flow information:		
Interest paid, net of amounts capitalized	\$ 568	\$ 948
Income taxes paid	\$ 19,940	\$ 37,271
Capital expenditures included in current liabilities	\$ 9,415	\$ 5,470

See accompanying notes to condensed consolidated financial statements.

Texas Roadhouse, Inc. and Subsidiaries
Notes to Condensed Consolidated Financial Statements
(tabular amounts in thousands, except share and per share data)
(unaudited)

(1) Basis of Presentation

The accompanying unaudited condensed consolidated financial statements include the accounts of Texas Roadhouse, Inc. ("TRI"), our wholly-owned subsidiaries and subsidiaries in which we have a controlling interest (collectively the "Company," "we," "our" and/or "us") as of September 25, 2018 and September 26, 2017 and for the 13 and 39 weeks ended September 25, 2018 and September 26, 2017.

As of September 25, 2018, we owned and operated 479 restaurants and franchised an additional 91 restaurants in 49 states and eight foreign countries. Of the 479 company restaurants that were operating at September 25, 2018, 460 were wholly-owned and 19 were majority-owned. Of the 91 franchise restaurants, 70 were domestic restaurants and 21 were international restaurants.

As of September 26, 2017, we owned and operated 455 restaurants and franchised an additional 85 restaurants in 49 states and six foreign countries. Of the 455 company restaurants that were operating at September 26, 2017, 437 were wholly-owned and 18 were majority-owned. Of the 85 franchise restaurants, 70 were domestic restaurants and 15 were international restaurants.

As of September 25, 2018 and September 26, 2017, we owned 5.0% to 10.0% equity interest in 24 franchise restaurants. Additionally, as of September 25, 2018 and September 26, 2017, we owned a 40% equity interest in four non-Texas Roadhouse restaurants as part of a joint venture agreement with a casual dining restaurant operator in China. The unconsolidated restaurants are accounted for using the equity method. Our investments in these unconsolidated affiliates are included in other assets in our unaudited condensed consolidated balance sheets, and we record our percentage share of net income earned by these unconsolidated affiliates in our unaudited condensed consolidated statements of income and comprehensive income under equity income from investments in unconsolidated affiliates. All significant intercompany balances and transactions for these unconsolidated restaurants as well as the entities whose accounts have been consolidated have been eliminated.

We have made a number of estimates and assumptions relating to the reporting of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the unaudited condensed consolidated financial statements and the reporting of revenue and expenses during the periods to prepare these unaudited condensed consolidated financial statements in conformity with U.S. generally accepted accounting principles ("GAAP"). Significant items subject to such estimates and assumptions include the carrying amounts of property and equipment and goodwill, obligations related to insurance reserves, leases and leasehold improvements, legal reserves, gift card breakage and third party fees and income taxes. Actual results could differ from those estimates.

In the opinion of management, the accompanying unaudited condensed consolidated financial statements reflect all adjustments, consisting only of normal recurring adjustments, necessary to present fairly our consolidated financial position, results of operations and cash flows for the periods presented. The unaudited condensed consolidated financial statements have been prepared in accordance with GAAP, except that certain information and footnotes have been condensed or omitted pursuant to rules and regulations of the Securities and Exchange Commission ("SEC"). Operating results for the 13 and 39 weeks ended September 25, 2018 are not necessarily indicative of the results that may be expected for the year ending December 25, 2018. The unaudited condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 26, 2017.

Our significant interim accounting policies include the recognition of income taxes using an estimated annual effective tax rate.

(2) Recent Accounting Pronouncements***Revenue Recognition
(Accounting Standards Codification 606, "ASC 606")***

On December 27, 2017, we adopted ASC 606, *Revenue from Contracts with Customers*. This ASC requires an entity to allocate the transaction price received from customers to each separate and distinct performance obligation and recognize revenue as these performance obligations are satisfied. This standard replaces most existing revenue recognition guidance in GAAP. The adoption of this standard did not have an impact on our recognition of sales from company restaurants or our recognition of continuing fees from franchisees, which are based on a percentage of franchise restaurant sales. As further detailed below, the adoption of this standard did have an impact on the recognition of initial franchise fees and upfront fees from international development agreements. In addition, certain transactions that were previously recorded as expense are now classified as revenue. We utilized the cumulative-effect method of adoption and recorded a \$0.9 million reduction, net of tax, to retained earnings as of the first day of fiscal 2018 to reflect the change in the recognition pattern of initial franchise fees and upfront fees. The comparative financial information has not been restated and continues to be reported under the accounting standards in effect for those periods.

The cumulative effects of the changes made to our unaudited condensed consolidated balance sheet as of December 26, 2017 as a result of the adoption of ASC 606 were as follows:

	Balance at December 26, 2017	ASC 606 Adjustments	Balance at December 27, 2017
Liabilities			
Deferred tax liabilities, net	\$ 5,301	\$ (299)	\$ 5,002
Other liabilities, non-current	42,112	1,177	43,289
Equity			
Retained earnings	\$ 602,499	\$ (878)	\$ 601,621

Under ASC 606, because the services we provide related to initial franchise fees and upfront fees from international development agreements do not contain separate and distinct performance obligations from the franchise right, these fees will be recognized on a straight-line basis over the term of the associated franchise agreement. Under previous guidance, initial franchise fees were recognized when the related services had been provided, which was generally upon the opening of the restaurant, and upfront fees were recognized on a pro-rata basis as restaurants under the development agreement were opened. These fees will continue to be recorded as a component of franchise royalties and fees in our unaudited condensed consolidated statements of income and comprehensive income. ASC 606 requires sales-based royalties to continue to be recognized as franchise restaurant sales occur.

In addition, certain transactions that were previously recorded as expense are now classified as revenue. These transactions include breakage income and third party gift card fees from our gift card program as well as accounting fees, supervision fees and advertising contributions received from our franchisees. Under ASC 606, breakage income and third party gift card fees are recorded as a component of restaurant and other sales in our unaudited condensed consolidated statements of income and comprehensive income. Under previous guidance, these transactions were recorded as a component of other operating expense. Also under ASC 606, accounting fees, supervision fees and advertising contributions received from our franchisees are recorded as a component of franchise royalties and fees in our unaudited condensed consolidated statements of income and comprehensive income. Under previous guidance, these transactions were recorded as a reduction of general and administrative expense. As noted above, we adopted ASC 606 as of the first day of fiscal 2018. The comparative financial information has not been restated and continues to be reported under the accounting standards in effect for those periods.

The impact of adopting ASC 606 as compared to the previous revenue recognition guidance on our unaudited condensed consolidated balance sheet and unaudited condensed consolidated statements of income and comprehensive income was as follows:

	September 25, 2018		
	As Reported	Balances Without Adoption of ASC 606	Adoption Impact of ASC 606
Balance Sheet			
Liabilities			
Deferred tax liabilities, net	\$ 7,102	\$ 7,398	\$ (296)
Other liabilities, non-current	48,391	47,223	1,168
Equity			
Retained earnings	\$ 675,909	\$ 676,781	\$ (872)

	13 Weeks Ended September 25, 2018			39 Weeks Ended September 25, 2018		
	As Reported	Balances Without Adoption of ASC 606	Adoption Impact of ASC 606	As Reported	Balances Without Adoption of ASC 606	Adoption Impact of ASC 606
Income Statement						
Revenue						
Restaurant and other sales	\$ 589,704	\$ 590,928	\$ (1,224)	\$ 1,836,179	\$ 1,840,678	\$ (4,499)
Franchise royalties and fees	4,891	4,299	592	15,358	13,529	1,829
Costs and expenses						
Other operating	91,946	93,170	(1,224)	279,182	283,681	(4,499)
General and administrative	35,023	34,439	584	100,202	98,383	1,819
Provision for income taxes	5,398	5,396	2	22,321	22,317	4
Net Income	\$ 29,125	\$ 29,119	\$ 6	\$ 127,893	\$ 127,887	\$ 6

Statement of Cash Flows

(Accounting Standards Update 2016-15, "ASU 2016-15")

In August 2016, the FASB issued ASU 2016-15, *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments*, which adds and/or clarifies guidance on the classification of certain cash receipts and payments in the statement of cash flows. We adopted this guidance as of the beginning of our 2018 fiscal year. The adoption of this guidance did not have a material impact on our consolidated financial position, results of operations or cash flows.

Income Taxes

(Accounting Standards Update 2016-16, "ASU 2016-16")

In October 2016, the FASB issued ASU 2016-16, *Income Taxes (Topic 740)*, which addresses the income tax consequences of intra-entity transfers of assets other than inventory. Current GAAP prohibits the recognition of current and deferred income taxes for an intra-entity asset transfer until the asset has been sold to an outside party. This standard will require recognition of current and deferred income taxes resulting from an intra-entity transfer of an asset other than inventory when the transfer occurs. We adopted this guidance as of the beginning of our 2018 fiscal year. The adoption of this guidance did not have a material impact on our consolidated financial position, results of operations or cash flows.

Compensation – Stock Compensation
(Accounting Standards Update 2017-09, "ASU 2017-09")

In May 2017, the FASB issued ASU 2017-09, *Compensation – Stock Compensation (Topic 718): Scope of Modification Accounting*, which clarifies when a change in the terms or conditions of a share-based payment award must be accounted for as a modification. ASU 2017-09 requires modification accounting if the fair value, vesting condition or the classification of the award is not the same immediately before and after a change in the terms and conditions of the award. We adopted this guidance as of the beginning of our 2018 fiscal year. The adoption of this guidance did not have a material impact on our consolidated financial position, results of operations or cash flows.

Leases
(Accounting Standards Update 2016-02, "ASU 2016-02")

In February 2016, the FASB issued ASU 2016-02, *Leases*, which requires an entity to recognize a right-of-use asset and a lease liability for virtually all leases. This update also requires additional disclosures about the amount, timing, and uncertainty of cash flows arising from leases. ASU 2016-02 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018 (our 2019 fiscal year). In March 2018, the FASB approved an amendment that allowed a modified retrospective approach and new required lease disclosures for all leases existing or entered into after either the beginning of the year of adoption or the earliest comparative period in the consolidated financial statements. We currently plan to adopt ASU 2016-02 using a modified retrospective approach as of the beginning of the year of adoption. We plan to take advantage of the transition package of practical expedients permitted within the new standard which will allow us to carryforward the historical lease classification. We also plan to elect the hindsight practical expedient to determine the reasonably certain lease term for existing leases.

We had operating leases with remaining rental payments of approximately \$894.6 million as of September 25, 2018. The discounted minimum remaining rental payments will be the starting point for determining the right-of-use asset and lease liability. While we are still in the process of assessing the impact of this new standard on our consolidated financial position, results of operations and cash flows, we expect the adoption of this standard will have a material impact on our consolidated financial position due to the recognition of the right-of-use asset and lease liability related to operating leases. While the new standard is also expected to impact the measurement and presentation of elements of expenses and cash flows related to leasing arrangements, we do not presently believe there will be a material impact on our consolidated results of operations, cash flows, or the related notes.

Financial Instruments
(Accounting Standards Update 2016-13, "ASU 2016-13")

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which requires measurement and recognition of expected versus incurred losses for financial assets held. ASU 2016-13 is effective for annual periods beginning after December 15, 2019 (our 2020 fiscal year), with early adoption permitted for annual periods beginning after December 15, 2018. We are currently assessing the impact of this new standard on our consolidated financial position, results of operations and cash flows.

Goodwill
(Accounting Standards Update 2017-04, "ASU 2017-04")

In January 2017, the FASB issued ASU 2017-04, *Intangibles – Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*, which simplifies the accounting for goodwill impairment and is expected to reduce the cost and complexity of accounting for goodwill. ASU 2017-04 removes Step 2 of the goodwill impairment test, which requires a hypothetical purchase price allocation. Instead, goodwill impairment will be the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of the goodwill. ASU 2017-04 is effective for fiscal years beginning after December 15, 2019 (our 2020 fiscal year) and will be applied on a prospective basis. Early adoption is permitted for interim and annual goodwill impairment tests performed on testing dates after January 1, 2017. We are currently assessing the impact of this new standard on our consolidated financial position, results of operations and cash flows.

Fair Value Measurements
(Accounting Standards Update 2018-13, "ASU 2018-13")

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement*, which eliminates, modifies and adds disclosure requirements for fair value measurements. ASU 2018-13 is effective for fiscal years beginning after December 15, 2019 (our 2020 fiscal year) and for interim periods within those years, with early adoption permitted. We are currently assessing the impact of this new standard on our consolidated financial statements.

(3) Revenue

The following table disaggregates our revenue by major source (in thousands):

	13 Weeks Ended September 25, 2018	39 Weeks Ended September 25, 2018
Restaurant and other sales	\$ 589,704	\$ 1,836,179
Franchise royalties	4,249	13,069
Franchise fees	642	2,289
Total revenue	<u>\$ 594,595</u>	<u>\$ 1,851,537</u>

Restaurant sales include the sale of food and beverage products to our customers. We recognize this revenue when the products are sold. All sales taxes collected from customers and remitted to governmental authorities are accounted for on a net basis and therefore are excluded from revenue in the unaudited condensed consolidated statements of income and comprehensive income.

Other sales include the amortization of gift card breakage and fees associated with third party gift card sales. We record deferred revenue for gift cards that have been sold but not yet redeemed. When the gift cards are redeemed, we recognize restaurant sales and reduce deferred revenue. For some of the gift cards that are sold, the likelihood of redemption is remote. When the likelihood of a gift card's redemption is determined to be remote, we record a breakage adjustment and reduce deferred revenue by the amount never expected to be redeemed. We use historic gift card redemption patterns to determine when the likelihood of a gift card's redemption becomes remote and have determined that approximately 4% of the value of the gift cards sold by our company and our third party retailers will never be redeemed. This breakage adjustment is recorded consistent with the historic redemption pattern of the associated gift card. In addition, we incur fees on all gift cards that are sold through third party retailers. These fees are also deferred and recorded consistent with the historic redemption pattern of the associated gift cards. For the 13 and 39 weeks ended September 25, 2018, we recognized gift card fees, net of gift card breakage income, of approximately \$1.2 million and \$4.5 million, respectively. Total deferred revenue related to our gift cards is included in deferred revenue-gift cards in our unaudited condensed consolidated balance sheets and includes the full value of unredeemed gift cards less the amortized portion of the breakage rates and the unamortized portion of third party fees. As of September 25, 2018 and December 26, 2017, our deferred revenue balance related to gift cards was approximately \$87.9 million and \$156.6 million, respectively. This change was primarily due to the redemption of gift cards partially offset by the sale of additional gift cards. We recognized sales of approximately \$12.9 million and \$99.3 million for the 13 and 39 weeks ended September 25, 2018, respectively, related to the amount in deferred revenue as of December 26, 2017.

Franchise royalties include continuing fees received from our franchising of Texas Roadhouse restaurants. We execute franchise agreements for each franchise restaurant which sets out the terms of our arrangement with the franchisee. These agreements require the franchisee to pay ongoing royalties of generally 4.0% of gross sales from our domestic franchisees, along with royalties paid to us by our international franchisees. Franchise royalties are recognized as revenue as the corresponding franchise restaurant sales occur.

Franchise fees are all remaining fees from our franchisees including initial fees, upfront fees from international agreements, fees paid to our domestic marketing and advertising fund, and fees for supervisory and administrative services. Our franchise agreements typically require the franchisee to pay an initial, non-refundable fee. Subject to our approval and payment of a renewal fee, a franchisee may generally renew the franchise agreement upon its expiration. These initial fees and renewal fees are deferred and recognized over the term of the agreement. We also enter into area

development agreements for the development of international Texas Roadhouse restaurants. Upfront fees from development agreements are deferred and recognized on a pro-rata basis over the term of the individual restaurant franchise agreement as restaurants under the development agreement are opened. Our domestic franchise agreement also requires our franchisees to remit 0.3% of sales to our system-wide marketing and advertising fund. These amounts are recognized as revenue as the corresponding franchise restaurant sales occur. Finally, we perform supervisory and administrative services for certain franchise restaurants for which we receive management fees, which are recognized as the services are performed. Total deferred revenue related to our franchise agreements is included in other liabilities in our unaudited condensed consolidated balance sheets and was approximately \$1.2 million as of September 25, 2018 and December 26, 2017. We recognized revenue of approximately \$0.1 million and \$0.2 million for the 13 and 39 weeks ended September 25, 2018, respectively, related to the amount in deferred revenue as of December 26, 2017.

(4) Long-term Debt and Obligation Under Capital Lease

Long-term debt consisted of the following:

	September 25, 2018	December 26, 2017
Obligation under capital lease	\$ 1,983	\$ 1,990
Revolver	—	50,000
	1,983	51,990
Less current maturities	10	9
	<u>\$ 1,973</u>	<u>\$ 51,981</u>

On August 7, 2017, we entered into the Amended and Restated Credit Agreement (the "Amended Credit Agreement") with respect to our revolving credit facility with a syndicate of commercial lenders led by JPMorgan Chase Bank, N.A., PNC Bank, N.A., and Wells Fargo Bank, N.A. The revolving credit facility remains an unsecured, revolving credit agreement under which we may borrow up to \$200.0 million with the option to increase the revolving credit facility by an additional \$200.0 million subject to certain limitations. The Amended Credit Agreement extends the maturity date of our revolving credit facility until August 5, 2022.

The terms of the Amended Credit Agreement require us to pay interest on outstanding borrowings at the London Interbank Offered Rate ("LIBOR") plus a margin of 0.875% to 1.875% and to pay a commitment fee of 0.125% to 0.30% per year on any unused portion of the revolving credit facility, in each case depending on our leverage ratio, or the Alternate Base Rate, which is the highest of the issuing banks' prime lending rate, the Federal Reserve Bank of New York rate plus 0.50% or the Adjusted Eurodollar Rate for a one month interest period on such day plus 1.0%. In April 2018, we paid off our outstanding credit facility of \$50.0 million. The weighted-average interest rate for the amended revolving credit facility as of September 25, 2018 and December 26, 2017 was 3.11% and 2.37%, respectively. As of September 25, 2018, we had \$192.3 million of availability, net of \$7.7 million of outstanding letters of credit.

The lenders' obligation to extend credit pursuant to the Amended Credit Agreement depends on us maintaining certain financial covenants, including a minimum consolidated fixed charge coverage ratio of 2.00 to 1.00 and a maximum consolidated leverage ratio of 3.00 to 1.00. The Amended Credit Agreement permits us to incur additional secured or unsecured indebtedness outside the amended revolving credit facility, except for the incurrence of secured indebtedness that in the aggregate is equal to or greater than \$125.0 million and 20% of our consolidated tangible net worth. We were in compliance with all financial covenants as of September 25, 2018.

(5) Income Taxes

A reconciliation of the statutory federal income tax rate to our effective tax rate for the 13 and 39 weeks ended September 25, 2018 and September 26, 2017 is as follows:

	13 Weeks Ended		39 Weeks Ended	
	September 25, 2018	September 26, 2017	September 25, 2018	September 26, 2017
Tax at statutory federal rate	21.0 %	35.0 %	21.0 %	35.0 %
State and local tax, net of federal benefit	3.8	3.4	3.8	3.4
FICA tip tax credit	(8.3)	(7.1)	(9.1)	(7.1)
Work opportunity tax credit	(1.9)	(0.9)	(1.5)	(0.8)
Stock compensation	(1.4)	(0.9)	(1.4)	(2.0)
Net income attributable to noncontrolling interests	(1.2)	(1.1)	(0.8)	(1.1)
Officer compensation	2.3	0.1	1.4	0.1
Other	0.8	0.3	1.0	0.2
Total	15.1 %	28.8 %	14.4 %	27.7 %

Our effective tax rate decreased to 15.1% for the 13 weeks ended September 25, 2018 compared to 28.8% for the 13 weeks ended September 26, 2017. For the 39 weeks ended September 25, 2018, our effective tax rate decreased to 14.4% compared to 27.7% for the 39 weeks ended September 26, 2017. These decreases are driven by new tax legislation that was enacted in late 2017. As a result of the new tax legislation, significant tax changes were enacted including a reduction of the federal corporate tax rate from 35.0% to 21.0%. These changes were generally effective at the beginning of our 2018 fiscal year.

(6) Commitments and Contingencies

The estimated cost of completing capital project commitments at September 25, 2018 and December 26, 2017 was approximately \$152.5 million and \$150.0 million, respectively.

As of September 25, 2018 and December 26, 2017, we were contingently liable for \$15.0 million and \$15.6 million, respectively, for seven lease guarantees, listed in the table below. These amounts represent the maximum potential liability of future payments under the guarantees. In the event of default, the indemnity and default clauses in our assignment agreements govern our ability to pursue and recover damages incurred. No material liabilities have been recorded as of September 25, 2018 and December 26, 2017 as the likelihood of default was deemed to be less than probable and the fair value of the guarantees is not considered significant.

	Lease Assignment Date	Current Lease Term Expiration
Everett, Massachusetts (1)(2)	September 2002	February 2023
Longmont, Colorado (1)	October 2003	May 2029
Montgomeryville, Pennsylvania (1)	October 2004	March 2021
Fargo, North Dakota (1)(2)	February 2006	July 2021
Logan, Utah (1)	January 2009	August 2019
Irving, Texas (3)	December 2013	December 2019
Louisville, Kentucky (3)(4)	December 2013	November 2023

- (1) Real estate lease agreements for restaurant locations which we entered into before granting franchise rights to those restaurants. We have subsequently assigned the leases to the franchisees, but remain contingently liable under the terms of the lease if the franchisee defaults.
- (2) As discussed in note 7, these restaurants are owned, in whole or part, by certain officers, directors and 5% shareholders of the Company.
- (3) Leases associated with non-Texas Roadhouse restaurants which were sold. The leases were assigned to the acquirer, but we remain contingently liable under the terms of the lease if the acquirer defaults.
- (4) We may be released from liability after the initial contractual lease term expiration contingent upon certain conditions being met by the acquirer.

During the 13 and 39 weeks ended September 25, 2018, we bought most of our beef from three suppliers. A change in suppliers could cause supply shortages and/or higher costs to secure adequate supplies and a possible loss of sales, which would affect operating results adversely. We have no material minimum purchase commitments with our vendors that extend beyond a year.

We and the U.S. Equal Employment Opportunity Commission entered into a consent decree dated March 31, 2017 (the "Consent Decree") to settle the lawsuit styled Equal Employment Opportunity Commission v. Texas Roadhouse, Inc., Texas Roadhouse Holdings LLC and Texas Roadhouse Management Corp. in the United States District Court, District of Massachusetts, Civil Action Number 1:11-cv-11732 (the "Lawsuit"). The Consent Decree resolves the issues litigated in the Lawsuit. Under the Consent Decree, among other terms, we have established a fund of \$12.0 million, from which awards of monetary relief, allocated as wages for tax purposes, may be made to eligible claimants in accordance with procedures set forth in the Consent Decree. We recorded a pre-tax charge of \$14.9 million (\$9.2 million after-tax) related to the Lawsuit and Consent Decree during the 13 weeks ended March 28, 2017. The pre-tax charge includes \$12.6 million of costs associated with the legal settlement and \$2.3 million of legal fees associated with the defense of the case. In addition, we recorded \$0.9 million and \$1.5 million of claims administration costs during the 13 and 39 week periods ended September 25, 2018, respectively. These pre-tax charges were recorded in general and administrative expense in our unaudited condensed consolidated statements of income and comprehensive income.

Occasionally, we are a defendant in litigation arising in the ordinary course of our business, including "slip and fall" accidents, employment related claims, claims related to our service of alcohol, and claims from guests or employees alleging illness, injury or food quality, health or operational concerns. None of these types of litigation, most of which are covered by insurance, has had a material effect on us and, as of the date of this report, we are not party to any litigation that we believe could have a material adverse effect on our business.

(7) Related Party Transactions

As of September 25, 2018, we had 10 franchise restaurants and one majority-owned company restaurant owned in part by certain officers, directors and 5% stockholders of the Company. As of September 26, 2017, we had 10 franchise restaurants owned in part by certain officers, directors and 5% stockholders of the Company. For both of the 13 week periods ended September 25, 2018 and September 26, 2017, these franchise entities paid us fees of approximately \$0.5 million. For both of the 39 week periods ended September 25, 2018 and September 26, 2017, these franchise entities paid us fees of approximately \$1.6 million. As disclosed in note 6, we are contingently liable on leases related to two of these franchise restaurants.

In addition, for the 13 weeks ended June 26, 2018, our founder made a personal contribution of \$1.0 million to cover a portion of the planned expenses incurred as part of the annual managing partner conference which marked our 25th anniversary. This amount was recorded as general and administrative expense on the condensed consolidated statement of income and as additional paid-in-capital on the condensed consolidated statement of stockholders' equity.

(8) Earnings Per Share

The share and net income per share data for all periods presented are based on the historical weighted-average shares outstanding. The diluted earnings per share calculations show the effect of the weighted-average stock options and restricted stock units outstanding from our equity incentive plans. Performance stock units are not included in the diluted earnings per share calculation until the performance-based criteria have been met.

For both 13 week periods ended September 25, 2018 and September 26, 2017, there were no shares of nonvested stock that were outstanding but not included in the computation of diluted earnings per share because their inclusion would have had an anti-dilutive effect. For the 39 week periods ended September 25, 2018 and September 26, 2017, there were 220 and 7,960 shares of nonvested stock, respectively, that were not included because they would have had an anti-dilutive effect.

The following table sets forth the calculation of earnings per share and weighted-average shares outstanding (in thousands) as presented in the accompanying unaudited condensed consolidated statements of income and comprehensive income:

	13 Weeks Ended		39 Weeks Ended	
	September 25, 2018	September 26, 2017	September 25, 2018	September 26, 2017
Net income attributable to Texas Roadhouse, Inc. and subsidiaries	\$ 29,125	\$ 31,014	\$ 127,893	\$ 102,908
Basic EPS:				
Weighted-average common shares outstanding	71,508	71,067	71,429	70,939
Basic EPS	\$ 0.41	\$ 0.44	\$ 1.79	\$ 1.45
Diluted EPS:				
Weighted-average common shares outstanding	71,508	71,067	71,429	70,939
Dilutive effect of stock options and nonvested stock	498	465	477	510
Shares-diluted	72,006	71,532	71,906	71,449
Diluted EPS	\$ 0.40	\$ 0.43	\$ 1.78	\$ 1.44

(9) Fair Value Measurements

ASC 820, *Fair Value Measurements* ("ASC 820"), establishes a framework for measuring fair value and expands disclosures about fair value measurements. ASC 820 establishes a three-level hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs in measuring fair value. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability on the measurement date.

Level 1 Inputs based on quoted prices in active markets for identical assets.

Level 2 Inputs other than quoted prices included within Level 1 that are observable for the assets, either directly or indirectly.

Level 3 Inputs that are unobservable for the asset.

There were no transfers among levels within the fair value hierarchy during the 13 and 39 weeks ended September 25, 2018.

The following table presents the fair values for our financial assets and liabilities measured on a recurring basis:

	Fair Value Measurements		
	Level	September 25, 2018	December 26, 2017
Deferred compensation plan—assets	1	\$ 34,239	\$ 28,754
Deferred compensation plan—liabilities	1	(34,273)	(28,829)

The Second Amended and Restated Deferred Compensation Plan of Texas Roadhouse Management Corp., as amended, (the "Deferred Compensation Plan") is a nonqualified deferred compensation plan which allows highly compensated employees to defer receipt of a portion of their compensation and contribute such amounts to one or more investment funds held in a rabbi trust. We report the amounts of the rabbi trust in other assets and the corresponding liability in other liabilities in our unaudited condensed consolidated financial statements. These investments are considered trading securities and are reported at fair value based on quoted market prices. The realized and unrealized holding gains and losses related to these investments, as well as the offsetting compensation expense, are recorded in general and administrative expense in the unaudited condensed consolidated statements of income and comprehensive income.

At September 25, 2018 and December 26, 2017, the fair values of cash and cash equivalents, accounts receivable and accounts payable approximated their carrying values based on the short-term nature of these instruments. The fair value of our revolving credit facility at December 26, 2017 approximated its carrying value since it is a variable rate credit facility (Level 2).

(10) Stock Repurchase Program

On May 22, 2014, our Board of Directors approved a stock repurchase program under which we may repurchase up to \$100.0 million of our common stock. This stock repurchase program has no expiration date and replaced a previous stock repurchase program which was approved on February 16, 2012. All repurchases to date under our stock repurchase program have been made through open market transactions. The timing and the amount of any repurchases will be determined by management under parameters established by our Board of Directors, based on an evaluation of our stock price, market conditions and other corporate considerations.

We did not repurchase any shares of common stock during the 13 and 39 week periods ended September 25, 2018 or September 26, 2017, respectively. As of September 25, 2018, we had approximately \$69.9 million remaining under our authorized stock repurchase program.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

CAUTIONARY STATEMENT

This report contains forward-looking statements based on our current expectations, estimates and projections about our industry and certain assumptions made by us. Words such as "anticipates," "expects," "intends," "plans," "believes," "seeks," "estimates," "may," "will" and variations of these words or similar expressions are intended to identify forward-looking statements. In addition, any statements that refer to expectations, projections or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking statements. Such statements are not guarantees of future performance and are subject to certain risks, uncertainties and assumptions that are difficult to predict. Therefore, our actual results could differ materially and adversely from those expressed in any forward-looking statements as a result of various factors. The section entitled "Risk Factors" in our Annual Report on Form 10-K for the year ended December 26, 2017, and in Part II, Item 1A in this Form 10-Q, along with disclosures in our other Securities and Exchange Commission ("SEC") filings discuss some of the important risk factors that may affect our business, results of operations, or financial condition. You should carefully consider those risks, in addition to the other information in this report, and in our other filings with the SEC, before deciding to invest in our Company or to maintain or increase your investment. We undertake no obligation to revise or update publicly any forward-looking statements for any reason. The information contained in this Form 10-Q is not a complete description of our business or the risks associated with an investment in our common stock. We urge you to carefully review and consider the various disclosures made by us in this report and in our other reports filed with the SEC that discuss our business in greater detail and advise interested parties of certain risks, uncertainties and other factors that may affect our business, results of operations or financial condition.

OVERVIEW

Texas Roadhouse, Inc. is a growing restaurant company operating predominately in the casual dining segment. Our founder, chairman and chief executive officer, W. Kent Taylor, started the business in 1993 with the opening of the first Texas Roadhouse restaurant in Clarksville, Indiana. Since then, we have grown to 570 company and franchise restaurants in 49 states and eight foreign countries. Our mission statement is "Legendary Food, Legendary Service®." Our operating strategy is designed to position each of our restaurants as the local hometown favorite for a broad segment of consumers seeking high quality, affordable meals served with friendly, attentive service. As of September 25, 2018, our 570 restaurants included:

- 479 "company restaurants," of which 460 were wholly-owned and 19 were majority-owned. The results of operations of company restaurants are included in our unaudited condensed consolidated statements of income and comprehensive income. The portion of income attributable to noncontrolling interests in company restaurants that are not wholly-owned is reflected in the line item entitled "Net income attributable to noncontrolling interests" in our unaudited condensed consolidated statements of income and comprehensive income. Of the 479 restaurants we owned and operated as of September 25, 2018, we operated 453 as Texas Roadhouse restaurants and operated 24 as Bubba's 33 restaurants. In addition, we operated two restaurants outside of the casual dining segment.
- 91 "franchise restaurants," 24 of which we have a 5.0% to 10.0% ownership interest. The income derived from our minority interests in these 24 franchise restaurants is reported in the line item entitled "Equity income from investments in unconsolidated affiliates" in our unaudited condensed consolidated statements of income and comprehensive income. Additionally, we provided various management services to these franchise restaurants, as well as six additional franchise restaurants in which we have no ownership interest. All of the franchise restaurants are operated as Texas Roadhouse restaurants. Of the 91 franchise restaurants, 70 were domestic restaurants and 21 were international restaurants.

We have contractual arrangements that grant us the right to acquire at pre-determined formulas the remaining equity interests in 17 of the 19 majority-owned company restaurants and 68 of the 70 domestic franchise restaurants.

Throughout this report, we use the term "restaurants" to include Texas Roadhouse and Bubba's 33, unless otherwise noted.

Presentation of Financial and Operating Data

Throughout this report, the 13 weeks ended September 25, 2018 and September 26, 2017 are referred to as Q3 2018 and Q3 2017, respectively. The 39 weeks ended September 25, 2018 and September 26, 2017 are referred to as 2018 YTD and 2017 YTD, respectively.

As further noted in note 2 to the unaudited condensed consolidated financial statements, we adopted Accounting Standards Codification 606, *Revenue from Contracts with Customers* as of the beginning of our 2018 fiscal year. As a result of this adoption, certain transactions that were previously recorded as expense are now classified as revenue. These include breakage income and third party gift card fees from our gift card program which are included in other sales and previously were included in other operating expense as well as certain fees received from our franchisees which are included in franchise royalties and fees and previously were a reduction of general and administrative expense. In addition, we reclassified certain amounts between restaurant operating costs and general and administrative expenses. None of the above mentioned reclassifications had an impact to income before taxes and the comparative financial information has not been restated for these reclassifications. The comparative impact of these reclassifications is further detailed below.

Long-Term Strategies to Grow Earnings Per Share and Create Shareholder Value

Our long-term strategies with respect to increasing net income and earnings per share, along with creating shareholder value, include the following:

Expanding Our Restaurant Base. We will continue to evaluate opportunities to develop restaurants in existing markets and in new domestic and international markets. Domestically, we will remain focused primarily on markets where we believe a significant demand for our restaurants exists because of population size, income levels, competitors in the area and the presence of shopping and entertainment centers and a significant employment base. Our ability to expand our restaurant base is influenced by many factors beyond our control and, therefore, we may not be able to achieve our anticipated growth.

In 2018 YTD, we opened 17 company restaurants, which includes four Bubba's 33 restaurants, while our franchise partners opened four restaurants. We currently plan to open 27 or 28 company restaurants in 2018 including five Bubba's 33 restaurants. Our existing franchise partners have opened four international Texas Roadhouse restaurants in 2018 YTD. In early Q4 2018, we had one additional international franchise opening.

Our average capital investment for the 23 Texas Roadhouse restaurants opened during 2017, including pre-opening expenses and a capitalized rent factor, was \$5.3 million. We expect our average capital investment for Texas Roadhouse restaurants opening in 2018 to be approximately \$5.3 million. For 2017, the average capital investment, including pre-opening expenses and a capitalized rent factor, for the four Bubba's 33 restaurants opened during the year was \$6.1 million. We expect our average capital investment for Bubba's 33 restaurants opened in 2018 to be approximately \$7.0 million. The increase in our 2018 average capital investment for our Bubba's 33 restaurants is primarily due to higher costs at one urban site in New Jersey as well as higher rent and pre-opening costs. We continue to evaluate our Bubba's 33 prototype.

We remain focused on driving sales and managing restaurant investment costs to maintain our restaurant development in the future. Our capital investment (including cash and non-cash costs) for new restaurants varies significantly depending on a number of factors including, but not limited to: the square footage, layout, scope of required site work, type of construction labor (union or non-union), local permitting requirements, our ability to negotiate with landlords, cost of liquor and other licenses and hook-up fees and geographical location.

We have entered into area development and/or franchise agreements for the development and operation of Texas Roadhouse restaurants in multiple foreign countries. As of September 25, 2018, we have 21 restaurants open in eight foreign countries including 15 restaurants in five countries in the Middle East, three restaurants in Taiwan, two

restaurants in the Philippines and one restaurant in Mexico. For most of the existing international agreements, the franchisee is required to pay us a franchise fee for each restaurant to be opened, royalties on the gross sales of each restaurant and a development fee for our grant of development rights in the named countries. We anticipate that the specific business terms of any future franchise agreement for international restaurants might vary significantly from the standard terms of our domestic agreements and from the terms of existing international agreements, depending on the territory to be franchised and the extent of franchisor-provided services to each franchisee.

Maintaining and/or Improving Restaurant Level Profitability. We plan to maintain restaurant-level profitability (restaurant margin) through a combination of increased comparable restaurant sales and operating cost management. Restaurant margin is not a U.S. generally accepted accounting principle ("GAAP") measure and should not be considered in isolation, or as an alternative to income from operations. See further discussion of restaurant margin below. In general, we continue to balance the impacts of inflationary pressures with our value positioning as we remain focused on our long-term success. This may create a challenge in terms of maintaining and/or increasing restaurant margin, as a percentage of restaurant and other sales, in any given year, depending on the level of inflation we experience. In addition to restaurant margin, as a percentage of restaurant and other sales, we also focus on the growth of restaurant margin dollars per store week as a measure of restaurant-level profitability. In terms of driving comparable restaurant sales, we remain focused on encouraging repeat visits by our guests and attracting new guests through our continued commitment to operational standards relating to food and service quality. To attract new guests and increase the frequency of visits of our existing guests, we also continue to drive various localized marketing programs, focus on speed of service and increase throughput by adding seats and parking at certain restaurants.

Leveraging Our Scalable Infrastructure. To support our growth, we continue to make investments in our infrastructure. Over the past several years, we have made significant investments in our infrastructure, including information and accounting systems, real estate, human resources, legal, marketing, international and restaurant operations, including the development of new concepts. Our goal is to increase general and administrative costs at a slower growth rate than our revenue. Whether we can leverage our infrastructure in future years will depend, in part, on our new restaurant openings, our comparable restaurant sales growth rate going forward and the level of investment we continue to make in our infrastructure.

Returning Capital to Shareholders. We continue to pay dividends and evaluate opportunities to return capital to our shareholders through repurchases of common stock. In 2011, our Board of Directors declared our first quarterly dividend of \$0.08 per share of common stock. We have consistently grown our per share dividend each year since that time and our long-term strategy includes increasing our regular quarterly dividend amount over time. On August 23, 2018, our Board of Directors declared a quarterly dividend of \$0.25 per share of common stock. The declaration and payment of cash dividends on our common stock is at the discretion of our Board of Directors, and any decision to declare a dividend will be based on many factors, including, but not limited to, earnings, financial condition, applicable covenants under our revolving credit facility, other contractual restrictions and other factors deemed relevant.

In 2008, our Board of Directors approved our first stock repurchase program. From inception through September 25, 2018, we have paid \$216.6 million through our authorized stock repurchase programs to repurchase 14,844,851 shares of our common stock at an average price per share of \$14.59. On May 22, 2014, our Board of Directors approved a stock repurchase program under which we may repurchase up to \$100.0 million of our common stock. This stock repurchase program has no expiration date and replaced a previous stock repurchase program which was approved on February 16, 2012. All repurchases to date have been made through open market transactions. As of September 25, 2018, approximately \$69.9 million remains authorized for stock repurchases.

Key Measures We Use to Evaluate Our Company

Key measures we use to evaluate and assess our business include the following:

Number of Restaurant Openings. Number of restaurant openings reflects the number of restaurants opened during a particular fiscal period. For company restaurant openings, we incur pre-opening costs, which are defined below, before the restaurant opens. Typically, new Texas Roadhouse restaurants open with an initial start-up period of higher than normalized sales volumes, which decrease to a steady level approximately three to six months after opening. However,

although sales volumes are generally higher, so are initial costs, resulting in restaurant margins that are generally lower during the start-up period of operation and increase to a steady level approximately three to six months after opening.

Comparable Restaurant Sales Growth. Comparable restaurant sales growth reflects the change in restaurant sales for company restaurants over the same period in prior years for the comparable restaurant base. We define the comparable restaurant base to include those restaurants open for a full 18 months before the beginning of the period measured excluding restaurants closed during the period. Comparable restaurant sales growth can be impacted by changes in guest traffic counts or by changes in the per person average check amount. Menu price changes and the mix of menu items sold can affect the per person average check amount.

Average Unit Volume. Average unit volume represents the average quarterly or annual restaurant sales for company restaurants open for a full six months before the beginning of the period measured excluding restaurants closed during the period. Historically, average unit volume growth is less than comparable restaurant sales growth which indicates that newer restaurants are operating with sales levels lower than the company average. At times, average unit volume growth may be more than comparable restaurant sales growth which indicates that newer restaurants are operating with sales levels higher than the company average.

Store Weeks. Store weeks represent the number of weeks that our company restaurants were open during the period measured.

Restaurant Margin. Restaurant margin (in dollars and as a percentage of restaurant and other sales) represents restaurant and other sales less restaurant-level operating costs, including cost of sales, labor, rent and other operating costs. Restaurant margin is not a measurement determined in accordance with GAAP and should not be considered in isolation, or as an alternative, to income from operations. This non-GAAP measure is not indicative of overall company performance and profitability in that this measure does not accrue directly to the benefit of shareholders due to the nature of the costs excluded. Restaurant margin is widely regarded as a useful metric by which to evaluate restaurant-level operating efficiency and performance. In calculating restaurant margin, we exclude certain non-restaurant-level costs that support operations, including pre-opening and general and administrative expenses, but do not have a direct impact on restaurant-level operational efficiency and performance. We also exclude depreciation and amortization expense, substantially all of which relates to restaurant-level assets, as it represents a non-cash charge for the investment in our restaurants. We also exclude impairment and closure expense as we believe this provides a clearer perspective of the Company's ongoing operating performance and a more useful comparison to prior period results. Restaurant margin as presented may not be comparable to other similarly titled measures of other companies in our industry. A reconciliation of income from operations to restaurant margin is included in the Results of Operations section below.

Other Key Definitions

Restaurant and Other Sales. Restaurant sales include gross food and beverage sales, net of promotions and discounts, for all company restaurants. Sales taxes collected from customers and remitted to governmental authorities are accounted for on a net basis and therefore are excluded from restaurant sales in the unaudited condensed consolidated statements of income and comprehensive income. Beginning in 2018, with the adoption of new revenue recognition accounting guidance, other sales include the amortization of fees associated with our third party gift card sales net of the amortization of gift card breakage income which had previously been recorded in restaurant other operating expense. These amounts are amortized over a period consistent with the historic redemption pattern of the associated gift cards.

Franchise Royalties and Fees. Franchise royalties consist of royalties, as defined in our franchise agreements, paid to us by domestic and international franchisees. Domestic and international franchisees also typically pay an initial franchise fee and/or development fee for each new restaurant or territory. The terms of the international agreements may vary significantly from our domestic agreements. Beginning in 2018, with the adoption of new revenue recognition accounting guidance, franchise royalties and fees include certain fees which had previously been recorded as a reduction of general and administrative expenses. These include advertising fees paid by domestic franchisees to our system-wide marketing and advertising fund and management fees paid by certain domestic franchisees for supervisory and administrative services that we perform.

Restaurant Cost of Sales. Restaurant cost of sales consists of food and beverage costs of which approximately half relates to beef costs.

Restaurant Labor Expenses. Restaurant labor expenses include all direct and indirect labor costs incurred in operations except for profit-sharing incentive compensation expenses earned by our restaurant managing partners and market partners. These profit-sharing expenses are reflected in restaurant other operating expenses. Restaurant labor expenses also include share-based compensation expense related to restaurant-level employees.

Restaurant Rent Expense. Restaurant rent expense includes all rent, except pre-opening rent, associated with the leasing of real estate and includes base, percentage and straight-line rent expense.

Restaurant Other Operating Expenses. Restaurant other operating expenses consist of all other restaurant-level operating costs, the major components of which are utilities, supplies, local store advertising, repairs and maintenance, equipment rent, property taxes, credit card fees and general liability insurance. Profit-sharing incentive compensation expenses earned by our restaurant managing partners and market partners are also included in restaurant other operating expenses.

Pre-opening Expenses. Pre-opening expenses, which are charged to operations as incurred, consist of expenses incurred before the opening of a new restaurant and are comprised principally of opening team and training team compensation and benefits, travel expenses, rent, food, beverage and other initial supplies and expenses. On average, over 70% of total pre-opening costs incurred per restaurant opening relate to the hiring and training of employees. Pre-opening costs vary by location depending on many factors, including the size and physical layout of each location; the number of management and hourly employees required to operate each restaurant; the availability of qualified restaurant staff members; the cost of travel and lodging for different geographic areas; the timing of the restaurant opening; and the extent of unexpected delays, if any, in obtaining final licenses and permits to open the restaurants.

Depreciation and Amortization Expenses. Depreciation and amortization expenses ("D&A") include the depreciation of fixed assets and amortization of intangibles with definite lives, substantially all of which relates to restaurant-level assets.

Impairment and Closure Costs. Impairment and closure costs include any impairment of long-lived assets, including goodwill, and expenses associated with the closure of a restaurant. Closure costs also include any gains or losses associated with a relocated restaurant or the sale of a closed restaurant and/or assets held for sale as well as lease costs associated with closed or relocated restaurants.

General and Administrative Expenses. General and administrative expenses ("G&A") are comprised of expenses associated with corporate and administrative functions that support development and restaurant operations and provide an infrastructure to support future growth including certain advertising costs incurred. G&A also includes legal fees, settlement charges and share-based compensation expense related to executive officers, support center employees, and market partners, and the realized and unrealized holding gains and losses related to the investments in our deferred compensation plan.

Interest Expense, Net. Interest expense includes the cost of our debt or financing obligations including the amortization of loan fees, reduced by interest income and capitalized interest. Interest income includes earnings on cash and cash equivalents.

Equity Income from Unconsolidated Affiliates. As of September 25, 2018 and September 26, 2017, we owned a 5.0% to 10.0% equity interest in 24 franchise restaurants. Additionally, as of September 25, 2018 and September 26, 2017, we owned a 40% equity interest in four non-Texas Roadhouse restaurants as part of a joint venture agreement with a casual dining restaurant operator in China. Equity income from unconsolidated affiliates represents our percentage share of net income earned by these unconsolidated affiliates.

Net Income Attributable to Noncontrolling Interests. Net income attributable to noncontrolling interests represents the portion of income attributable to the other owners of the majority-owned restaurants. Our consolidated subsidiaries at September 25, 2018 and September 26, 2017 included 19 and 18 majority-owned restaurants, respectively, all of which were open.

Q3 2018 Financial Highlights

Total revenue increased \$54.1 million, or 10.0%, to \$594.6 million in Q3 2018 compared to \$540.5 million in Q3 2017 primarily due to the opening of new restaurants combined with an increase in average unit volume driven by comparable restaurant sales growth. Store weeks and comparable restaurant sales increased 5.6% and 5.5%, respectively, at company restaurants in Q3 2018.

Restaurant margin increased \$0.3 million, or 0.3%, to \$95.8 million in Q3 2018 compared to \$95.6 million in Q3 2017 while restaurant margin, as a percentage of restaurant and other sales, decreased to 16.2% in Q3 2018 compared to 17.8% in Q3 2017. The decrease in restaurant margin, as a percentage of restaurant and other sales, was primarily due to higher labor costs as a result of higher average wage rates and current staffing initiatives and higher costs associated with workers' compensation and health insurance. The decrease was partially offset by the reclassification of certain amounts between restaurant operating costs and general and administrative expenses as noted above. These reclassifications increased restaurant margin by approximately 0.3%, as a percentage of restaurant and other sales, for Q3 2018 and had no impact on income before taxes.

Net income decreased \$1.9 million, or 6.1%, to \$29.1 million in Q3 2018 compared to \$31.0 million in Q3 2017 primarily due to higher general and administrative expenses partially offset by lower income tax expense. General and administrative expenses were higher primarily due to higher incentive compensation costs and higher legal settlement costs related to a previously disclosed legal matter. Income tax expense was lower due to a decrease in our effective income tax rate to 15.1% in Q3 2018 from 28.8% in Q3 2017 primarily due to the impact of new tax legislation. Diluted earnings per share decreased 6.7% to \$0.40 in Q3 2018 from \$0.43 in Q3 2017.

Results of Operations

	13 Weeks Ended				39 Weeks Ended			
	September 25, 2018		September 26, 2017		September 25, 2018		September 26, 2017	
	\$	%	\$	%	\$	%	\$	%
	(In thousands)				(In thousands)			
Consolidated Statements of Income:								
Revenue:								
Restaurant and other sales	589,704	99.2	536,341	99.2	1,836,179	99.2	1,661,821	99.2
Franchise royalties and fees	4,891	0.8	4,166	0.8	15,358	0.8	12,634	0.8
Total revenue	594,595	100.0	540,507	100.0	1,851,537	100.0	1,674,455	100.0
Costs and expenses:								
(As a percentage of restaurant and other sales)								
Restaurant operating costs (excluding depreciation and amortization shown separately below):								
Cost of sales	191,990	32.6	176,498	32.9	598,824	32.6	545,862	32.8
Labor	197,621	33.5	169,355	31.6	593,298	32.3	514,287	30.9
Rent	12,330	2.1	11,257	2.1	36,300	2.0	33,238	2.0
Other operating	91,946	15.6	83,679	15.6	279,182	15.2	254,176	15.3
(As a percentage of total revenue)								
Pre-opening	4,378	0.7	4,548	0.8	13,529	0.7	14,302	0.9
Depreciation and amortization	25,843	4.3	23,534	4.4	75,492	4.1	69,236	4.1
Impairment and closure	20	NM	2	NM	128	NM	13	NM
General and administrative	35,023	5.9	26,123	4.8	100,202	5.4	94,594	5.6
Total costs and expenses	559,151	94.0	494,996	91.6	1,696,955	91.7	1,525,708	91.1
Income from operations	35,444	6.0	45,511	8.4	154,582	8.3	148,747	8.9
Interest expense, net	168	0.0	500	0.1	810	0.0	1,211	0.1
Equity income from investments in unconsolidated affiliates	(381)	(0.1)	(359)	NM	(1,150)	(0.1)	(1,149)	(0.1)
Income before taxes	35,657	6.0	45,370	8.4	154,922	8.4	148,685	8.9
Provision for income taxes	5,398	0.9	13,046	2.4	22,321	1.2	41,159	2.5
Net income including noncontrolling interests	30,259	5.1	32,324	6.0	132,601	7.2	107,526	6.4
Net income attributable to noncontrolling interests	1,134	0.2	1,310	0.2	4,708	0.3	4,618	0.3
Net income attributable to Texas Roadhouse, Inc. and subsidiaries	29,125	4.9	31,014	5.7	127,893	6.9	102,908	6.1

NM — Not meaningful

	Reconciliation of Income from Operations to Restaurant Margin			
	13 Weeks Ended		39 Weeks Ended	
	September 25, 2018	September 26, 2017	September 25, 2018	September 26, 2017
Income from operations	\$ 35,444	\$ 45,511	\$ 154,582	\$ 148,747
Less:				
Franchise royalties and fees	4,891	4,166	15,358	12,634
Add:				
Pre-opening	4,378	4,548	13,529	14,302
Depreciation and amortization	25,843	23,534	75,492	69,236
Impairment and closure	20	2	128	13
General and administrative	35,023	26,123	100,202	94,594
Restaurant margin	<u>\$ 95,817</u>	<u>\$ 95,552</u>	<u>\$ 328,575</u>	<u>\$ 314,258</u>
Restaurant margin \$/store week	15,464	16,284	17,871	18,140
Restaurant margin <i>(as a percentage of restaurant and other sales)</i>	16.2%	17.8%	17.9%	18.9%

See above for the definition of restaurant margin.

Restaurant Unit Activity

	Total	Texas Roadhouse	Bubba's 33	Other
Balance at December 26, 2017	549	527	20	2
Company openings	17	13	4	—
Franchise openings - Domestic	—	—	—	—
Franchise openings - International	4	4	—	—
Balance at September 25, 2018	<u>570</u>	<u>544</u>	<u>24</u>	<u>2</u>

	September 25, 2018	September 26, 2017
Company - Texas Roadhouse	453	433
Company - Bubba's 33	24	20
Company - Other	2	2
Franchise - Texas Roadhouse - U.S.	70	70
Franchise - Texas Roadhouse - International	21	15
Total	<u>570</u>	<u>540</u>

Q3 2018 (13 weeks) compared to Q3 2017 (13 weeks) and 2018 YTD (39 weeks) compared to 2017 YTD (39 weeks)

Restaurant and Other Sales. Restaurant and other sales increased by 9.9% in Q3 2018 as compared to Q3 2017 and by 10.5% in 2018 YTD compared to 2017 YTD. The following table summarizes certain key drivers and/or attributes of restaurant and other sales at company restaurants for the periods presented. Company restaurant count activity is shown in the restaurant unit activity table above.

	Q3 2018	Q3 2017	2018 YTD	2017 YTD
Company Restaurants:				
Increase in store weeks	5.6 %	8.1 %	6.1 %	8.0 %
Increase in average unit volume	4.8 %	3.9 %	4.7 %	3.1 %
Other(1)	(0.2)%	0.3 %	- %	0.2 %
Total increase in restaurant sales	10.2 %	12.3 %	10.8 %	11.3 %
Other sales(2)	(0.3)%	- %	(0.3)%	- %
Total increase in restaurant and other sales	9.9 %	12.3 %	10.5 %	11.3 %
Store weeks	6,196	5,868	18,386	17,324
Comparable restaurant sales growth	5.5 %	4.5 %	5.4 %	4.0 %
Texas Roadhouse restaurants only:				
Comparable restaurant sales growth	5.5 %	4.6 %	5.3 %	4.0 %
Average unit volume (in thousands)	\$ 1,255	\$ 1,197	\$ 3,954	\$ 3,776
Weekly sales by group:				
Comparable restaurants (417 and 396 units, respectively)	\$97,137	\$92,712		
Average unit volume restaurants (23 and 21 units, respectively)(3)	\$85,217	\$79,891		
Restaurants less than six months old (13 and 16 units for each period)	\$96,347	\$93,419		

- (1) Includes the impact of the year-over-year change in sales volume of all non-Texas Roadhouse restaurants, along with Texas Roadhouse restaurants open less than six months before the beginning of the period measured and, if applicable, the impact of restaurants closed or acquired during the period.
- (2) Other sales, for Q3 2018, represent \$2.7 million related to the amortization of third party gift card fees net of \$1.5 million related to the amortization of gift card breakage income. For 2018 YTD, other sales represent \$11.0 million related to the amortization of third party gift card fees net of \$6.5 million related to the amortization of gift card breakage income.
- (3) Average unit volume restaurants include restaurants open a full six and up to 18 months before the beginning of the period measured.

The increases in restaurant sales for all periods presented were primarily attributable to the opening of new restaurants combined with an increase in average unit volume driven by comparable restaurant sales growth. Comparable restaurant sales growth for all periods presented was due to an increase in our guest traffic counts and an increase in our per person average check as shown in the table below.

	Q3 2018	Q3 2017	2018 YTD	2017 YTD
Guest traffic counts	4.0 %	3.5 %	4.2 %	3.2 %
Per person average check	1.5 %	1.0 %	1.2 %	0.8 %
Comparable restaurant sales growth	5.5 %	4.5 %	5.4 %	4.0 %

Year-over-year sales for newer restaurants included in our average unit volume, but excluded from our comparable restaurant sales, partially offset the impact of positive comparable restaurant sales growth in Q3 2018 and 2018 YTD.

The increases in our per person average check for the periods presented were primarily driven by menu price increases taken in 2018, 2017 and 2016. In 2018, we increased menu prices in the first quarter by 0.8%. In 2017, we

increased menu prices in the second quarter and fourth quarter by approximately 0.5% and 0.3%, respectively. In 2016, we increased menu prices in the fourth quarter by approximately 1.0%. These menu price increases were taken as a result of inflationary pressures, primarily commodities and/or labor. We currently plan to take an additional price increase of approximately 1.7% in November 2018 and may take additional pricing in 2019 if needed.

In 2018, we plan to open 27 or 28 company restaurants, including five Bubba's 33 restaurants. We opened 17 company restaurants in 2018 YTD including 13 Texas Roadhouse restaurants and four Bubba's 33 restaurants. We have begun construction for all of our expected 2018 openings. Additionally, we currently plan to open approximately 25 to 30 company restaurants in 2019, including four Bubba's 33 restaurants.

Franchise Royalties and Fees. Franchise royalties and fees increased by \$0.7 million, or by 17.4%, in Q3 2018 from Q3 2017 and increased by \$2.7 million, or by 21.6%, in 2018 YTD from 2017 YTD. Included in these increases are the reclassifications of approximately \$0.6 million and \$2.0 million in Q3 2018 and 2018 YTD, respectively, in conjunction with the implementation of new revenue recognition accounting guidance as previously described. The remaining increase in Q3 2018 and 2018 YTD was attributable to an increase in average unit volume at domestic restaurants, driven by comparable restaurant sales growth, and the opening of new franchise restaurants. These increases were partially offset by a decrease in average unit volume at international restaurants, driven by a decrease in comparable restaurant sales at those locations.

Franchise comparable restaurant sales increased 1.8% and 2.0% in Q3 2018 and 2018 YTD, respectively, which included an increase in domestic franchise comparable restaurant sales of 4.2% and 4.1%, respectively. Franchise restaurant count activity is shown in the restaurant activity table above. Our existing franchise restaurant partners have opened four international Texas Roadhouse restaurants in 2018. In early Q4 2018, we had one additional international franchise opening. Additionally, we currently anticipate our franchise partners will open as many as eight Texas Roadhouse restaurants, primarily international, in 2019.

Restaurant Cost of Sales. Restaurant cost of sales, as a percentage of restaurant and other sales, decreased to 32.6% in Q3 2018 and 2018 YTD from 32.9% and 32.8% in Q3 2017 and 2017 YTD, respectively. These decreases were primarily due to the benefit of menu pricing actions along with the reclassification of \$1.3 million in Q3 2018 and \$3.9 million in 2018 YTD in conjunction with the implementation of new revenue recognition accounting guidance as previously described. The decrease was partially offset by commodity inflation of approximately 0.7% in Q3 2018 and approximately 0.9% in 2018 YTD driven by higher food costs.

For 2018, we expect commodity cost inflation of approximately 1.0% with fixed price contracts for approximately 65% of our overall food costs and the remainder subject to fluctuating market prices.

For 2019, we currently expect commodity cost inflation to be approximately 1.0% to 2.0% with fixed price contracts for approximately 40% of our overall food costs and the remainder subject to floating market prices.

Restaurant Labor Expenses. Restaurant labor expenses, as a percentage of restaurant and other sales, increased to 33.5% in Q3 2018 compared to 31.6% in Q3 2017 and increased to 32.3% in 2018 YTD compared to 30.9% in 2017 YTD. These increases were primarily attributable to higher average wage rates and current staffing initiatives along with higher costs associated with workers' compensation and health insurance expense partially offset by the benefit from an increase in average unit volume. Higher workers' compensation expense was driven by a \$0.9 million increase in costs recorded in Q3 2018 compared to a \$1.5 million reduction in Q3 2017. Higher health insurance expense was driven by a \$0.9 million increase in costs recorded in Q3 2018 compared to a \$0.9 million reduction in Q3 2017. The changes in workers' compensation and health insurance expense are both due to changes in our claims development history included in our quarterly actuarial reserve estimate.

For the remainder of 2018, we anticipate our labor costs will continue to be pressured by mid-single digit inflation due to increases in state-mandated minimum and tipped wage rates, ongoing labor market pressures, current staffing initiatives, and increased investment in our people. In 2019, we anticipate our labor costs will continue to be pressured by mid-single digit inflation due to the factors discussed above. These increases may or may not be offset by additional menu price adjustments or guest traffic growth.

Restaurant Rent Expense. Restaurant rent expense, as a percentage of restaurant and other sales, remained relatively unchanged at 2.1% in Q3 2018 and Q3 2017 and at 2.0% in 2018 YTD and 2017 YTD. Higher rent expense, as a percentage of restaurant and other sales, at our newer restaurants was offset by the benefit from an increase in average unit volume.

Restaurant Other Operating Expenses. Restaurant other operating expenses, as a percentage of restaurant and other sales, remained relatively unchanged at 15.6% in Q3 2018 and Q3 2017 and decreased to 15.2% in 2018 YTD compared to 15.3% in 2017 YTD. In both periods, higher costs associated with restaurant supplies, repairs and maintenance and gift card production were offset by lower general liability insurance costs and the reclassifications made in conjunction with the implementation of new revenue recognition accounting guidance as previously described. In Q3 2018 and 2018 YTD, reclassifications of \$1.5 million and \$3.7 million, respectively, were made in conjunction with the implementation of the new revenue recognition accounting guidance.

Restaurant Pre-opening Expenses. Pre-opening expenses decreased to \$4.4 million in Q3 2018 from \$4.5 million in Q3 2017 and decreased to \$13.5 million in 2018 YTD from \$14.3 million in 2017 YTD. This variance was primarily due to the timing of restaurant openings as average pre-opening expenses incurred for each restaurant remained relatively unchanged for both Q3 2018 and 2018 YTD compared to the prior year periods.

Overall, we plan to open 27 or 28 company restaurants in 2018 compared to 27 company restaurants in 2017. Pre-opening costs will fluctuate from quarter to quarter based on the specific pre-opening costs incurred for each restaurant, the number and timing of restaurant openings and the number and timing of restaurant managers hired.

Depreciation and Amortization Expense. D&A, as a percentage of total revenue, decreased to 4.3% in Q3 2018 compared to 4.4% in Q3 2017 and remained relatively unchanged at 4.1% in 2018 YTD compared to 2017 YTD. These changes were primarily due to the benefit of an increase in average unit volume offset by higher depreciation, as a percentage of revenue, at new restaurants and increased re-investment in equipment at older restaurants.

General and Administrative Expenses. G&A, as a percentage of total revenue, increased to 5.9% in Q3 2018 compared to 4.8% in Q3 2017 and decreased to 5.4% in 2018 YTD compared to 5.6% in 2017 YTD. The increase in Q3 2018 was due to higher incentive compensation costs, higher claims administration costs of \$0.9 million related to a previously disclosed legal settlement and reclassifications of \$2.2 million made in conjunction with the implementation of new revenue recognition accounting guidance as previously described. This increase was partially offset by the benefit of an increase in average unit volume. The decrease in 2018 YTD was primarily due to a pre-tax charge of \$14.9 million (\$9.2 million after-tax) related to legal fees and the settlement of a legal matter in 2017 YTD and the benefit of an increase in average unit volume. This decrease was partially offset by higher managing partner conference costs, higher incentive compensation costs, and reclassifications of \$5.2 million made in conjunction with the implementation of new revenue recognition accounting guidance as previously described.

Interest Expense, Net. Interest expense decreased to \$0.2 million in Q3 2018 compared to \$0.5 million in Q3 2017 and to \$0.8 million in 2018 YTD compared to \$1.2 million 2017 YTD, primarily driven by paying off our outstanding credit facility of \$50.0 million in April 2018. As a result, we anticipate our interest expense will be lower in 2018 compared to the prior year.

Income Tax Expense. Our effective tax rate decreased to 15.1% in Q3 2018 compared to 28.8% in Q3 2017 and decreased to 14.4% in 2018 YTD compared to 27.7% in 2017 YTD primarily due to new tax legislation that was enacted in late 2017. As a result of the new tax legislation, significant tax changes were enacted including a reduction of the federal corporate tax rate from 35.0% to 21.0%. These changes were generally effective at the beginning of our 2018 fiscal year. For 2018, we expect the effective tax rate to be 14.0% to 15.0%. For 2019, we expect the effective tax rate to be between 14.0% and 15.0%.

Liquidity and Capital Resources

The following table presents a summary of our net cash provided by (used in) operating, investing and financing activities (in thousands):

	39 Weeks Ended	
	September 25, 2018	September 26, 2017
Net cash provided by operating activities	\$ 225,579	\$ 188,070
Net cash used in investing activities	(110,906)	(133,565)
Net cash used in financing activities	(114,401)	(53,013)
Net increase in cash and cash equivalents	\$ 272	\$ 1,492

Net cash provided by operating activities was \$225.6 million in 2018 YTD compared to \$188.1 million in 2017 YTD. This increase was primarily due to an increase in net income and deferred income taxes partially offset by a decrease in cash flows related to changes in working capital. The decrease in working capital was primarily due to decreases in income taxes payable and deferred revenue related to gift cards partially offset by an increase in cash flows from accounts receivable.

Our operations have not required significant working capital and, like many restaurant companies, we have been able to operate with negative working capital. Sales are primarily for cash, and restaurant operations do not require significant inventories or receivables. In addition, we receive trade credit for the purchase of food, beverages and supplies, thereby reducing the need for incremental working capital to support growth.

Net cash used in investing activities was \$110.9 million in 2018 YTD compared to \$133.6 million in 2017 YTD. The decrease was primarily due to the acquisition of four franchise restaurants in Q1 2017 for the aggregate purchase price of \$16.5 million and a decrease in capital expenditures, primarily due to the timing of restaurant openings, as further noted below.

We require capital principally for the development of new company restaurants, the refurbishment of existing restaurants and the acquisition of franchise restaurants, if any. We either lease our restaurant site locations under operating leases for periods of five to 30 years (including renewal periods) or purchase the land when appropriate. As of September 25, 2018, we had developed 142 of the 479 company restaurants on land which we own.

The following table presents a summary of capital expenditures related to the development of new restaurants and the refurbishment of existing restaurants (in thousands):

	2018 YTD	2017 YTD
New company restaurants	\$ 65,088	\$ 78,943
Refurbishment of existing restaurants(1)	45,818	38,094
Total capital expenditures	\$ 110,906	\$ 117,037

(1) Includes capital expenditures related to the support center office.

Our future capital requirements will primarily depend on the number of new restaurants we open, the timing of those openings and the restaurant prototype developed in a given fiscal year. These requirements will include costs directly related to opening new restaurants and may also include costs necessary to ensure that our infrastructure is able to support a larger restaurant base. In 2018, we expect our capital expenditures to be approximately \$160.0 million to \$165.0 million, the majority of which will relate to planned restaurant openings, including 27 or 28 restaurant openings. These amounts exclude any cash used for franchise acquisitions. In Q1 2017, we acquired four franchise restaurants for an aggregate purchase price of \$16.5 million. We intend to satisfy our capital requirements over the next 12 months with cash on hand, net cash provided by operating activities and, if needed, funds available under our amended credit facility. For 2018, we anticipate net cash provided by operating activities will exceed capital expenditures, which we plan to use to pay dividends, as approved by our Board of Directors and/or repurchase common stock.

Net cash used in financing activities was \$114.4 million in 2018 YTD compared to \$53.0 million in 2017 YTD. The increase is primarily due to the repayment of our revolving credit facility in Q2 2018 along with an increase in dividends paid.

On May 22, 2014, our Board of Directors approved a stock repurchase program under which we may repurchase up to \$100.0 million of our common stock. This stock repurchase program has no expiration date and replaced a previous stock repurchase program which was approved on February 16, 2012. All repurchases to date under our stock repurchase program have been made through open market transactions. The timing and the amount of any repurchases will be determined by management under parameters established by the Board of Directors, based on an evaluation of our stock price, market conditions and other corporate considerations. During 2018 YTD, we made no share repurchases and had approximately \$69.9 million remaining under our authorized stock repurchase program as of September 25, 2018.

On August 23, 2018, our Board of Directors authorized the payment of a cash dividend of \$0.25 per share of common stock. The payment of this dividend totaling \$17.9 million was distributed on September 28, 2018 to shareholders of record at the close of business on September 12, 2018. The declared dividend is included as a liability in our unaudited condensed consolidated balance sheet as of September 25, 2018.

We paid distributions of \$4.5 million to equity holders of all 19 majority-owned company restaurants in 2018 YTD. In 2017 YTD, we paid distributions of \$4.0 million to equity holders of 17 of our 18 majority-owned company restaurants.

On August 7, 2017 we entered into the Amended and Restated Credit Agreement (the "Amended Credit Agreement") with respect to our revolving credit facility with a syndicate of commercial lenders led by JPMorgan Chase Bank, N.A., PNC Bank, N.A., and Wells Fargo Bank, N.A. The revolving credit facility remains an unsecured, revolving credit agreement under which we may borrow up to \$200.0 million with the option to increase the revolving credit facility by an additional \$200.0 million subject to certain limitations. The Amended Credit Agreement extends the maturity date of our revolving credit facility until August 5, 2022.

The terms of the Amended Credit Agreement require us to pay interest on outstanding borrowings at the London Interbank Offered Rate plus a margin of 0.875% to 1.875% and to pay a commitment fee of 0.125% to 0.30% per year on any unused portion of the revolving credit facility, in each case depending on our consolidated net leverage ratio, or the Alternate Base Rate, which is the highest of the issuing banks' prime lending rate, the Federal Reserve Bank of New York rate plus 0.50% or the Adjusted Eurodollar Rate for a one month interest period on such day plus 1.0%. The weighted-average interest rate for the revolving credit facility as of September 25, 2018 and December 26, 2017 was 3.11% and 2.37%, respectively. As of September 25, 2018, we had \$192.3 million of availability, net of \$7.7 million of outstanding letters of credit.

The lenders' obligation to extend credit pursuant to the Amended Credit Agreement depends on us maintaining certain financial covenants, including a minimum consolidated fixed charge coverage ratio of 2.00 to 1.00 and a maximum consolidated leverage ratio of 3.00 to 1.00. The Amended Credit Agreement permits us to incur additional secured or unsecured indebtedness outside the revolving credit facility, except for the incurrence of secured indebtedness that in the aggregate is equal to or greater than \$125.0 million and 20% of our consolidated tangible net worth. We were in compliance with all financial covenants as of September 25, 2018.

Contractual Obligations

The following table summarizes the amount of payments due under specified contractual obligations as of September 25, 2018 (in thousands):

	Payments Due by Period				
	Total	Less than 1 year	1 - 3 Years	3 - 5 Years	More than 5 years
Obligation under capital lease	\$ 1,983	\$ 10	\$ 26	35	1,912
Interest on capital lease	5,365	223	508	498	4,136
Operating lease obligations	894,585	48,845	96,362	97,425	651,953
Capital obligations	152,527	152,527	—	—	—
Total contractual obligations(1)	<u>\$ 1,054,460</u>	<u>\$ 201,605</u>	<u>\$ 96,896</u>	<u>\$ 97,958</u>	<u>\$ 658,001</u>

(1) Excluded from this amount are certain immaterial items including unrecognized tax benefits under Accounting Standards Codification 740 and the one-time transition tax on foreign earnings required under the new tax legislation.

We have no material minimum purchase commitments with our vendors that extend beyond a year. See notes 4 and 6 to the unaudited condensed consolidated financial statements for a discussion of contractual obligations.

Off-Balance Sheet Arrangements

Except for operating leases (primarily restaurant leases), we do not have any material off-balance sheet arrangements.

Guarantees

As of September 25, 2018 and December 26, 2017, we are contingently liable for \$15.0 million and \$15.6 million, respectively, for seven lease guarantees, listed in the table below. These amounts represent the maximum potential liability of future payments under the guarantees. In the event of default, the indemnity and default clauses in our assignment agreements govern our ability to pursue and recover damages incurred. No material liabilities have been recorded as of September 25, 2018 and December 26, 2017 as the likelihood of default was deemed to be less than probable and the fair value of the guarantees is not considered significant.

	Lease Assignment Date	Current Lease Term Expiration
Everett, Massachusetts (1)(2)	September 2002	February 2023
Longmont, Colorado (1)	October 2003	May 2029
Montgomeryville, Pennsylvania (1)	October 2004	March 2021
Fargo, North Dakota (1)(2)	February 2006	July 2021
Logan, Utah (1)	January 2009	August 2019
Irving, Texas (3)	December 2013	December 2019
Louisville, Kentucky (3)(4)	December 2013	November 2023

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- (1) Real estate lease agreements for restaurant locations which we entered into before granting franchise rights to those restaurants. We have subsequently assigned the leases to the franchisees, but remain contingently liable under the terms of the lease if the franchisee defaults.
 - (2) As discussed in note 7 to the unaudited condensed consolidated financial statements, these restaurants are owned, in whole or part, by certain officers, directors and 5% shareholders of the Company.
 - (3) Leases associated with non-Texas Roadhouse restaurants which were sold. The leases were assigned to the acquirer, but we remain contingently liable under the terms of the lease if the acquirer defaults.
 - (4) We may be released from liability after the initial contractual lease term expiration contingent upon certain conditions being met by the acquirer.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS

We are exposed to market risk from changes in interest rates on variable rate debt and changes in commodity prices. Our exposure to interest rate fluctuations is limited to our outstanding bank debt. The terms of the revolving credit facility require us to pay interest on outstanding borrowings at London Interbank Offering Rate plus a margin of 0.875% to 1.875%, depending on our consolidated net leverage ratio, or the Alternate Base Rate, which is the highest of the issuing banks' prime lending rate, the Federal Reserve Bank of New York rate plus 0.50% or the Adjusted Eurodollar Rate for a one month interest period on such day plus 1.0%. As of September 25, 2018, we had no outstanding borrowings under our revolving credit facility.

In an effort to secure high quality, low cost ingredients used in the products sold in our restaurants, we employ various purchasing and pricing contract techniques. When purchasing certain types of commodities, we may be subject to prevailing market conditions resulting in unpredictable price volatility. For certain commodities, we may also enter into contracts for terms of one year or less that are either fixed price agreements or fixed volume agreements where the price is negotiated with reference to fluctuating market prices. We currently do not use financial instruments to hedge commodity prices, but we will continue to evaluate their effectiveness. Extreme and/or long term increases in commodity prices could adversely affect our future results, especially if we are unable, primarily due to competitive reasons, to increase menu prices. Additionally, if there is a time lag between the increasing commodity prices and our ability to increase menu prices or if we believe the commodity price increase to be short in duration and we choose not to pass on the cost increases, our short-term financial results could be negatively affected.

We are subject to business risk as our beef supply is highly dependent upon three vendors. If these vendors were unable to fulfill their obligations under their contracts, we may encounter supply shortages and/or higher costs to secure adequate supplies and a possible loss of sales, any of which would harm our business.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We have evaluated the effectiveness of the design and operation of our disclosure controls and procedures pursuant to, and as defined in, Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, as of the end of the period covered by this report. Based on the evaluation, performed under the supervision and with the

participation of our management, including the Chief Executive Officer (the "CEO") and the Chief Financial Officer (the "CFO"), our management, including the CEO and CFO, concluded that our disclosure controls and procedures were effective as of September 25, 2018.

Changes in Internal Control

There were no changes in the Company's internal control over financial reporting that occurred during the period covered by this report that materially affected or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II — OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Occasionally, we are a defendant in litigation arising in the ordinary course of our business, including "slip and fall" accidents, employment related claims, claims related to our service of alcohol, and claims from guests or employees alleging illness, injury or food quality, health or operational concerns. None of these types of litigation, most of which are covered by insurance, has had a material effect on us and, as of the date of this report, we are not party to any litigation that we believe could have a material adverse effect on our business.

ITEM 1A. RISK FACTORS

Information regarding risk factors appears in our Annual Report on Form 10-K for the year ended December 26, 2017, under the heading "Special Note Regarding Forward-looking Statements" and in the Form 10-K Part I, Item 1A, Risk Factors. There have been no material changes from the risk factors previously disclosed in our Form 10-K for the year ended December 26, 2017.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

On May 22, 2014, our Board of Directors approved a stock repurchase program which authorized us to repurchase up to \$100.0 million of our common stock. For both the 13 and 39 weeks ended September 25, 2018, we did not repurchase any shares of common stock. As of September 25, 2018, we had approximately \$69.9 million remaining under our authorized repurchase program. This stock repurchase program has no expiration date and replaced a previous stock repurchase program which was approved on February 16, 2012. All repurchases to date under our stock repurchase program have been made through open market transactions. The timing and the amount of any repurchases through this program will be determined by management under parameters established by our Board of Directors, based on an evaluation of our stock price, market conditions and other corporate considerations.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit No.	Description
10.1	Employment Agreement between Texas Roadhouse Management Corp. and Doug Thompson entered into as of August 23, 2018
10.2	Master Lease Agreement dated October 26, 2018 between Paragon Centre Holdings, LLC and Texas Roadhouse Holdings LLC
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Schema Document
101.CAL	XBRL Calculation Linkbase Document
101.DEF	XBRL Definition Linkbase Document
101.LAB	XBRL Label Linkbase Document
101.PRE	XBRL Presentation Linkbase Document

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

TEXAS ROADHOUSE, INC.

Date: November 2, 2018

By: /s/ W. KENT TAYLOR
W. Kent Taylor
Chief Executive Officer (principal executive officer)

Date: November 2, 2018

By: /s/ TONYA R. ROBINSON
Tonya R. Robinson
Chief Financial Officer
(principal financial officer)
(principal accounting officer)

2018 EMPLOYMENT AGREEMENT
(Doug Thompson)

THIS 2018 EMPLOYMENT AGREEMENT (this “Agreement”) is entered into as of August 23, 2018 by both parties by and between TEXAS ROADHOUSE MANAGEMENT CORP., a Kentucky corporation (the “Company”), and DOUG THOMPSON, a resident of the Commonwealth of Kentucky (“Executive”).

RECITALS

A. Executive is currently employed by the Company as the Vice President of Operations pursuant to an Employment Agreement dated May, 18, 2015 (the “VP Agreement”).

B. Executive will be employed as the Chief Operating Officer of Texas Roadhouse, Inc. effective as of the date hereof.

C. Executive and the Company each desire to replace the VP Agreement with this Agreement. Executive therefore agrees that his VP Agreement is superseded and replaced by this Agreement and that his VP Agreement is of no further force and effect as of the Effective Date. Executive further agrees that he is not entitled to any compensation arising from his voluntary termination of his VP Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the respective agreements of the Company and Executive set forth below, the Company and Executive, intending to be legally bound, agree as follows:

1. *Effective Date.* The terms and conditions of Executive’s employment hereunder shall become effective August 23, 2018 (the “Effective Date”). For purposes of this Agreement, the first year of the term of employment shall extend from August 23, 2018 through January 7, 2019.

2. *Employment.* Subject to all the terms and conditions of this Agreement, Executive’s period of employment under this Agreement shall be the period commencing on the Effective Date and ending on January 7, 2021 (the “Third Anniversary Date”), which term, unless otherwise agreed to by the parties, shall be extended on the Third Anniversary Date and on each anniversary of that date thereafter, for a period of one year thereafter (which term together with any such extensions, if any, shall be hereinafter defined as the “Term”), unless Executive’s employment terminates earlier in accordance with Section 9 hereof. Thereafter, if Executive continues in the employ of the Company, the employment relationship shall be at will, terminable by either Executive or the Company at any time and for any reason, with or without cause, and subject to such terms and conditions established by the Company from time to time.

3. *Position and Duties.*

(a) *Employment with the Company.* While Executive is employed by the Company during the Term, Executive shall be employed as the Chief Operating Officer of Texas Roadhouse, Inc., and such other titles as the Company may designate, and shall perform such duties and responsibilities as the Company shall assign to him from time to time, including duties and responsibilities relating to Texas Roadhouse, Inc.'s wholly-owned and partially owned subsidiaries and other affiliates.

(b) *Performance of Duties and Responsibilities.* Executive shall serve the Company faithfully and to the best of his ability and shall devote his full working time, attention and efforts to the business of the Company during his employment with the Company hereunder. While Executive is employed by the Company during the Term, Executive shall report to the Chairman, Chief Executive Officer or to such other person as designated by the Board of Directors of Texas Roadhouse, Inc. (the "Board"). Executive hereby represents and confirms that he is under no contractual or legal commitments that would prevent him from fulfilling his duties and responsibilities as set forth in this Agreement. During his employment with the Company, Executive shall not accept other employment or engage in other material business activity, except as approved in writing by the Board. Executive may participate in charitable activities and personal investment activities to a reasonable extent, and he may serve as a director of business organizations as approved by the Board, so long as such activities and directorships do not interfere with the performance of his duties and responsibilities hereunder.

4. *Compensation.*

(a) *Base Salary.* While Executive is employed by the Company during the Term, the Company shall pay to Executive a base salary at the rate of Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) for the first year of the Term (prorated as of the Effective Date for the portion of the Company's fiscal year covered by this Agreement), and an amount to be determined by the Compensation Committee of the Board for the second and third year of the Term. Base salary will be subject to deductions and withholdings and shall be paid in accordance with the Company's normal payroll policies and procedures. If Executive's employment is extended beyond the Third Anniversary Date as provided in Section 2, then on or after the Third Anniversary Date, and annually thereafter, Executive's base salary may be reviewed by the Compensation Committee of the Board to determine whether it should be adjusted.

(b) *Incentive Bonus.* Commencing on the Effective Date and for each full fiscal year thereafter that Executive is employed by the Company during the Term, Executive shall be eligible for an annual incentive bonus, to be paid annually, based upon achievement of defined goals established by the Compensation Committee of the Board and in accordance with the terms of any incentive plan of the Company in effect from time to time (the "Incentive Bonus").

(i) The level of achievement of the objectives each fiscal year and the amount payable as Incentive Bonus shall be determined in good faith by the Compensation Committee of the Board. Any Incentive Bonus earned for a fiscal year shall be paid to Executive in a single lump sum on or before the date that is 2 ½ months following the last day of such fiscal year.

(ii) Subject to the achievement of the goals established by the Compensation Committee, as determined by the Compensation Committee, Executive shall be eligible for an annual target incentive bonus of Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) for the first year of the Term, and an amount to be determined by the Compensation Committee of the Board for the second and third year of the Term. If Executive's employment is extended beyond the Third Anniversary Date as provided in Section 2, then on or after the Third Anniversary Date, and annually thereafter, Executive's annual target incentive bonus may be reviewed by the Compensation Committee of the Board to determine whether it should be adjusted.

Executive acknowledges and agrees that the Incentive Bonus provided for in this Agreement supersedes and replaces in all respects the Incentive Bonus provided for in the VP Agreement. To effectuate this intent, Executive acknowledges that he will not receive an Incentive Bonus under the VP Agreement for any part of the Company's third or fourth fiscal quarters, and that all amounts paid to him as an Incentive Bonus under the VP Agreement with respect to the Company's first and second fiscal quarters will be subtracted from the Incentive Bonus provided for in this Agreement, which is calculated on a full fiscal year basis.

(iii) If Executive's employment is terminated by the Company without Cause (as defined below) following a Change in Control (as defined below) and before the amount of Executive's target incentive bonus for either or both of the second and third year of the Term has been determined by the Compensation Committee, or if Executive's employment is terminated by Executive for Good Reason (as defined below) within 12 months following a Change in Control and before the amount of Executive's target incentive bonus for either or both of the second and third year of the Term has been determined by the Compensation Committee, or prior to a Change of Control at the direction of a person who has entered into an agreement with the Company, the consummation of which will constitute a Change of Control, then Executive's target incentive bonus for the second and third years of the Term shall be deemed to be Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00).

(c) *Stock Awards* .

(i) *Service Stock Award* . Pursuant to Section 6 of the Texas Roadhouse, Inc. 2013 Long Term Incentive Plan (the "Equity Incentive Plan") in place on the Effective Date, Executive shall be granted a stock bonus award whereby Executive has the conditional right to receive upon vesting 2,000 shares of the common stock of Texas Roadhouse, Inc. (the "Service Stock Award"), provided this Agreement has been fully executed by both Executive and the Company. If this Agreement has not been fully

executed by the Effective Date, the Service Stock Award shall be granted to Executive on the date it is fully executed.

The Service Stock Award shall vest on the date which is one year from the grant date, provided Executive continues to provide services to the Company. The Service Stock Award is granted in addition to and not in substitution of any previous grants of full value awards to Executive, which shall remain in effect and vest according to their existing terms.

Executive may be granted additional Service Stock Awards for the second and third years of the Term upon the recommendation of the Compensation Committee in amounts and upon terms and conditions to be established by the Compensation Committee.

If Executive's employment is extended beyond the Third Anniversary Date as provided in Section 2, then on or after the Third Anniversary Date, and annually thereafter, Executive's Service Stock Award may be reviewed by the Compensation Committee to determine whether it should be adjusted.

(ii) *Performance Stock Award* . For the second and third years of the Term, Executive may also be granted a stock bonus award whereby Executive has the conditional right to receive upon vesting a target performance stock award subject to the achievement of goals established by the Compensation Committee, as determined by the Compensation Committee (the "Performance Stock Award").

The Compensation Committee will establish the goals for a fiscal year in writing as soon as practicable, but not later than ninety (90) days after the beginning of a fiscal year, and in no event after twenty-five percent (25%) of the applicable fiscal year has elapsed.

Performance Stock Awards, if any, shall vest on the date or dates established by the Compensation Committee, but not sooner than the first anniversary of the date of the grant. Notwithstanding the foregoing, shares associated with Performance Stock Awards shall not be issued to Executive until the amount of the award is determined by the Compensation Committee, which determination will be made within a reasonable time after the end of a fiscal year and after the Company's financial results for the fiscal year have been made public, but not later than the March 15th following the fiscal year for which the performance goals apply. Until the issuance of such shares, Executive shall not be entitled to vote the shares, shall not be entitled to receive dividends attributable to such shares, and shall not have any other rights as a shareholder with respect to such shares. If Executive's service to the Company ceases for any reason after the vesting date, but before the date the shares are issued, Executive shall retain the rights to the vested shares.

If Executive's employment is extended beyond the Third Anniversary Date as provided in Section 2, then on or after the Third Anniversary Date, and annually thereafter, Executive's Performance Stock Award may be reviewed by the Compensation Committee to determine whether it should be adjusted.

(iii) If Executive's employment is terminated by the Company without Cause (as defined below) following a Change in Control (as defined below) and before the end of the Term of this Agreement, or if Executive's employment is terminated by Executive for Good Reason (as defined below) within 12 months following a Change in Control and before the end of the Term, or prior to a Change of Control at the direction of a person who has entered into an agreement with the Company, the consummation of which will constitute a Change of Control, and contingent upon Executive's execution of a full release of claims in the manner set forth in Section 10(h), all options or stock awards granted under any stock option and stock incentive plans of the Company that are outstanding as of the date of termination shall become immediately vested, and in the case of stock options, shall immediately become exercisable in full and shall remain exercisable until the earlier of (A) two years after termination of Executive's employment by the Company or (B) the option expiration date as set forth in the applicable option agreement. In addition, if Executive's employment is terminated under the circumstances described in this Section 4(c)(iii) and if Executive has not been granted a Service Stock Award or a Performance Stock Award for either or both of the second and third years of the Term, Executive shall be issued 10,000 shares of the common stock of Texas Roadhouse, Inc. for the year or years for which a Service Stock Award was not previously granted and 15,000 shares of the common stock of Texas Roadhouse, Inc. for the year or years for which a Performance Stock Award was not previously granted, which shares are immediately vested on the Termination Date (as defined below).

(iv) A "Change of Control" shall mean that one of the following events has taken place at any time during the Term:

(A) The shareholders of the Company approve one of the following:

(I) Any merger or statutory plan of exchange involving the Company ("Merger") in which the Company is not the continuing or surviving corporation or pursuant to which the Common Stock, \$0.001 par value ("Common Stock") would be converted into cash, securities or other property, other than a Merger involving the Company in which the holders of Common Stock immediately prior to the Merger have substantially the same proportionate ownership of common stock of the surviving corporation after the Merger; or

(II) Any sale, lease, exchange, or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company or the adoption of any plan or proposal for the liquidation or dissolution;

(B) During any period of 12 months or less, individuals who at the beginning of such period constituted a majority of the Board of Directors cease for any reason to constitute a majority thereof unless the nomination

or election of such new directors was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period;

(C) A tender or exchange offer, other than one made by:

(I) the Company, or by

(II) W. Kent Taylor or any corporation, limited liability company, partnership, or other entity in which W. Kent Taylor (x) owns a direct or indirect ownership of 50% or more or (y) controls 50% or more of the voting power (collectively, the “Taylor Parties”)

is made for the Common Stock (or securities convertible into Common Stock) and such offer results in a portion of those securities being purchased and the offeror after the consummation of the offer is the beneficial owner (as determined pursuant to Section 13(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)), directly or indirectly, of securities representing in excess of the greater of (a) at least 20 percent of the voting power of outstanding securities of the Company or (b) the percentage of the voting power of the outstanding securities of the Company collectively held by all of the Taylor Parties; or

(D) Any person other than a Taylor Party becomes the beneficial owner of securities representing in excess of the greater of (i) 20 percent of the aggregate voting power of the outstanding securities of the Company as disclosed in a report on Schedule 13D of the Exchange Act or (ii) the percentage of the voting power of the outstanding securities of the Company collectively held by all of the Taylor Parties.

Notwithstanding anything in the foregoing to the contrary, no Change of Control shall be deemed to have occurred for purposes of this Agreement by virtue of any transaction which results in Executive, or a group of persons which includes Executive, acquiring, directly or indirectly, securities representing 20 percent or more of the voting power of outstanding securities of the Company.

For purposes of this Section 4(c)(iv), the term “Company” shall mean Texas Roadhouse, Inc.

on: (v) A termination by Executive for “Good Reason” shall mean a termination based

(A) the assignment to Executive of a different title or job responsibilities that result in a substantial decrease in the level of responsibility from those in effect immediately prior to the Change of Control;

(B) a reduction by the Company or the surviving company in Executive's base pay as in effect immediately prior to the Change of Control;

(C) a significant reduction by the Company or the surviving company in total benefits available to Executive under cash incentive, stock incentive and other employee benefit plans after the Change of Control compared to the total package of such benefits as in effect prior to the Change of Control;

(D) the requirement by the Company or the surviving company that Executive be based more than 50 miles from where Executive's office is located immediately prior to the Change of Control, except for required travel on company business to an extent substantially consistent with the business travel obligations which Executive undertook on behalf of the Company prior to the Change of Control; or

(E) the failure by the Company to obtain from any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company (" Successor ") the assent to this Agreement contemplated by Section 13(g) hereof;

which is not cured within 30 days after Executive has delivered written notice of such condition to the Employer. In each case, Executive must give the Company notice of the condition within 90 days of the initial existence of the condition, and the separation from service must occur within a period of time not to exceed two years (or such shorter period as provided herein) following the initial existence of one or more of the conditions set forth above, or any termination will not be considered to be for Good Reason.

(d) *Benefits.* While Executive is employed by the Company during the Term, Executive shall be entitled to participate in all employee benefit plans and programs of the Company that are available to employees generally to the extent that Executive meets the eligibility requirements for each individual plan or program. The Company provides no assurance as to the adoption or continuance of any particular employee benefit plan or program, and Executive's participation in any such plan or program shall be subject to the provisions, rules and regulations applicable thereto.

(e) *Expenses.* While Executive is employed by the Company during the Term, the Company shall reimburse Executive for all reasonable and necessary out-of-pocket business, travel and entertainment expenses incurred by him in the performance of his duties and responsibilities hereunder, subject to the Company's normal policies and procedures for expense verification and documentation. Any reimbursements made under this Section 4(e) will be paid on or before the last day of Executive's taxable year following the taxable year in which the expense is incurred.

(f) *Vacations and Holidays* . Executive shall be entitled to be absent from his duties for the Company by reason of vacation each fiscal year in accordance with the Company's then-current policies in effect during the term. Executive's vacation time each fiscal year will accrue in accordance with the Company's normal policies and procedures. Executive shall coordinate his vacation schedule with the Company so as not to impose an undue burden on the Company. In addition, Executive shall be entitled to such national and religious holidays as the Company shall approve for all of its employees from time to time.

(g) *Clawback Provisions*. Notwithstanding any other provision in this Agreement to the contrary, any incentive based compensation, or any other compensation, paid or payable to Executive pursuant to this Agreement or any other agreement or arrangement with the Company which is subject to recovery under any law, government regulation, order or stock exchange listing requirement, will be subject to such deductions and clawback (recovery) as may be required to be made pursuant to law, government regulation, order, stock exchange listing requirement (or any policy of the Company adopted pursuant to any such law, government, regulation, order or stock exchange listing requirement). Executive specifically authorizes the Company to withhold from his future wages any amounts that may become due under this provision. Notwithstanding the foregoing, Executive's authorization to withhold amounts from future wages that may become due under this provision does not apply and is specifically rescinded in the event of a Change in Control. This section 4(g) shall survive the termination of this Agreement for a period of three (3) years.

5. *Affiliated Entities*. As used in this Agreement, "Company" shall include the Company, Texas Roadhouse, Inc. and each corporation, limited liability company, partnership, or other entity that is controlled by Texas Roadhouse, Inc., or is under common control with the Texas Roadhouse, Inc. (in each case "control" meaning the direct or indirect ownership of 50% or more of all outstanding equity interests).

6. *Confidential Information; Non-Disparagement*.

(a) Except as required in the performance of Executive's duties as an employee of the Company or as authorized in writing by the Board, Executive shall not, either during Executive's employment with the Company or at any time thereafter, use, disclose or make accessible to any person any confidential information for any purpose. "Confidential Information" means information proprietary to the Company or its suppliers or prospective suppliers and not generally known (including trade secret information) about the Company's suppliers, products, services, personnel, customers, recipes, pricing, sales strategies, technology, computer software code, methods, processes, designs, research, development systems, techniques, finances, accounting, purchasing, and plans. All information disclosed to Executive or to which Executive obtains access, whether originated by Executive or by others, during the period of Executive's employment by the Company (whether before, during, or after the Term), shall be presumed to be Confidential Information if it is treated by the Company as being Confidential Information or if

Executive has a reasonable basis to believe it to be Confidential Information. Executive acknowledges that the above-described knowledge and information constitutes a unique and valuable asset of the Company and represents a substantial investment of time and expense by the Company, and that any disclosure or other use of such knowledge or information other than for the sole benefit of the Company would be wrongful and would cause irreparable harm to the Company. During Executive's employment with the Company, Executive shall refrain from committing any acts that would materially reduce the value of such knowledge or information to the Company. The foregoing obligations of confidentiality shall not apply to any knowledge or information that (i) is now or subsequently becomes generally publicly known, or (ii) is required to be disclosed by law or legal process, other than as a direct or indirect result of the breach of this Agreement by Executive. Executive acknowledges that the obligations imposed by this Section 6 are in addition to, and not in place of, any obligations imposed by applicable statutory or common law, and that nothing in this Section 6 prohibits Executive from reporting violations of the law to a governmental agency or entity.

(b) Executive shall not at any time during the Term and during the Restricted Period (as defined below), or after the Term disparage the Company, any of its affiliates and any of their respective officers and directors, and shall not, without the prior written consent of the Company, disclose any information he may have learned during employment with the Company, including, but not limited to, any personal or financial information about an officer or director or his or her family member(s).

7. *Noncompetition Covenant.*

(a) *Agreement Not to Compete.* During Executive's employment with the Company (whether before, during, or after the Term) and during the Restricted Period, Executive shall not, directly or indirectly, on his own behalf or on behalf of any person or entity other than the Company, including without limitation as a proprietor, principal, agent, partner, officer, director, stockholder, employee, member of any association, consultant or otherwise, engage in any business that is directly competitive with the business of the Company, including without limitation any business that operates one or more full-service, casual dining steakhouse restaurants, within the 50 United States or any foreign country in which the Company or its franchisees or its joint venture partners is operating or in which Executive knows the Company or its franchisees or its joint venture partners contemplates commencing operations during the Restricted Period. The provisions of this Section 7(a) shall also apply to any business which is directly competitive with any other business which the Company acquires or develops during Executive's employment with the Company.

(b) *Agreement Not to Hire.* Except as required in the performance of Executive's duties as an employee of the Company, during Executive's employment with the Company (whether before, during, or after the Term) and during the Restricted Period, Executive shall not, directly or indirectly, hire, engage or solicit or induce or attempt to induce to cease working for the Company, any person who is then an employee of the

Company or who was an employee of the Company during the six (6) month period immediately preceding Executive's termination of employment with the Company.

(c) *Agreement Not to Solicit.* Except as required in the performance of Executive's duties as an employee of the Company, during Executive's employment with the Company (whether before, during, or after the Term) and during the Restricted Period, Executive shall not, directly or indirectly, solicit, request, advise, induce or attempt to induce any vendor, supplier or other business contact of the Company to cancel, curtail, cease doing business with, or otherwise adversely change its relationship with the Company.

(d) *Restricted Period.* "Restricted Period" hereunder means the period commencing on the last day of Executive's employment with the Company and ending on the date that is two years following the last day of the Term.

(i) In the event Executive's employment is terminated by the Company without Cause following a Change in Control as defined in this Agreement, and before the end of the Term of this Agreement, the Restricted Period will begin on the last day of Executive's employment with the Company and end on the date the last payment of the current base salary is made to Executive pursuant to paragraph 10(c).

(e) *Acknowledgment.* Executive hereby acknowledges that the provisions of this Section 7 are reasonable and necessary to protect the legitimate interests of the Company and that any violation of this Section 7 by Executive shall cause substantial and irreparable harm to the Company to such an extent that monetary damages alone would be an inadequate remedy therefor. Therefore, in the event that Executive violates any provision of this Section 7, the Company shall be entitled to an injunction, in addition to all the other remedies it may have, restraining Executive from violating or continuing to violate such provision.

(f) *Blue Pencil Doctrine.* If the duration of, the scope of or any business activity covered by any provision of this Section 7 is in excess of what is determined to be valid and enforceable under applicable law, such provision shall be construed to cover only that duration, scope or activity that is determined to be valid and enforceable. Executive hereby acknowledges that this Section 7 shall be given the construction that renders its provisions valid and enforceable to the maximum extent, not exceeding its express terms, possible under applicable law.

(g) *Permitted Equity Ownership.* Ownership by Executive, as a passive investment, of less than 2.5% of the outstanding shares of capital stock of any corporation listed on a national securities exchange or publicly traded in the over-the-counter market shall not constitute a breach of this Section 7.

8. *Intellectual Property.*

(a) *Disclosure and Assignment.* As of the Effective Date, Executive hereby transfers and assigns to the Company (or its designee) all right, title, and interest of Executive in and to every idea, concept, invention, and improvement (whether patented, patentable or not) conceived or reduced to practice by Executive whether solely or in collaboration with others while he is employed by the Company, and all copyrighted or copyrightable matter created by Executive whether solely or in collaboration with others while he is employed by the Company that relates to the Company's business (collectively, "Creations"). Executive shall communicate promptly and disclose to the Company, in such form as the Company may request, all information, details, and data pertaining to each Creation. Every copyrightable Creation, regardless of whether copyright protection is sought or preserved by the Company, shall be a "work made for hire" as defined in 17 U.S.C. § 101, and the Company shall own all rights in and to such matter throughout the world, without the payment of any royalty or other consideration to Executive or anyone claiming through Executive.

(b) *Trademarks.* All right, title, and interest in and to any and all trademarks, trade names, service marks, and logos adopted, used, or considered for use by the Company during Executive's employment (whether or not developed by Executive) to identify the Company's business or other goods or services (collectively, the "Marks"), together with the goodwill appurtenant thereto, and all other materials, ideas, or other property conceived, created, developed, adopted, or improved by Executive solely or jointly during Executive's employment by the Company and relating to its business shall be owned exclusively by the Company. Executive shall not have, and will not claim to have, any right, title, or interest of any kind in or to the Marks or such other property.

(c) *Documentation.* Executive shall execute and deliver to the Company such formal transfers and assignments and such other documents as the Company may request to permit the Company (or its designee) to file and prosecute such registration applications and other documents it deems useful to protect or enforce its rights hereunder. Any idea, invention, copyrightable matter, or other property relating to the Company's business and disclosed by Executive prior to the first anniversary of the effective date of Executive's termination of employment shall be deemed to be governed by the terms of this Section 8 unless proven by Executive to have been first conceived and made after such termination date.

(d) *Non-Applicability.* Executive is hereby notified that this Section 8 does not apply to any invention for which no equipment, supplies, facility, Confidential Information, or other trade secret information of the Company was used and which was developed entirely on Executive's own time, unless (i) the invention relates (A) directly to the business of the Company or (B) to the Company's actual or demonstrably anticipated research or development, or (ii) the invention results from any work performed by Executive for the Company.

9. *Termination of Employment.*

- (a) Executive's employment with the Company shall terminate immediately upon:
 - (i) Executive's receipt of written notice from the Company of the termination of his employment;
 - (ii) the Company's receipt of Executive's written or oral resignation from the Company;
 - (iii) Executive's Disability (as defined below); or
 - (iv) Executive's death.
- (b) The date upon which Executive's termination of employment with the Company occurs shall be the "Termination Date."

Provided that, for purposes of the timing of payments triggered by the Termination Date under Section 10, the Termination Date shall not be considered to have occurred until the date Executive and the Company reasonably anticipate that (i) Executive will not perform any further services for the Company or any other entity considered a single employer with the Company under Section 414(b) or (c) of the Internal Revenue Code (but substituting 50% for 80% in the application thereof) (the "Employer Group"), or (ii) the level of bona fide services Executive will perform for the Employer Group after that date will permanently decrease to less than 20% of the average level of bona fide services performed over the previous 36 months (or if shorter over the duration of service). For this purpose, service performed as an employee or as an independent contractor is counted, except that service as a member of the board of directors of an Employer Group entity is not counted unless termination benefits under this Employment Agreement are aggregated with benefits under any other Employer Group plan or agreement in which Executive also participates as a director. Executive will not be treated as having a termination of his employment while he is on military leave, sick leave or other bona fide leave of absence if the leave does not exceed six months or, if longer, the period during which Executive has a reemployment right under statute or contract. If a bona fide leave of absence extends beyond six months, Executive's employment will be considered to terminate on the first day after the end of such six month period, or on the day after Executive's statutory or contractual reemployment right lapses, if later. The Company will determine when Executive's Termination Date occurs based on all relevant facts and circumstances, in accordance with Treasury Regulation Section 1.409A-1(h).

10. *Payments upon Termination of Employment.*

- (a) If Executive's employment with the Company is terminated by reason of:
 - (i) Executive's abandonment of his employment or Executive's resignation for any reason (whether or not such resignation

is set forth in writing or otherwise communicated to the Company);

- (ii) termination of Executive's employment by the Company for Cause (as defined below); or
- (iii) termination of Executive's employment by the Company without Cause following expiration of the Term;

the Company shall pay to Executive his then-current base salary through the Termination Date.

(b) Except in the case of a Change in Control, which is governed by Section 10(c) below, if Executive's employment with the Company is terminated by the Company pursuant to Section 9(a)(i) effective prior to the expiration of the Term for any reason other than for Cause (as defined below), then the Company shall pay to Executive, subject to Section 10(h) of this Agreement:

- (i) his then-current base salary through the Termination Date;
- (ii) any earned and unpaid annual Incentive Bonus for the fiscal year immediately preceding the Termination Date and any annual Incentive Bonus earned on a prorated basis through the Termination Date, payable after the actual amount of Incentive Bonus is calculated but not later than the date that is 2 ½ months following the last day of the applicable fiscal year;
- (iii) the amount of his then current base salary that Executive would have received from the Termination Date through the date that is 180 days following such Termination Date; and
- (iv) \$225,000.

Any amount payable to Executive pursuant to Section 10(b)(iii) shall be subject to deductions and withholdings and shall be paid to Executive by the Company in the same periodic installments in accordance with the Company's regular payroll practices commencing on the first normal payroll date of the Company following the expiration of all applicable rescission periods provided by law; provided, however, that at the option of the Compensation Committee and if in compliance with Code Section 409A, amounts payable pursuant to Section 10(b)(iii) may be paid in a lump sum. Any amount payable to Executive pursuant to Section 10(b)(ii) shall be paid to Executive by the Company in the same manner and at the same time that Incentive Bonus payments are made to current named executive officers of Texas Roadhouse, Inc., as that term is applied by Texas Roadhouse, Inc. in accordance with the rules and regulations of the U.S. Securities and Exchange Commission (the "Named Executive Officers"), but no earlier than the first normal payroll date of the Company following the expiration of all applicable rescission

periods provided by law. Any amount payable to Executive pursuant to Section 10(b)(iv) shall be paid in a lump sum.

(c) If Executive's employment is terminated by the Company without Cause following a Change in Control as defined in this Agreement and before the end of the Term of this Agreement, or if Executive's employment is terminated by Executive for Good Reason following a Change in Control and before the end of the Term, then the Company shall pay to Executive, subject to Executive's compliance with Section 10(h) of this Agreement, an amount equal to his then current base salary and incentive bonus through the end of Term of the Agreement, paid in the same periodic installments in accordance with the Company's regular payroll practices, but in no event will the Company pay Executive less than one year of his current base salary and incentive bonus. At the option of the Compensation Committee and if in compliance with Code Section 409A, amounts payable pursuant to Section 10(c) may be paid in a lump sum.

(d) If Executive's employment with the Company is terminated effective prior to the expiration of the Term by reason of Executive's death or Disability, the Company shall pay to Executive or his beneficiary or his estate, as the case may be;

- (i) his then-current base salary through the Termination Date;
- (ii) any earned and unpaid annual Incentive Bonus for the fiscal year immediately preceding the Termination Date and any annual Incentive Bonus earned on a prorated basis through the Termination Date, payable after the actual amount of Incentive Bonus is calculated but not later than the date that is 2 ½ months following the last day of the applicable fiscal year;
- (iii) the amount of his then current base salary that Executive would have received from the Termination Date through the date that is 180 days following such Termination Date; and
- (iv) \$225,000.

Any amount payable to Executive pursuant to Section 10(d)(iii) shall be subject to deductions and withholdings and shall be paid to Executive or his estate or beneficiary by the Company in the same periodic installments in accordance with the Company's regular payroll practices commencing on the first normal payroll date of the Company following the expiration of all applicable rescission periods provided by law; provided, however, that at the option of the Compensation Committee and if in compliance with Code Section 409A, amounts payable pursuant to Section 10(d)(iii) may be paid in a lump sum. Any amount payable to Executive or his estate or beneficiary pursuant to Section 10(d)(ii) shall be paid to Executive or his estate or beneficiary by the Company in the same manner and at the same time that Incentive Bonus payments are made to current Named Executive Officers, but no earlier than the first normal payroll date of the Company following the

expiration of all applicable rescission periods provided by law. Any amount payable to Executive or his estate or beneficiary pursuant to Section 10(d)(iv) shall be paid in a lump sum.

(e) “Cause” hereunder shall mean:

- (i) an act or acts of dishonesty undertaken by Executive and intended to result in substantial gain or personal enrichment of Executive at the expense of the Company;
- (ii) unlawful conduct or gross misconduct that is willful and deliberate on Executive’s part and that, in either event, is materially injurious to the Company;
- (iii) the conviction of Executive of a felony;
- (iv) material and deliberate failure of Executive to perform his duties and responsibilities hereunder or to satisfy his obligations as an officer or employee of the Company, which failure has not been cured by Executive within ten days after written notice thereof to Executive from the Company; or
- (v) material breach of any terms and conditions of this Agreement by Executive not caused by the Company, which breach has not been cured by Executive within ten days after written notice thereof to Executive from the Company.

(f) “Disability” hereunder shall mean the inability of Executive to perform on a full-time basis the duties and responsibilities of his employment with the Company by reason of his illness or other physical or mental impairment or condition, if such inability continues for an uninterrupted period of 45 days or more during any 360-day period. A period of inability shall be “uninterrupted” unless and until Executive returns to full-time work for a continuous period of at least 30 days.

(g) In the event of termination of Executive’s employment, the sole obligation of the Company hereunder shall be its obligation to make the payments called for by Sections 10(a), 10(b), 10(c) or 10(d) hereof, as the case may be, and the Company shall have no other obligation to Executive or to his beneficiary or his estate, except as otherwise provided by law.

(h) Notwithstanding any other provision hereof, the Company shall not be obligated to make any payments under Section 10(b)(ii), (iii) or (iv) or 10(c) of this Agreement unless Executive has signed a full release of claims against the Company, in a form and scope to be prescribed by the Board, all applicable consideration periods and rescission periods provided by law shall have expired, and Executive is in strict compliance with the terms of this Agreement as of the dates of the payments. Executive must execute

and deliver such release to the Company no later than the date specified by the Company and in no event later than 50 days following Executive's Termination Date, and the release will be delivered by the Company to Executive at least 21 days (45 days where Executive is required to be given 45 days to review and consider the release) before the deadline set for its return. For purposes of this Agreement and the determination of the date on which payments or benefits will commence, the applicable rescission period of a release shall be deemed to expire on the 60th day following Executive's termination of employment unless payment may be made based on an earlier rescission expiration date in compliance with Code Section 409A.

11. *Return of Property.* Upon termination of Executive's employment with the Company, Executive shall deliver promptly to the Company all records, files, manuals, books, forms, documents, letters, memoranda, data, customer lists, tables, photographs, video tapes, audio tapes, computer disks and other computer storage media, and copies thereof, that are the property of the Company, or that relate in any way to the business, products, services, personnel, customers, prospective customers, suppliers, practices, or techniques of the Company, and all other property of the Company (such as, for example, computers, pagers, credit cards, and keys), whether or not containing Confidential Information, that are in Executive's possession or under Executive's control.

12. *Remedies.* Executive acknowledges that it would be difficult to fully compensate the Company for monetary damages resulting from any breach by him of the provisions of Sections 6, 7, 8, and 11 hereof. Accordingly, in the event of any actual or threatened breach of any such provisions, the Company shall, in addition to any other remedies it may have, be entitled to injunctive and other equitable relief to enforce such provisions, and such relief may be granted without the necessity of proving actual monetary damages.

13. *Miscellaneous.*

(a) *Governing Law.* This Agreement shall be governed by, subject to, and construed in accordance with the laws of the Commonwealth of Kentucky without regard to conflict of law principles. Any action relating to this Agreement shall only be brought in a court of competent jurisdiction in the Commonwealth of Kentucky, and the parties consent to the jurisdiction, venue and convenience of such courts.

(b) *Jurisdiction and Law.* Executive and the Company consent to jurisdiction of the courts of the Commonwealth of Kentucky and/or the federal district courts, Western District of Kentucky, for the purpose of resolving all issues of law, equity, or fact, arising out of or in connection with this Agreement. Any action involving claims of a breach of this Agreement shall be brought in such courts. Each party consents to personal jurisdiction over such party in the state and/or federal courts of Kentucky and hereby waives any defense of lack of personal jurisdiction or *forum non conveniens*. Venue, for the purpose of all such suits, shall be in Jefferson County, Commonwealth of Kentucky.

(c) *Entire Agreement.* Except for any written stock option or stock award agreement and related agreements between Executive and the Company, this

Agreement contains the entire agreement of the parties relating to Executive's employment with the Company and supersedes all prior agreements and understandings with respect to such subject matter, including without limitation the Existing Employment Agreement, and the parties hereto have made no agreements, representations or warranties relating to the subject matter of this Agreement that are not set forth herein.

(d) *No Violation of Other Agreements.* Executive hereby represents and agrees that neither (i) Executive's entering into this Agreement, (ii) Executive's employment with the Company, nor (iii) Executive's carrying out the provisions of this Agreement, will violate any other agreement (oral, written or other) to which Executive is a party or by which Executive is bound.

(e) *Amendments.* No amendment or modification of this Agreement shall be deemed effective unless made in writing and signed by the parties hereto.

(f) *No Waiver.* No term or condition of this Agreement shall be deemed to have been waived, except by a statement in writing signed by the party against whom enforcement of the waiver is sought. Any written waiver shall not be deemed a continuing waiver unless specifically stated, shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

(g) *Assignment.* This Agreement shall not be assignable, in whole or in part, by either party without the prior written consent of the other party, except that the Company may, without the consent of Executive, assign its rights and obligations under this Agreement (i) to any entity with which the Company may merge or consolidate, or (ii) to any corporation or other person or business entity to which the Company may sell or transfer all or substantially all of its assets. Upon Executive's written request, the Company will seek to have any Successor by agreement assent to the fulfillment by the Company of its obligations under this Agreement. After any assignment by the Company pursuant to this Section 13(g), the Company shall be discharged from all further liability hereunder and such assignee shall thereafter be deemed to be the "Company" for purposes of all terms and conditions of this Agreement, including this Section 13.

(h) *Counterparts.* This Agreement may be executed in any number of counterparts, and such counterparts executed and delivered, each as an original, shall constitute but one and the same instrument.

(i) *Severability.* Subject to Section 7(f) hereof, to the extent that any portion of any provision of this Agreement shall be invalid or unenforceable, it shall be considered deleted herefrom and the remainder of such provision and of this Agreement shall be unaffected and shall continue in full force and effect.

(j) *Survival.* The terms and conditions set forth in Sections 4(g), 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this Agreement, and any other provision that continues by its

terms, shall survive expiration of the Term or termination of Executive's employment for any reason.

(k) *Captions and Headings.* The captions and paragraph headings used in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any of the provisions hereof.

(l) *Notices .* Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and either delivered in person or sent by first class certified or registered mail, postage prepaid, if to the Company, at the Company's principal place of business, and if to Executive, at his home address most recently filed with the Company, or to such other address or addresses as either party shall have designated in writing to the other party hereto.

(m) *Six Month Delay .* Notwithstanding anything herein to the contrary, if Executive is a "specified employee" within the meaning of Treasury Regulation Section 1.409A-1(i) (or any successor thereto) on his Termination Date, any payments hereunder that are triggered by termination of employment and which are not exempt as separation pay under Treasury Regulation Section 1.409A-1(b)(9) or as short-term deferral pay, shall not begin to be paid until six months after his Termination Date, and at that time, Executive will receive in one lump sum payment of all the payments that would have otherwise been paid to Executive during the first six months following Executive's Termination Date. The Company shall determine, consistent with any guidance issued under Code Section 409A, the portion of payments that are required to be delayed, if any.

(n) *409A Compliance .* Executive and the Company agree and confirm that this Employment Agreement is intended by both parties to provide for compensation that is exempt from Code Section 409A as separation pay (up to the Code Section 409A limit) or as a short-term deferral, and to be compliant with Code Section 409A with respect to additional severance compensation and bonus compensation. This Agreement shall be interpreted, construed, and administered in accordance with this agreed intent, provided that the Company does not promise or warrant any tax treatment of compensation hereunder. Executive is responsible for obtaining advice regarding all questions to federal, state, or local income, estate, payroll, or other tax consequences arising from participation herein. This Agreement shall not be amended or terminated in a manner that would accelerate or delay payment of severance pay or bonus pay except as permitted under Treasury Regulations under Code Section 409A.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Executive and the Company have executed this Agreement on this 23rd day of August, 2018.

TEXAS ROADHOUSE MANAGEMENT CORP.

By: /s/ W. Kent Taylor
Printed Name: W. Kent Taylor
Title: Chief Executive Officer

DOUG THOMPSON

/s/ Doug Thompson

PARAGON CENTRE
MASTER LEASE AGREEMENT
BY AND BETWEEN
PARAGON CENTRE HOLDINGS, LLC, AS LANDLORD
AND
TEXAS ROADHOUSE HOLDINGS LLC, AS TENANT
OCTOBER 26, 2018

PARAGON CENTRE MASTER LEASE AGREEMENT

THIS PARAGON CENTRE MASTER LEASE AGREEMENT (this "Lease") is made and entered into as of the 26th day of October, 2018, by and between PARAGON CENTRE HOLDINGS, LLC, a Kentucky limited liability company (" Landlord"), whose address is 6060 Dutchmans Lane, Suite 110, Louisville, Kentucky 40205, and TEXAS ROADHOUSE HOLDINGS LLC, a Kentucky limited liability company (" Tenant"), having an address of 6040 Dutchmans Lane, Louisville, Kentucky 40205, Attention: Legal Department.

RECITALS:

A. Landlord owns certain real property and improvements commonly known as Paragon Centre, consisting of two buildings referred to as One Paragon Centre and Two Paragon Centre.

B. Tenant leases the majority of One Paragon Centre and all of Two Paragon Centre from Landlord pursuant to those certain Lease Agreements described on Exhibit B attached hereto and incorporated herein (the "Existing Leases").

C. Landlord and Tenant desire to replace the Existing Leases in their entirety with this Lease in order to (i) lease all of One Paragon Centre and Two Paragon Centre to Tenant (subject, however, to the Subleases (as defined below)), and (ii) provide for the expansion of the Project with the Connector Building (as hereinafter defined), all as more particularly set forth below.

D. Immediately following the execution of this Lease, Tenant shall assign this Lease to Texas Roadhouse, Inc., a Delaware corporation (" TRI"), which is a publicly traded corporation and parent company for Tenant, pursuant to an assignment of lease agreement in the form of Exhibit G attached hereto and made a part hereof.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

ARTICLE I.

BASIC LEASE PROVISIONS

As of the Commencement Date (as hereinafter defined), this Lease shall be a replacement for and shall operate to terminate the Existing Leases as more particularly set forth in Section 11.2 below. From and after the Commencement Date, Landlord, for and in consideration of the rents and all other charges and payments hereunder and of the covenants, agreements, terms, provisions and conditions to be kept and performed hereunder by Tenant, demises and leases to Tenant, and Tenant hereby hires and takes from Landlord, the Premises described below, subject to all matters hereinafter set forth and upon and subject to the covenants, agreements, terms, provisions and conditions of this Lease for the term hereinafter stated. For purposes of this Lease, the following terms shall have the meanings ascribed to them below:

" Building " shall mean, collectively, One Paragon Centre and Two Paragon Centre.

" Commencement Date " shall be October 26, 2018.

" Connector Building " shall mean that approximately 4,750 square foot structure situated upon the Land between One Paragon Centre and Two Paragon Centre to be constructed by Tenant in accordance with the terms and conditions of this Lease, as the same may from time to time hereafter be expanded or modified in accordance with and subject to the terms and conditions of this Lease.

" Land " shall mean that certain tract of land situated in Jefferson County, Kentucky, and more particularly described on Exhibit A attached hereto and hereby made a part hereof.

" Lease Year " shall mean each consecutive twelve (12) month period during the Term commencing with the Commencement Date.

“One Paragon Centre” shall mean the approximately 62,148 square foot structure situated upon the Land commonly known as One Paragon Centre located at 6060 Dutchmans Lane, Louisville, Jefferson County, Kentucky 40205, as the same currently exists or as it may from time to time hereafter be expanded or modified.

“Project” shall mean the Building, the Connector Building, the Land, the parking area serving the Building, all other improvements situated on the Land or directly benefiting the Building, and all additional facilities or improvements directly benefiting the Building that may be constructed in subsequent years.

“Term” shall mean one hundred eighty (180) months beginning on the Commencement Date.

“Two Paragon Centre” shall mean the approximately 65,918 square foot structure situated upon the Land commonly known as Two Paragon Centre located at 6040 Dutchmans Lane, Louisville, Jefferson County, Kentucky 40205, as the same currently exists or as it may from time to time hereafter be expanded or modified.

ARTICLE II.

Section 2.1 Premises. The Premises demised by this Lease are the Building (collectively, the “Premises”), together with the nonexclusive use of the common areas of the Project.

Section 2.2 Term. The Term of this Lease shall begin on the Commencement Date and shall continue in full force and effect for the Term of this Lease unless extended or sooner terminated in accordance with the provisions of this Lease.

Section 2.3 Use. The Premises are to be used only for general office purposes and for no other business or purpose without the prior written consent of Landlord; provided, however, subject to Tenant’s compliance with all applicable laws, rules and regulations, the Connector Building may also include a restaurant for use by Tenant and its employees, contractors, invitees and licensees without Landlord’s consent. No act shall be done in or about the Premises that is unlawful. In the event of a breach of this covenant, promptly following Tenant’s actual notice of such breach, Tenant shall cease the performance of such unlawful act. Tenant shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance or other act or thing which disturbs the quiet enjoyment of any other tenant in the Building. Tenant shall not, without Landlord’s prior consent (such consent shall not be unreasonably withheld, conditioned or delayed), install any equipment, machine, device, tank or vessel which is subject to any federal, state or local permitting requirement. Tenant, at its expense, shall comply with all laws, statutes, ordinances and governmental rules, regulations or requirements governing the installation, operation and removal of any such equipment, machine, device, tank or vessel. Tenant, at its expense, shall comply with all laws, statutes, ordinances, governmental rules, regulations or requirements, and the provisions of any recorded documents now existing or hereafter in effect relating to its use, operation or occupancy of the Premises and shall observe such reasonable rules and regulations as may be adopted and made available to Tenant by Landlord from time to time for the safety, care and cleanliness of the Premises or the Project and for the preservation of good order therein. The current rules and regulations for the Building are attached hereto and incorporated herein as Exhibit C. Without limiting the foregoing, Tenant agrees to be wholly responsible at Tenant’s sole cost and expense for any accommodations or alterations which need to be made to the Premises to comply with the provisions of the Americans With Disabilities Act of 1990, as amended.

ARTICLE III.

Section 3.1 Rental Payments.

(a) **Base Rent.** Commencing on the Commencement Date and continuing thereafter throughout the Term, Tenant shall pay the Base Rent described in this paragraph, which is due and payable each Lease Year during the Term hereof in twelve (12) equal installments on the first (1st) day of each calendar month during the Term, and Tenant shall make such installments to Landlord at Landlord’s address specified in this Lease (or such other address as may be designated by Landlord from time to time in writing) monthly in advance. Base Rent during the Term shall be as follows:

Lease Months	Base Rent Annually	Base Rent Monthly
1-12	\$ 1,674,384.63	\$ 139,532.05
13-24	\$ 1,724,616.17	\$ 143,718.01
25-36	\$ 1,776,354.65	\$ 148,029.55
37-48	\$ 1,829,645.29	\$ 152,470.44
49-60	\$ 1,884,534.65	\$ 157,044.55
61-72	\$ 1,941,070.69	\$ 161,755.89
73-84	\$ 1,999,302.81	\$ 166,608.57
85-96	\$ 2,059,281.90	\$ 171,606.82
97-108	\$ 2,121,060.35	\$ 176,755.03
109-120	\$ 2,184,692.16	\$ 182,057.68
121-132	\$ 2,250,232.93	\$ 187,519.41
133-144	\$ 2,317,739.92	\$ 193,144.99
145-156	\$ 2,387,272.11	\$ 198,939.34
157-168	\$ 2,458,890.28	\$ 204,907.52
169-180	\$ 2,532,656.99	\$ 211,054.75

(b) Partial Month. If the Commencement Date is other than the first (1st) day of a calendar month or if this Lease expires or terminates on a day other than the last day of a calendar month, then the installments of Base Rent for such month or months shall be prorated based upon multiplying the applicable Base Rent by a fraction, the numerator of which shall be the number of days of the Term occurring during said commencement or termination month, as the case may be, and the denominator of which shall be the number of days in such month.

(c) Payment; Late Charge; Past Due Rate. Base Rent, Additional Rent (as hereinafter defined), and any and all other payments which Tenant is obligated to make to Landlord under this Lease shall constitute and are sometimes hereinafter collectively referred to as “Rent”. Tenant shall pay all Rent and other sums of money as shall become due from and payable by Tenant to Landlord in lawful money of the United States of America at the times and in the manner provided in this Lease, without demand, deduction, abatement, setoff, counterclaim or prior notice (except as otherwise expressly set forth in this Lease). Tenant hereby acknowledges that late payment to Landlord of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. If any Rent due from Tenant is not received on or before the tenth (10th) day following the due date more than twice during any twelve (12) consecutive calendar month period, then Tenant shall pay to Landlord promptly upon Landlord’s written demand therefor a late charge in an amount equal to five percent (5%) of such overdue amount. Additionally, all Rent under this Lease shall bear interest from the date due until paid at the lesser of eighteen percent (18%) or the maximum nonusurious rate of interest then permitted by the applicable laws of the state in which the Building is located or the United States of America, whichever shall permit the higher nonusurious rate, such interest being in addition to and cumulative of any other rights and remedies which Landlord may have with regard to the failure of Tenant to make any such payments under this Lease.

Section 3.2 Additional Rent.

(a) Definitions:

(i) “Operating Expenses” means the following expenses, costs and disbursements relating to or incurred or paid by Landlord in connection with the ownership and operation of the Project, computed on an accrual basis in accordance with generally accepted accounting principles consistently applied:

- (A) the cost of all utilities for the Project (excluding those costs billed by the utility provider to Tenant for the Premises);
- (B) the costs incurred by Landlord to fulfill its obligations with respect to the exterior façade and roof of the Building (including the Connector Building) pursuant to Section 6.3 below;

(C) the cost of all insurance maintained by Landlord relating to the Project, including, but not limited to, the cost of property insurance, casualty, rental loss and liability insurance applicable to the Project and Landlord's personal property used in connection therewith and the cost of deductibles paid on claims made by Landlord; and

(D) a property management fee for the Project in the amount of three percent (3%) of the Annual Base Rent hereunder.

(ii) "Tenant's Pro Rata Share" means one hundred percent (100%).

(b) Payment by Tenant. Tenant agrees to pay Landlord, as additional rent (the "Additional Rent"), Tenant's Pro Rata Share of the Operating Expenses.

(c) Manner of Payment.

(i) Tenant shall pay to Landlord, without any abatement, diminution, offset or deduction (except as otherwise expressly set forth in this Lease), Tenant's Pro Rata Share of Operating Expenses in monthly installments, beginning on the Commencement Date and on or before the first day of each calendar month thereafter during the Term, in an amount equal to one-twelfth (1/12th) of the annual amount of Tenant's Pro Rata Share of Operating Expenses as estimated by Landlord from time to time. If for any reason the estimate is not given before the calendar year begins, Tenant shall continue to pay on the basis of the previous year's estimate, if any, until the effective date of a new estimate from Landlord.

(ii) Within one hundred twenty (120) days after each calendar year ends, or as soon thereafter as reasonably practical, Landlord shall give Tenant a statement (the "Statement") showing the: (A) actual Operating Expenses for the preceding calendar year; (B) the amount of Tenant's Pro Rata Share of the Operating Expenses; (C) the amount paid by Tenant during such calendar year towards the Operating Expenses; and (D) the amount Tenant owes towards the Operating Expenses or the amount Landlord owes as a refund. Delay by Landlord in providing to Tenant any Statement shall not relieve Tenant from the obligation to pay Tenant's Pro Rata Share of Operating Expenses upon the rendering of such Statements.

(iii) If the Statement shows that the actual amount Tenant owes for the calendar year is less than any estimated Operating Expenses paid by Tenant during such period, Landlord shall return the difference (the "Overpayment"). If the Statement shows that the actual amount Tenant owes is more than any estimated Operating Expenses paid by Tenant during such period, Tenant shall pay the difference (the "Underpayment"). The Overpayment or Underpayment shall be paid within thirty (30) days after the Statement is delivered to Tenant.

(iv) During any calendar year in which this Lease is not in effect for the entire calendar year, unless it was ended due to Tenant's default hereunder beyond any applicable notice and cure period, Tenant's obligation for Additional Rent for such partial calendar year shall be prorated by multiplying the Additional Rent for the calendar year by a fraction expressed as a percentage, the numerator of which is the number of days of such calendar year included in the Term and the denominator of which is three hundred sixty-five (365).

(d) Right to Audit. In the event that within ninety (90) days after Tenant's receipt of the Statement for the prior calendar year, Tenant reasonably believes that certain of the Operating Expenses charged by Landlord include costs that are not properly included within the term "Operating Expenses" or that Landlord has erred in calculating same, Tenant shall have the right to audit Landlord's books and records in accordance with this paragraph. Tenant shall exercise such audit right by providing Landlord with a written notice of Tenant's exercise of such audit right within such ninety (90) day period and a statement enumerating reasonably detailed reasons for Tenant's objections to the Statement issued by Landlord (the "Audit Notice"). Upon the receipt by Landlord of an Audit Notice, Landlord shall instruct its property manager to meet with a designated employee of Tenant (the "Tenant Representative") to discuss the objections set forth in the Audit Notice. Landlord shall provide the Tenant Representative with reasonable access to Landlord's books and records relating to Operating Expenses for the calendar year in question in order to attempt to resolve the issues raised by Tenant in the Audit Notice. If, within ninety (90) days after Landlord's receipt of the Audit Notice, Landlord and Tenant are unable to resolve Tenant's objections, then not later than thirty (30) days after the expiration of such ninety (90) day period, Tenant shall notify Landlord if Tenant wishes to employ an independent, reputable certified public accounting firm charging for its services on an hourly rate (and not a contingent fee) basis ("Acceptable Accountants") to inspect and audit Landlord's books and records relating to the objections

raised in Tenant's statement. Such audit shall be limited to a determination of whether or not Landlord calculated the Operating Expenses in accordance with the terms and conditions of this Lease and normal and customary accounting methods used by owners of similar buildings in the area for calculating Tenant's Additional Rent. All costs and expenses of any such audit shall be paid by Tenant. Any audit performed pursuant to the terms of this section shall be conducted only by the Acceptable Accountants at the offices of Landlord's property manager. Notwithstanding anything contained herein to the contrary, Tenant shall be entitled to exercise its audit right pursuant to this section only in strict accordance with the foregoing procedures no more often than once per calendar year and each such audit shall relate only to the calendar year most recently ended. In the event that Tenant fails to notify Landlord within the foregoing ninety (90) day period that Tenant objects to the Statement, then Tenant's right to audit such year's Statement shall be null and void.

Section 3.3 Real Estate Taxes. For the purposes of this Lease, the term "Real Estate Taxes," shall mean all taxes, assessments and governmental charges, whether federal, state, county or municipal and whether they are imposed by taxing districts or authorities currently taxing the Project or by others subsequently created or otherwise, and any other taxes and assessments, assessed against or attributable to the Project or its operation. From and after the Commencement Date, Tenant shall timely pay, as Additional Rent, directly to the taxing authorities, all Real Estate Taxes applicable to the Project and all improvements located thereon for any tax period which includes any part of the Term. Notwithstanding the foregoing, if Landlord's mortgagee requires Landlord to make monthly deposits for Real Estate Taxes, then Tenant shall pay to Landlord monthly, as Additional Rent, an amount determined from time to time by Landlord's mortgagee to be sufficient to accumulate adequate funds to pay taxes and assessments levied against the Project at least sixty (60) days prior to their respective due dates (and any deficiency in such payments shall be paid by Tenant to Landlord within ten (10) days following written demand), and Landlord shall cause its mortgagee to pay such Real Estate Taxes from Tenant's deposits. Any communications or bills received by Landlord regarding Real Estate Taxes which are applicable to Project shall be promptly furnished to Tenant for review, and Landlord shall cooperate in any attempts by Tenant to have such communications or bills issued directly to Tenant. Upon written request from Landlord, Tenant shall furnish Landlord with evidence in reasonable detail of its timely payment of Real Estate Taxes. If at the beginning or end of the Term of this Lease shall be in effect for less than a full tax period, Tenant's share of Real Estate Taxes for that tax period shall be prorated based on the number of days this Lease shall be in effect during such tax period, with Landlord to pay the portion thereof applicable to the period before the Commencement Date (subject, however, to Tenant's obligations under the Existing Leases) and after the expiration of the Term, respectively. If a partial tax period occurs at the end of the Term of this Lease, the adjustment referred to above shall occur at the end of the Term or, if necessary, as soon thereafter as accurate information as to the Real Estate Taxes for the tax period is known. Tenant shall have the right, at its sole cost and expense, to contest by appropriate proceedings any real estate tax assessment against the Project so long as Tenant (1) shall contest, with due diligence and in good faith, such assessment by appropriate proceedings which shall operate during the pendency thereof to prevent (i) the collection of, or other realization upon, the tax, assessment or charge or imposition so contested, (ii) the sale, forfeiture or loss of the Project or any part thereof, and (iii) any interference with the use of occupancy of the Project or any part thereof, and (2) shall give such reasonable security to Landlord and/or its mortgagee as may be demanded by Landlord or its mortgagee to insure compliance with the foregoing.

ARTICLE IV.

Section 4.1 Utilities. Tenant shall pay directly to all service providers when due all fees, deposits and charges for water, gas, electricity, sewer rentals or service charges, telephone service, cable service, and any other utilities servicing the Premises, including but not limited to security deposits, use and/or connection fees, impact fees, tap fees, capacity fees, hook-up fees and/or standby fees and any other utility charges incurred with respect to the Premises during the Term.

Section 4.2 Keys and Locks. Landlord and Tenant agree to cooperate with each other (at Tenant's sole cost and expense) in connection with the use and installation of Tenant's corporate security card system serving the Building and the Connector Building. Upon termination or expiration of this Lease or a termination of possession of the Premises by Tenant, Tenant shall surrender to Landlord all keys to any locks on doors entering or within the Premises, the corporate security card system serving the Building and all passcodes related thereto.

ARTICLE V

Section 5.1 Occupancy of Premises. Tenant shall throughout the Term of this Lease, at its own expense, maintain the Premises and all improvements thereon in the manner required herein and keep them free from waste, damage or nuisance, and shall deliver up the Premises in a clean and sanitary condition at the expiration or termination of this Lease or the

termination of Tenant's right to occupy the Premises by Tenant, in good repair and condition, reasonable wear and tear, casualty and condemnation excepted. In the event Tenant should neglect to maintain and/or return the Premises in such manner and such failure continues for thirty (30) days following written notice from Landlord (except upon termination or expiration of this Lease, in which case notice shall not be required), Landlord shall have the right, but not the obligation, to cause repairs or corrections to be made, and any reasonable costs therefor shall be payable by Tenant to Landlord within thirty (30) days of demand therefor by Landlord (which demand shall include reasonable supporting documentation substantiating the cost of the same). Upon the expiration or termination of this Lease or the termination of Tenant's right to occupy the Premises by Tenant, Landlord shall have the right to reenter and resume possession of the Premises. No act or thing done by Landlord or any of Landlord's agents (hereinafter defined) during the Term of the Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless the same be made in writing and executed by Landlord. Tenant shall notify Landlord at least fifteen (15) days prior to vacating the Premises and shall arrange to meet with Landlord for a joint inspection of the Premises.

Section 5.2 Entry for Repairs and Inspection. Tenant shall permit Landlord and its agents to enter the Premises at all reasonable times and upon prior reasonable notice (except in the event of an emergency) to inspect the same; to show the Premises to prospective tenants (within six (6) months of the expiration of the term of this Lease), or interested parties such as prospective lenders and purchasers; to exercise its rights under this Lease; to discharge Tenant's obligations when Tenant has failed to do so within the time required under this Lease; and to post notices of nonresponsibility and similar notices. Tenant shall permit Landlord and its agents to enter the Premises at any time in the event of an emergency. When reasonably necessary, Landlord may temporarily close entrances, doors, corridors, elevators or other facilities without liability to Tenant by reason of such closure. In connection with Landlord's entry into the Premises in accordance with this Section 5.2, Landlord shall use commercially reasonable efforts to minimize interference with the operation of Tenant's business from the Premises.

Section 5.3 Hazardous Materials.

(a) As used in this Lease, the term "Hazardous Materials" shall mean and include any substance that is or contains petroleum, asbestos, polychlorinated biphenyls, lead, or any other substance, material or waste which is now or is hereafter classified or considered to be hazardous or toxic under any federal, state or local law, rule, regulation or ordinance relating to pollution or the protection or regulation of human health, natural resources or the environment (collectively "Environmental Laws") or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent property.

(b) Tenant agrees that during its use and occupancy of the Premises it will not permit Hazardous Materials to be present on or about the Premises except in a manner and quantity necessary for the ordinary performance of Tenant's business and that it will comply with all Environmental Laws relating to the use, storage or disposal of any such Hazardous Materials.

(c) If Tenant's use of Hazardous Materials on or about the Premises results in a release, discharge or disposal of Hazardous Materials on, in, at, under, or emanating from, the Premises or the property in which the Premises are located, Tenant agrees to investigate, clean up, remove or remediate such Hazardous Materials in full compliance with and to the extent required by the requirements of (i) all Environmental Laws and (ii) any governmental agency or authority responsible for the enforcement of any Environmental Laws. Landlord shall also have the right, but not the obligation, to take whatever action with respect to any such Hazardous Materials that it deems reasonably necessary to protect the value of the Premises or the property in which the Premises are located to the extent Tenant fails to perform the necessary work within thirty (30) days following written notice from Landlord. All reasonable costs and expenses actually incurred by Landlord in the exercise of such right shall be payable by Tenant within thirty (30) days following written demand (which demand shall include reasonable supporting documentation substantiating the cost of the same).

(d) Upon reasonable notice to Tenant, Landlord may inspect the Premises for the purpose of determining whether there exists on the Premises any Hazardous Materials or other condition or activity that is in violation of the requirements of this Lease or of any Environmental Laws. The right granted to Landlord herein to perform inspections shall not create a duty on Landlord's part to inspect the Premises, or liability on the part of Landlord for Tenant's use, storage or disposal of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

(e) Tenant shall surrender the Premises to Landlord upon the expiration or earlier termination of this Lease free of debris, waste or Hazardous Materials placed on or about the Premises by Tenant or its agents, employees or contractors, and in a condition, which complies with all Environmental Laws.

(f) Tenant agrees to indemnify and hold harmless Landlord from and against any and all claims, losses, liabilities and expenses (including reasonable attorney's fees) sustained by Landlord attributable to (i) any Hazardous Materials placed on or about the Premises by Tenant or its agents, employees, contractors or invitees or (ii) Tenant's breach of any provision of this Section.

(g) The provisions of this Section shall survive the expiration or earlier termination of this Lease.

(h) Landlord hereby represents and warrants to Tenant that, to the best of its knowledge without any level or degree of inquiry, diligence or investigation, the Project is free from Hazardous Materials in violation of Environmental Laws, and Landlord has not received written notice of any violation of Environmental Laws pertaining to the Project. If Landlord or Tenant become aware of the presence of any Hazardous Materials in or under the Premises and such presence is due to the acts, omissions or negligence of Landlord or Landlord's agents, employees, servants, or contractors, then Landlord, at Landlord's cost, shall be responsible for any remediation, removal and disposal of said condition that is required by Environmental Laws, and shall defend, indemnify and hold Tenant harmless from and against any and all claims, costs, expenses or liability to the extent resulting therefrom. If Landlord has failed to complete any such required investigation, monitoring, clean up, removal, restoration, remedial response or remedial work within thirty (30) days after receipt of written notice from Tenant of the need for such investigation, monitoring, clean up, removal, restoration, remedial response or remedial work, Tenant may complete such work and deduct the reasonable cost thereof from any Base Rent due; provided, however, that if such work cannot be reasonably completed within thirty (30) days, then Landlord shall have an additional reasonable period of time within which to perform such work so long as Landlord commenced the performance of such work promptly upon receipt of Tenant's notice (but in no event later than thirty (30) days thereafter) and diligently prosecutes completion of such work.

ARTICLE VI.

Section 6.1 Leasehold Improvements.

(a) Acceptance of Premises. Tenant has made a complete inspection of the Premises and shall accept the Premises and the Project in their "AS IS," "WHERE IS," and "WITH ALL FAULTS" condition on the Commencement Date without recourse to Landlord. Except as expressly provided in this Lease, Landlord shall have no obligation to furnish, equip or improve the Premises or the Project. The taking of possession of the Premises by Tenant shall be conclusive evidence against Tenant that (i) Tenant accepts the Premises and the Project as being suitable for its intended purpose and in a good and satisfactory condition, (ii) acknowledges that the Premises and the Project comply fully with Landlord's covenants and obligations under this Lease and (iii) waives any defects in the Premises and its appurtenances and in all other parts of the Project.

(b) Improvements and Alterations. During the Term of this Lease, Tenant shall at all times and without Landlord's prior consent have the sole and exclusive right to make any interior, non-structural, non-MEP (mechanical, electrical, plumbing) alterations (decorative or cosmetic in nature) in and to the Premises that Tenant deems advisable and which do not affect the structural components of the Building. All other modifications and/or alterations to the Building and/or the Project shall require Landlord's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). In connection with any alterations requiring Landlord's approval, Landlord shall have written approval rights over Tenant's contractor(s) and of the plans, working drawings and specifications relating thereto. Approval by Landlord of any of Tenant's drawings and plans and specifications prepared in connection with any alterations, improvements, modifications or additions to the Premises or the Project requiring Landlord's approval shall not constitute a representation or warranty of Landlord as to the adequacy or sufficiency of such drawings, plans and specifications, or alterations, improvements, modifications or additions to which they relate, for any use, purpose or conditions, but such approval shall merely be the consent of Landlord as required hereunder. Any and all furnishing, equipping and improving of or other alteration and addition to the Premises shall be: (A) made at Tenant's sole cost, risk and expense, and Tenant shall pay for Landlord's actual costs incurred in connection with and as a result of such alterations or additions; (B) performed in a prompt, good and workmanlike manner with labor and materials of such quality as Landlord may reasonably require; (C) constructed in accordance with all plans and specifications approved in writing by Landlord prior to the commencement of any such work to the extent Landlord's

approval is required under this Section 6.1(b); (D) prosecuted diligently and continuously to completion so as to minimize interference with the normal business operations of other tenants in the Building, the performance of Landlord's obligations under this Lease or any mortgage or ground lease covering or affecting all or any part of the Building or the Land and any work being done by contractors engaged by Landlord with respect to or in connection with the Building; and (E) performed by contractors approved in writing by Landlord (such approval not be unreasonably withheld, conditioned or delayed) only to the extent Landlord has approval rights regarding such alterations. Tenant shall have no (and hereby waives all) rights to payment or compensation for any such item. Tenant shall notify Landlord upon completion of such alterations, improvements, modifications or additions and Landlord shall inspect same for workmanship and compliance with the approved plans and specifications. Tenant and its contractors shall comply with all reasonable requirements Landlord may impose on Tenant or its contractors with respect to such work (including but not limited to, insurance, indemnity and bonding requirements). Tenant shall not place safes, vaults, filing cabinets or systems, libraries or other heavy furniture or equipment within the Premises without Landlord's prior written consent.

(c) Title to Alterations. All alterations, physical additions, modifications or improvements in or to the Premises (including fixtures and the Connector Building) shall, when made, be the sole property of Tenant, and shall become the property of Landlord and shall be surrendered to Landlord upon termination or expiration of this Lease or termination of Tenant's right to occupy the Premises, whether by lapse of time or otherwise, without any payment, reimbursement or compensation therefor. At all times, Tenant shall retain title to and shall remove from the Premises movable equipment or furniture owned by Tenant and Tenant shall repair any damage caused thereby.

(d) Personal Property Taxes; Sales, Use and Excise Taxes. Tenant shall be responsible for and shall pay ad valorem taxes and other taxes, assessments or charges levied upon or applicable to Tenant's personal property, the value of Tenant's leasehold improvements in the Premises (and if the taxing authorities do not separately assess Tenant's leasehold improvements, Landlord may make a reasonable allocation of the taxes assessed on the Project to give effect to this Section 6.1(d)) and all license fees and other fees or charges imposed on the business conducted by Tenant on the Premises before such taxes, assessments, charges or fees become delinquent. Tenant shall also pay to Landlord with all Rent due and owing under this Lease an amount equal to any sales, rental, excise and use taxes levied, imposed or assessed by the State or any political subdivision thereof or other taxing authority upon any amounts classified as rent.

Section 6.2 Connector Building

(a) Consent to Connector Building. Subject to Tenant's compliance with this Section 6.2, Landlord hereby consents and Tenant is hereby granted the right, subject to all building codes and other applicable government requirements and to the terms and provisions of this Lease, to construct a connector building (the "Connector Building") between One Paragon Centre and Two Paragon Centre as generally shown on Exhibit D attached hereto and incorporated herein.

(b) Plans. Prior to commencing any physical work with regard to the construction of the Connector Building, Tenant shall prepare and submit to Landlord construction plans and specifications for the building, utility and site improvements to be constructed or modified by Tenant in connection with the Connector Building for approval by Landlord and its mortgagee (the "Mortgagee"), such approval not to be unreasonably withheld, conditioned or delayed. All such plans and specifications shall be prepared by or for Tenant at its sole cost and expense. Landlord shall furnish to Tenant its written approval or detailed reasons for its disapproval. Should Landlord or Mortgagee disapprove the plans and specifications, Tenant may submit revisions to Landlord for approval or elect not to proceed with the construction of the Connector Building. The plans and specifications approved by Landlord and Mortgagee shall be referred to herein as the "Plans". Approval of the Plans or any aspect thereof by Landlord and/or Mortgagee shall not constitute a representation or warranty of the workmanship or materials used or to be used in the Connector Building work, the structural or engineering design set forth in the Plans, or compliance of the Plans (or the improvements to be constructed pursuant thereto) with any applicable laws. There shall be no change in the approved Plans without the prior written consent of Landlord. If, during the course of the construction of the Connector Building, Tenant desires to make any change in the Plans, such change shall be submitted in writing to Landlord and its mortgagee for approval prior to making such change. Any changes approved by Landlord shall be deemed incorporated into and made a part of the Plans for purposes of this Agreement. Notwithstanding the foregoing, Landlord and Tenant acknowledge and agree that Landlord and the Mortgagee have approved the Plans for the initial construction of the Connector Building as of the Effective Date. Tenant shall also deliver to Landlord and Mortgagee such additional documentation as may

now or during or in connection with construction of the Connector Building be reasonably required by Mortgagee's Legal Department.

(c) Commencement of Construction. Tenant shall commence construction promptly after securing the necessary building permits and governmental approvals and shall diligently pursue the construction of the Connector Building to completion, subject to delays caused by force majeure, labor shortages, shortages in material, inability to secure building permits, strikes or reasons beyond Tenant's or its general contractor's reasonable control. If Tenant does not complete construction of the Connector Building within one (1) year following commencement thereof and such failure continues for thirty (30) days following written notice from Landlord, then Landlord may, but shall not be required to, complete said construction and Tenant shall pay to Landlord the actual, reasonable cost thereof plus an administrative fee of ten percent (10%) within thirty (30) days from Tenant's receipt of Landlord's invoice therefor, together with reasonable supporting documentation substantiating the cost of the same. The construction of the Connector Building shall be completed by Tenant at its sole cost and expense in a professional, diligent and workmanlike manner, strictly in accordance with the Plans, all applicable legal requirements and all covenants, conditions, easements and restrictions of record with respect to the Project. Tenant shall not commence or perform any portion of the Connector Building unless and until all permits, approvals, consents, licenses or other authorizations therefore from governmental or quasi-governmental authorities having jurisdiction thereof are obtained by Tenant. Tenant shall promptly pay all expenses, costs and charges of every kind and nature whatsoever arising out of the construction of the Connector Building, as the same are incurred by or for Tenant.

(d) Construction Standards. All work done in connection with the construction of the Connector Building shall be done as provided in this Section, except as the same may be modified in the approved Plans:

(i) Tenant's approved Plans and all design and construction of the Connector Building shall comply with all applicable statutes, ordinances, regulations, laws, codes and industry standards, including, but not limited to, any requirements of Mortgagee and Landlord's fire insurance underwriters.

(ii) Tenant shall obtain all required building permits, occupancy permits, licenses, variances, minor plats, and other governmental approvals. All of the foregoing shall be acceptable to Landlord.

(iii) Tenant shall use only new, first-class materials in constructing the Connector Building. The Connector Building shall be done in a good and workmanlike manner. Tenant will promptly correct any defects in the Connector Building if reasonably rejected by Landlord as defective or as failing to conform to the approved Plans, whether observed before or after completion and whether or not fabricated, installed or completed. Tenant will bear all costs of correcting such defects in the Connector Building. If Tenant constructs the Connector Building contrary to the approved Plans, laws, statutes, ordinances, building codes, rules and regulations, Tenant shall assume full responsibility for correction of such defects.

(iv) Tenant and Tenant's contractors shall take all precautionary steps to minimize dust, noise and construction traffic, and to protect their facilities and the facilities of others affected by the Connector Building and to properly police same. Delivery and loading of equipment and materials shall be done only at such locations and at such time as Landlord shall direct.

(v) Tenant shall permit access to the Connector Building, and the Connector Building shall be subject to inspection, by Landlord and Landlord's Mortgagee, architects, engineers, contractors and other representatives, at all reasonable times and upon prior reasonable notice during the period in which the Connector Building is being constructed and installed; provided, however, Landlord agrees to use commercially reasonable efforts to minimize interference with Tenant's construction of the Connector Building in connection with such inspection.

(vi) Tenant shall promptly pay all expenses, costs and charges of every kind and nature whatsoever arising out of the construction of the Connector Building, as the same are incurred by or for Tenant.

(vii) Tenant's general contractor shall be approved by Landlord (such approval not to be unreasonably withheld, conditioned, or delayed). Notwithstanding the foregoing, Landlord hereby approves of Buffalo Construction as Tenant's general contractor for the construction of the Connector Building.

(e) Insurance. In addition to any insurance which may be otherwise required under this Lease, Tenant shall cause Tenant's general contractor to secure, pay for and maintain during the continuance of construction and fixturing for the Connector Building, insurance having the following minimum coverages and minimum limits of liability:

(i) Worker's Compensation and Employer's Liability Insurance with limits as may be required from time to time by any employee benefit acts or other statutes applicable where the Connector Building is to be performed, and in any event sufficient to protect Tenant's general contractor from liability under the aforementioned acts.

(ii) Commercial General Liability Insurance (occurrence coverage) in an amount not less than Two Million and 00/100 Dollars (\$2,000,000.00). Such insurance shall provide for explosion and collapse, completed operations coverage and broad form blanket contractual liability coverage and shall insure Tenant's general contractor against any and all claims for bodily injury, including death resulting therefrom, and damage to the property of others and arising from its operations under the contracts, whether such operations are performed by Tenant's general contractor or by anyone directly or indirectly employed by said general contractor.

(iii) "All-risk" builder's risk insurance upon the Connector Building to the full insurable value thereof. This insurance shall include the interests of Landlord and Tenant (and their respective contractors and subcontractors of any tier, to the extent of any insurable interest therein) in the Connector Building and shall insure against the perils of fire and extended coverage and shall include "all-risk" builder's risk insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief.

All policies (except the worker's compensation policy) shall be endorsed to include as additional insured parties Landlord and its Mortgagee. The waiver of subrogation provisions contained in this Lease shall apply to all insurance policies (except the worker's compensation policy) to be obtained pursuant hereto. The insurance policy endorsements shall also provide that all additional insured parties shall be given thirty (30) days prior written notice of any reduction, cancellation, material amendment or non-renewal of coverage, and shall provide that the insurance coverage afforded to the additional insured parties thereunder shall be primary to any insurance carried independently by said additional insured parties. Each policy shall be issued by a company reasonably acceptable to Landlord and its Mortgagee.

(f) Indemnification. Without limitation of the indemnification provisions contained elsewhere in this Lease, to the fullest extent permitted by law, Tenant hereby agrees to indemnify, protect, defend and hold harmless Landlord from and against all loss, cost, liability, damage, judgment or expense (including, without limitation, reasonable attorneys' fees) of whatever nature arising out of or in connection with (i) the design and construction of the Connector Building, or (ii) the acts or omissions of Tenant or its agents, employees, contractors or subcontractors during the design and/or construction of the Connector Building. It is understood and agreed that the foregoing indemnity shall be in addition to the insurance requirements set forth above and shall not be in discharge of or in substitution for same or any other indemnity or insurance provision of this Lease.

(g) Maintenance of Construction Activities. Tenant shall use commercially reasonable efforts to ensure that all construction is done so as not to cause unreasonable interference with the Project. Subject to Landlord's written approval, which shall not be unreasonably withheld, delayed or conditioned, Tenant may store construction materials and trailers on designated portions of the Project.

(h) Expanded Premises. For all purposes hereunder, following the construction of the Connector Building, whenever reference is made in the Lease to the "Premises", "Project", "premises", "leased premises", "Building" or "entire premises", it shall include the Connector Building.

- (i) Completion. Tenant shall supply to Landlord the following upon completion of construction of the Connector Building:
- (i) By assignment from Tenant or otherwise (i) a twenty (20) year manufacturer's roof warranty with unlimited dollar liability, covering leaks due to defective materials or workmanship, (ii) the general contractor's standard one-year warranty against defective materials or workmanship for the Connector Building, and (iii) all other manufacturer's warranties and guarantees obtained by Tenant for the Connector Building.
 - (ii) "As-built" construction plans for the Connector Building and an "as-built" ALTA survey of the entire Project.
 - (iii) A certificate of occupancy for the Connector Building.
 - (iv) Full and final waivers of liens and contractors' affidavits and statements, in such form as may be reasonably required by Landlord, Landlord's title insurance company and/or Landlord's Mortgagee, if any, from Tenant's general contractor in connection with the Connector Building showing that all of said parties have been compensated in full and waiving all liens in connection with the Connector Building and Project.

Upon completion of the Connector Building by Tenant, all duties and obligations of Landlord and Tenant as to the Connector Building, including but not limited to maintenance and repairs, shall be determined in accordance with the provisions of this Lease.

Section 6.3 Repairs and Maintenance by Landlord. During the Term of this Lease, Landlord shall (a) replace the roof top HVAC units and elevators for One Paragon Centre and Two Paragon Centre (excluding, however, the Connector Building) when necessary at Landlord's sole cost and expense, and (b) maintain and repair the exterior façade and roof of the Building (including the Connector Building). The costs incurred to replace the roof top HVAC units and elevators shall be paid by Landlord and not subject to reimbursement pursuant to this Section 3.2 above; provided, however, if such replacement is necessary due to Tenant's failure to perform its maintenance obligations hereunder, the cost of such replacement shall be paid by Tenant. Landlord and Tenant shall mutually agree if and when the roof top HVAC units and elevators need replacement. If Landlord and Tenant are unable to agree on the need for replacement, the parties shall mutually select an HVAC contractor or elevator contractor, as applicable, to determine whether replacement is appropriate, and the parties shall abide by the decision of such contractor. If the roof top HVAC units or elevators are replaced during the Term, Landlord's obligation shall be limited to replacing same with HVAC units or elevators that are comparable in quality and functionality to those in the Project on the Commencement Date.. Tenant shall reimburse Landlord, as Additional Rent pursuant to Section 3.2 above, for the reasonable cost and expense actually incurred to satisfy Landlord's repair and maintenance obligations with respect to the exterior façade and roof of the Building (including the Connector Building) under this Section 6.3. Except to the extent specifically provided in this Section 6.3, Landlord shall not be required to make any improvements to or repairs of any kind or, character to the Premises during the Term. If Landlord refuses or neglects to commence or complete promptly and adequately any maintenance or repairs Landlord is obligated to make under this Lease and such failure continues beyond any applicable notice and cure period, then Tenant may at any time thereafter exercise its rights and remedies described in Section 8.10 below.

Section 6.4 Repairs, Maintenance and Replacements by Tenant. Except as expressly provided in Section 6.3 hereof, Tenant shall keep and maintain in good order, condition and repair, at its own expense, the Premises, the Project and all improvements therein in a first-class condition, including without limitation, (a) leasehold improvements, (b) exterior parking lot and landscaping areas serving the Project, (c) any damage to the Project or any part thereof caused by Tenant or any of Tenant's agents, (d) all plumbing and sewage facilities and electrical and gas systems and equipment, and all other mechanical systems, (e) elevators and HVAC units in or serving the Buildings, (f) all interior walls, floors and ceilings, (g) signs, (h) all interior fixtures, building appliances and similar equipment, and (i) all HVAC units or systems. All repairs, alterations or additions that affect the Project's structural components or major mechanical, electrical or plumbing systems shall be made only by contractors approved by Landlord (such approval not to be unreasonably withheld, conditioned or delayed). If Tenant refuses or neglects to commence or complete promptly and adequately any maintenance or repairs Tenant is obligated to make

under this Lease and such failure continues beyond any applicable notice and cure period, Landlord may, but shall not be required to, make or complete said maintenance or repairs and Tenant shall pay to Landlord the reasonable, actual cost thereof plus an administrative fee of ten percent (10%) within thirty (30) days from Tenant's receipt of Landlord's invoice therefor (together with reasonable supporting documentation substantiating the cost of the same). Except insofar as Landlord is expressly obligated under this Lease to maintain and repair the Project, in addition to the maintenance and repair obligations of Tenant otherwise expressly set forth in this Lease, Tenant is also obligated to perform, at Tenant's own cost and expense and risk, all other maintenance and repairs necessary or appropriate to cause the Premises to be maintained in good condition and suitable for Tenant's intended commercial purpose.

Section 6.5 Liens. Tenant shall keep the Premises, the Building, the Connector Building and Project free from any liens, including but not limited to liens filed against the Project or any part thereof by any governmental agency, authority or organization, arising out of any work performed, materials ordered or obligations incurred by or on behalf of Tenant, and Tenant hereby agrees to indemnify and hold Landlord, its agents, employees, independent contractors, officers, directors, partners, and shareholders harmless from any liability, cost or expense for such liens. Tenant shall cause any such lien imposed to be released of record by payment or posting of the proper bond acceptable to Landlord within thirty (30) days after the earlier of imposition of the lien or written request by Landlord. Tenant shall use commercially reasonable efforts to give Landlord written notice of Tenant's intention to perform work on the Premises which might result in any claim of lien, at least ten (10) days prior to the commencement of such work to enable Landlord to post and record a notice of nonresponsibility or other notice deemed proper before commencement of any such work. If Tenant fails to remove any lien within the prescribed thirty (30) day period, then Landlord may do so at Tenant's expense and Tenant shall reimburse Landlord for such amount, including reasonable attorneys' fees and costs, as Additional Rent within ten (10) days following Landlord's demand. Tenant shall have no power to do any act or make any contract which may create or be the foundation for any lien, mortgage or other encumbrance upon the reversion or other estate of Landlord, or of any interest of Landlord in the Premises.

Section 6.6 Indemnification.

(a) Tenant shall defend, indemnify and hold harmless Landlord, its agents, employees, members, managers and property managers (" Landlord's Related Parties ") from and against any and all liabilities, judgments, demands, causes, of action, claims, losses, damages, costs and expenses, including reasonable attorneys' fees and costs, arising out of (i) the use, occupancy, conduct, operation, or management of the Premises by, or the willful misconduct or negligence of, Tenant, its officers, contractors, licensees, agents, servants, or employees in or about the Project or (ii) any accident, injury, or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Project. This indemnification shall survive termination or expiration of this Lease. This provision shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries to third parties to the extent caused by the negligence or willful misconduct of Landlord, or its officers, contractors, agents or employees.

(b) Landlord shall defend, indemnify and hold harmless Tenant, its agents, employees, members, managers and property managers (" Tenant's Related Parties ") from and against any and all liabilities, judgments, demands, causes, of action, claims, losses, damages, costs and expenses, including reasonable attorneys' fees and costs, to the extent arising out of the willful misconduct or negligence of Landlord, its officers, contractors, licensees, agents, servants, and/or employees. This indemnification shall survive termination or expiration of this Lease. This provision shall not be construed to make Landlord responsible for loss, damage, liability or expense resulting from injuries to third parties to the extent caused by the negligence or willful misconduct of Tenant, or its officers, contractors, agents or employees.

ARTICLE VII

Section 7.1 Condemnation.

(a) Total Taking. In the event of a taking or damage related to the exercise of the power of eminent domain, by any agency, authority, public utility, person, corporation or entity empowered to condemn property (including without limitation a voluntary conveyance by Landlord in lieu of such taking or condemnation) (individually, a " Taking ") of (i) the entire Premises, or (ii) so much of the Premises as to prevent or substantially impair its use by Tenant during the Term of this Lease (individually, a " Total Taking "), the rights of Tenant under this Lease and the leasehold estate of Tenant in and to the Premises

shall cease and terminate as of the date upon which title to the property taken passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor (the “Date of Taking”).

(b) Partial Taking. In the event of a Taking of only a part of the Premises which does not constitute a Total Taking during the Term of this Lease (individually, a “Partial Taking”), the rights of Tenant under this Lease and the leasehold estate of Tenant in and to the portion of the property taken shall cease and terminate as of the Date of Taking, and an adjustment to the Rent shall be made based upon the reduced area of the Premises.

(c) Rent Adjustment. If this Lease is terminated pursuant to this Section 7.1, Landlord shall refund to Tenant any prepaid unaccrued Rent and any other sums due and owing to Tenant (less any sums then due and owing Landlord by Tenant).

(d) Repair. If this Lease is not terminated as provided for in this Section 7.1, then Landlord at its expense shall promptly repair and restore the Building, Project and/or the Premises to approximately the same condition that existed at the time Tenant entered into possession of the Premises, reasonable wear and tear excepted (and Landlord shall have no obligation to repair or restore Tenant’s improvements to the Premises or Tenant’s property), except for the part taken, so as to render the Building or Project as complete an architectural unit as practical, but only to the extent of the condemnation award received by Landlord for the damage.

(e) Awards and Damages. In the event of any Taking, Landlord and Tenant shall each have the right to prove and claim such sums and awards as they may show themselves to be entitled with respect to the Premises. In furtherance of the foregoing, Landlord and Tenant shall cooperate with each other in good faith and in the pursuit of any claims that they may have against the condemning authority with respect to the Premises in order to maximize the monetary recovery paid by the condemning authority. If this Lease is terminated as a result of such taking, the proceeds of any award shall be paid to Landlord and Tenant in the following order: (1) the payment of all reasonable fees and expenses incurred in collecting the award (if jointly pursued by Landlord and Tenant); (2) Landlord to receive the fair market value of (a) the land portion of the Project that is taken, (b) the leasehold estate created hereunder, and (c) Landlord’s residuary estate interest in the Project; (3) Tenant to receive the unamortized cost of the improvements constructed by Tenant; (4) Tenant to receive moving costs, loss of business and any other award available to Tenant (to the extent any of the foregoing are specifically awarded by the applicable condemning authority); and (5) the balance of any award (if any) shall be paid to Landlord. Termination of this Lease shall not affect the right of the respective parties to such awards. If this Lease is not terminated as a result of a taking, the entire award shall be paid to Landlord except that Tenant shall be entitled to such portion of the award in said eminent domain proceedings which is attributable to Tenant’s personal property and/or the unamortized cost of leasehold improvements constructed by Tenant, or loss of business and any other award available to Tenant (to the extent any of the foregoing are specifically awarded by the applicable condemning authority).

Section 7.2 Force Majeure. Neither Landlord nor Tenant shall be required to perform any term, provision, agreement, condition or covenant in this Lease (other than the obligations of Tenant to pay Rent as provided herein) so long as such performance is delayed or prevented by “Force Majeure”, which shall mean acts of God, strikes, injunctions, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, fire, theft, public enemy, insurrection, war, court order, requisition or order of governmental body or authority, and any other cause not reasonably within the control of Landlord or Tenant and which by the exercise of due diligence Landlord or Tenant is unable, wholly or in part, to prevent or overcome. Neither Landlord nor any mortgagee shall be liable or responsible to Tenant for any loss or damage to any property or person occasioned by any Force Majeure, or for any damage or inconvenience which may arise through repair or alteration of any part of the Project as a result of any Force Majeure.

Section 7.3 Fire or Other Casualty Damage. If any portion of the Premises shall be destroyed or damaged by fire or any other casualty, Tenant shall promptly give notice thereof to Landlord. If any material portion of the Premises or Project shall be destroyed or damaged by fire or any other casualty then, at the option of Landlord, Landlord may restore and repair the portion of the Premises or Project damaged and, if the Premises are rendered untenable in whole or in part by reason of such casualty as determined by Landlord, Tenant shall be entitled to an equitable abatement of the Rent hereunder (subject to the limitation in Section 7.3(b) below) until such time as the damaged portion of the Premises (exclusive of any of Tenant’s property or Tenant’s improvements) are repaired or restored by Landlord to the extent required hereby or Landlord may terminate this Lease upon sixty (60) days’ prior written notice to Tenant whereupon all Rent accrued up to the time of such termination and any other sums due and owing shall be paid by Tenant to Landlord (less any sums then due and owing Tenant

by Landlord) and any remaining sums due and owing by Landlord to Tenant shall be paid to Tenant. In no event shall Landlord have any obligation to repair or restore any such destruction or damage.

(a) Repair. Landlord shall give Tenant written notice of its decisions, estimates or elections under this Section 7.3 within thirty (30) days after Landlord receives a determination from its insurer of the insurance proceeds payable in connection with such damage or destruction; provided that if Landlord is unable to provide such notice to Tenant within sixty (60) days of the date of such damage or destruction for any reason, Landlord will keep Tenant apprised of the status of its evaluation of its options hereunder. If Landlord has elected to repair and restore the Premises or other portion of the Project, this Lease shall continue in full force and effect and Tenant shall pay Rent for that portion of the Premises that is not damaged and for any damaged space that Tenant utilizes, and the repairs to the damaged portion of the Premises will be made within a reasonable time thereafter (not to exceed two hundred-forty (240) days), subject to the provisions of Section 7.2 of this Lease. Should the repairs not be completed within that period, both Landlord and Tenant shall each have the option of terminating this Lease with respect to such untenable portion of the Premises by written letter of termination. If this Lease is terminated as herein permitted, Landlord shall refund to Tenant any prepaid Rent (unaccrued as of the date of damage or destruction) and any other sums due and owing by Landlord to Tenant (less any sums then due and owing Landlord by Tenant). If Landlord elects to rebuild the Premises or other portion of the Project, Landlord shall only be obligated to restore or rebuild the structural portion of the Premises or other portion of the Project to approximately the same structural condition as existed at the time Tenant entered into possession of the Premises, reasonable wear and tear excepted, and Landlord shall not be required to rebuild, repair or replace any part of Tenant's property, any leasehold improvements, any interior finishes or other non-structural components of the Premises (all of which shall be repaired and restored by Tenant at its sole cost and expense). Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from such damage or destruction or the disregard of the repair thereof. Upon completion of Landlord's repairs to and restoration of the Premises, Tenant shall resume the payment to Landlord of all Rent due and payable under this Lease.

(b) Termination Rights of Tenant. Notwithstanding the foregoing, in the event that (i) during the final twelve (12) months of the Term, the Premises are so damaged by fire or other casualty or the Building is so damaged by such causes such that Tenant's use of the Premises is materially impaired or (ii) if within two hundred forty (240) days after Landlord's receipt of insurance proceeds (A) such damage cannot be repaired as reasonably determined by Landlord's architect, or (B) if repairs are undertaken by Landlord and not repaired within such period, then Tenant may terminate this Lease with respect to such untenable portion of the Premises upon prior written notice to Landlord delivered within twenty (20) days after the expiration of such two hundred forty (240)-day period (and, in all events, prior to Landlord's completion of such repairs).

(c) Gross Negligence of Tenant. Notwithstanding the provisions of Section 7.3(a) of this Lease, if the Premises, the Project or any portion thereof, are damaged by fire or other casualty resulting from the gross negligence or willful misconduct of Tenant, based on the determination of the fire marshal and insurer of the Building, of Tenant or any of Tenant's agents, the Rent under this Lease will not be abated during the repair of that damage

Section 7.4 Insurance

(a) Landlord shall maintain, or cause to be maintained, standard fire and extended coverage insurance (including loss of rents) on the Building (excluding interior improvements and Tenant's property) in amounts considered by Landlord to be reasonable and customary. The insurance required to be obtained by Landlord may be obtained by Landlord through blanket or master policies insuring other entities or properties owned or controlled by Landlord. Landlord may also, in its sole discretion, carry such other insurance as it deems desirable with respect to the Project.

(b) Tenant shall, at its sole cost and expense, procure and maintain during the Term of this Lease all such policies of insurance as Landlord may require, including without limitation commercial general liability insurance (including personal injury liability, premises/operation, property damage, independent contractors and broad form contractual coverage in support of the indemnifications of Landlord by Tenant under this Lease) in amounts of not less than a combined single limit of One Million and 00/100 Dollars (\$1,000,000.00); comprehensive automobile liability insurance; business interruption insurance; contractual liability insurance; property insurance with respect to Tenant's personal property and all leasehold or interior improvements, alterations and additions in the Premises, to be written on an "all risk" basis for full replacement cost; worker's compensation and employer's liability insurance; and comprehensive catastrophe liability insurance; all maintained with companies, on forms and in such amounts as Landlord may, from time to time, reasonably require and endorsed to include

Landlord as an additional insured, with the premiums fully paid on or before the due dates. The insurer must be licensed to do business in the state in which the Building is located. Tenant, and not Landlord, will be liable for any costs or damages in excess of the statutory limit for which Tenant would, in the absence of worker's compensation, be liable. In the event that Tenant fails to take out or maintain any policy required by this Section 7.4 to be maintained by Tenant, such failure shall be a defense to any claim asserted by Tenant against Landlord by reason of any loss sustained by Tenant that would have been covered by such policy, notwithstanding that such loss may have been proximately caused solely or partially by the negligence or willful misconduct of Landlord or any of Landlord's Related Parties. If Tenant does not procure insurance as required, then Landlord may, upon written notice to Tenant, cause this insurance to be issued and Tenant shall pay to Landlord the premium for such insurance within ten (10) days of Landlord's demand, plus interest at the past due rate provided for in Section 3.1(c) of this Lease until repaid by Tenant. All policies of insurance required to be maintained by Tenant shall specifically make reference to the indemnifications by Tenant in favor of Landlord under this Lease and shall provide that Landlord shall be given at least thirty (30) days prior written notice of any cancellation or nonrenewal of any such policy. A certificate evidencing each such policy shall be deposited with Landlord by Tenant on or before the Commencement Date and thereafter within ten (10) days following Landlord's request, and a replacement certificate evidencing each subsequent policy shall be deposited with Landlord promptly following the expiration of the preceding such policy. Tenant shall have the right to obtain any policies of insurance required to be obtained by Tenant through blanket or master policies insuring other entities or properties owned or controlled by Tenant, provided that the per location limits specified herein are allocated to the Premises therein. Additionally, of the general liability coverage required herein to be maintained by Tenant, amounts in excess of One Million and 00/100 Dollars (\$1,000,000.00) may be covered by an umbrella policy.

(c) Notwithstanding anything to the contrary contained in this Lease, including, without limitation, this Article VII, at any time during the Term of this Lease, Tenant shall have the right, at its option and provided Landlord's Mortgagee consents thereto, to elect to self-insure for any and/or all of the insurance required to be maintained by Tenant under this Lease provided the following terms and conditions are and remain satisfied: (i) Tenant and/or any entity with which Tenant's financial information is consolidated and which is liable under this Lease (expressly including TRI) has a net worth equal to or greater than the Required Net Worth (as hereinafter defined); (ii) Tenant provides written notice to Landlord of Tenant's election to self-insure in accordance with this paragraph; and (iii) Tenant agrees to indemnify Landlord for any costs and/or expenses (including reasonable attorneys' fees) incurred by Landlord arising from events that would otherwise have been covered by Tenant's insurance to the extent Tenant had not elected to self-insure. As used in the preceding sentence, the "Required Net Worth" shall initially mean One Hundred Million Dollars (\$100,000,000) and such amount shall increase three percent (3%) per annum (cumulatively) on each anniversary of the Commencement Date.

Section 7.5 Waiver of Subrogation Rights. Each party hereto waives all rights of recovery, claims, actions or causes of actions arising in any manner in its (the "Injured Party") favor and against the other party for loss or damage to the Injured Party's property located within or constituting a part or all of the Project, to the extent the loss or damage: (a) is covered by the Injured Party's insurance; or (b) would have been covered by the insurance the Injured Party is required to carry under this Lease, whichever is greater, regardless of the cause or origin, including the sole, contributory, partial, joint, comparative or concurrent negligence of the other party. This waiver also applies to each party's directors, officers, employees, shareholders, partners, representatives and agents. All insurance carried by either Landlord or Tenant covering the losses and damages described in this Section 7.5 shall provide for such waiver of rights of subrogation by the Injured Party's insurance carrier to the maximum extent that the same is permitted under the laws and regulations governing the writing of insurance within the state in which the Building is located. Both parties hereto are obligated to obtain such a waiver and provide evidence to the other party of such waiver. The waiver set forth in this Section 7.5 shall be in addition to, and not in substitution for, any other waivers, indemnities or exclusions of liability set forth in this Lease.

ARTICLE VIII.

Section 8.1 Default by Tenant. The occurrence of any one or more of the following events shall constitute a default by Tenant under this Lease:

(a) Tenant shall fail to pay to Landlord any Rent or any other monetary charge due from Tenant hereunder on or before five (5) business days after written notice thereof from Landlord to Tenant, provided that Landlord shall not be required to provide such notice more than twice during any twelve (12) month period with respect to nonpayment of Rent, the third such nonpayment constituting a default without the requirement of notice;

(b) Tenant breaches or fails to comply with any term, provision, condition or covenant of this Lease, other than as described in Section 8.1(a) and such failure continues for thirty (30) days after Tenant's receipt of written notice from Landlord (provided that if such failure cannot be reasonably cured within thirty (30) days, then Tenant shall have an additional reasonable period of time within which to cure such failure so long as Tenant commences the cure thereof within such thirty (30) day period and thereafter diligently prosecutes completion of such cure);

(c) A Transfer (hereinafter defined) shall occur without the prior written approval of Landlord (to the extent Landlord's approval is otherwise required pursuant to the terms and conditions of this Lease);

(d) The interest of Tenant under this Lease shall be levied on under execution or other legal process;

(e) Any petition in bankruptcy or other insolvency proceedings shall be filed by or against Tenant, or any petition shall be filed or other action taken to declare Tenant a bankrupt or to delay, reduce or modify Tenant's debts or obligations or to reorganize or modify Tenant's capital structure or indebtedness or to appoint a trustee, receiver or liquidator of Tenant or of any property of Tenant, or any proceeding or other action shall be commenced or taken by any governmental authority for the dissolution or liquidation of Tenant and, within thirty (30) days hereafter, Tenant fails to secure a discharge thereof;

(f) Tenant shall become insolvent, or Tenant shall make an assignment for the benefit of creditors, or Tenant shall make a transfer in fraud of creditors, or a receiver or trustee shall be appointed for Tenant or any of its properties; or

(g) Tenant shall do or permit to be done anything which creates a lien upon the Premises, the Project or any portion thereof and such lien is not otherwise released (or bonded over) within thirty (30) days following written notice from Landlord.

Section 8.2 Landlord's Remedies. Upon occurrence of any default by Tenant under this Lease beyond any applicable notice and cure period granted to Tenant under Section 8.1 above, Landlord shall have the option to do and perform any one or more of the following (all of which rights and remedies shall be cumulative) in addition to, and not in limitation of, any other remedy or right permitted it by law or in equity or by this Lease:

(a) Continue this Lease in full force and effect, and this Lease shall continue in full force and effect as long as Landlord does not terminate this Lease, and Landlord shall have the right to collect Rent, Additional Rent and other charges when due.

(b) Terminate this Lease, and Landlord may forthwith repossess the Premises and be entitled to recover as damages a sum of money equal to the total of (i) the cost of recovering the Premises, (ii) the cost of removing and storing Tenant's or any other occupant's property, (iii) the unpaid Rent and any other sums accrued hereunder at the date of termination, (iv) accelerated Base Rent in accordance with Section 8.2(g) below, (v) the cost of restoring the Premises to the condition which Tenant is required to return the Premises at the end of the Term of this Lease, (vi) the amount of any unamortized improvements to the Premises paid for by Landlord (if any) to Tenant, (vii) the amount of any unamortized brokerage commission or other costs paid by Landlord in connection with the leasing of the Premises (if any) to Tenant, and (viii) any other sum of money or damages owed by Tenant to Landlord or incurred by Landlord as a result of such Tenant default. In the event Landlord shall elect to terminate this Lease, Landlord shall at once have all the rights of reentry upon the Premises, without becoming liable for damages, or guilty of trespass.

(c) Terminate Tenant's right of occupancy of the Premises and reenter and repossess the Premises by entry, forcible entry or detainer suit or otherwise, without demand or notice of any kind to Tenant and without terminating this Lease, without acceptance of surrender of possession of the Premises, and without becoming liable for damages or guilty of trespass, in which event Landlord may, but shall be under no obligation to, relet the Premises or any part thereof for the account of Tenant (nor shall Landlord be under any obligation to relet the Premises before Landlord relets or leases any other portion of the Project or any other property under the ownership or control of Landlord) for a period equal to or lesser or greater than the remainder of the Term of the Lease on whatever terms and conditions Landlord, at Landlord's sole discretion, deems advisable. Tenant shall be liable for and shall pay to Landlord all Rent payable by Tenant under this Lease (plus interest at the past due rate provided in Section 3.1(c) of this Lease if in arrears) plus an amount equal to (i) the cost of recovering possession of the

Premises, (ii) the cost of removing and storing any of Tenant's or any other occupant's property left on the Premises or the Project after reentry, (iii) the cost of restoring the Premises to the condition which Tenant is required to return the Premises at the end of the Term of this Lease, (iv) the cost of any reletting or attempted reletting and the collection of the rent accruing from such reletting, (v) the cost of any brokerage fees or commissions payable by Landlord in connection with any such reletting or attempted reletting, (vi) the amount of any unamortized improvements to the Premises paid for by Landlord (if any) to Tenant, (vii) the amount of any unamortized brokerage commissions or other costs paid by Landlord in connection with the leasing of the Premises (if any) to Tenant, and (viii) any other sum of money or damages owed by Tenant to Landlord at law, in equity or hereunder or incurred by Landlord as a result of such Tenant default, all reduced by any sums actually received by Landlord through any reletting of the Premises; provided, however, that in no event shall Tenant be entitled to any excess of any sums obtained by reletting over and above Rent provided in this Lease to be paid by Tenant to Landlord. Landlord may file suit to recover any sums falling due under the terms of this Section 8.2(c) from time to time, and no delivery to or recovery by Landlord of any portion due Landlord hereunder shall be any defense in any action to recover any amount not theretofore reduced to judgment in favor of Landlord. No reletting shall be construed as an election on the part of Landlord to terminate this Lease unless a written notice of such intention is given to Tenant by Landlord. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous default and/or exercise its rights under Section 8.2(b) of this Lease.

(d) Enter upon the Premises and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord within thirty (30) days of Landlord's demand for any reasonable expenses which Landlord may actually incur in effecting compliance with Tenant's obligations under this Lease plus ten percent (10%) of such cost to cover overhead plus interest at the past due rate provided in this Lease. No action taken by Landlord under this Section 8.2(d) shall relieve Tenant from any of its obligations under this Lease or from any consequences or liabilities arising from the failure to perform such obligations.

(e) Intentionally Omitted.

(f) Exercise any and all other remedies available to Landlord in this Lease, at law or in equity.

(g) Subject to the terms and conditions of this Section 8.2(g), upon the termination of this Lease by Landlord in accordance with this Section 8.2,

(i) in the event Landlord has re-leased the Premises to a replacement tenant as of the date Landlord elects to terminate this Lease in accordance with this Section 8.2, Landlord may declare to be due and payable immediately the difference between (x) the entire amount of Base Rent payable during the remainder of the Term (in the absence of the termination of this Lease), and (y) the amount of Base Rent payable by the replacement tenant for the Premises for the remainder of the Term. Upon the acceleration of such amounts, Tenant agrees to pay the same promptly following written demand from Landlord; provided, however, that such payment shall not constitute a penalty or forfeiture, but shall constitute liquidated damages for Tenant's failure to comply with the terms and provisions of this Lease.

(ii) in the event Landlord has not re-leased the Premises to a replacement tenant as of the date Landlord elects to terminate this Lease in accordance with this Section 8.2, Landlord may declare to be due and payable immediately the then present value (calculated with a discount factor of eight percent (8%) per annum) of the difference between (x) the entire amount of Base Rent payable during the remainder of the Term (in the absence of the termination of this Lease), and (y) the then fair market rental value of the Premises for the remainder of the Term. Upon the acceleration of such amounts, Tenant agrees to pay the same promptly following written demand from Landlord; provided, however, that such payment shall not constitute a penalty or forfeiture, but shall constitute liquidated damages for Tenant's failure to comply with the terms and provisions of this Lease (Landlord and Tenant agreeing that Landlord's actual damages in such event are impossible to ascertain and that the amount set forth above is a reasonable estimate thereof).

Section 8.3 **Duty to Mitigate.** At any time after the termination of Tenant's possession of the Premises pursuant to Section 8.2 above, Landlord shall use commercially reasonable efforts to re-let the Premises. In this connection, Landlord shall be deemed to have made such commercially reasonable efforts if Landlord shall: (a) post a "For Lease" sign on the Premises; (b) advise Landlord's leasing agent of the availability of the Premises; and (c) advise at least one outside commercial

brokerage entity of the availability of the Premises. However, Landlord shall not be obligated: (A) to enter into any Lease with any prospective replacement tenant who lacks adequate creditworthiness, experience, or does not have a good reputation for fair and honorable dealings, as determined by Landlord in its reasonable discretion; (B) to relet the Premises at less than the then prevailing market rentals or then prevailing market terms, although Landlord shall be entitled to do so if it should so elect (in its sole discretion); (C) to favor the Premises over any other vacant space then existing in the Project; or (E) to enter into a lease with any prospective replacement tenant whose use would be incompatible with the Project or with the tenant mix of the Project, or whose use would violate any restriction, covenant, or requirement contained in the lease of any other tenant of the Project, all in Landlord's sole discretion. Tenant agrees that Landlord shall not be liable, nor shall Tenant's obligations hereunder be diminished, because of Landlord's failure to relet the Premises or collect rent due with respect to such reletting. If Landlord receives any payments from the reletting of the Premises and is required to mitigate damages (despite the intent of the parties hereunder), any such payment shall first be applied to any costs or expenses incurred by Landlord as a result of Tenant's Default under this Lease.

Section 8.4 Reentry. If Tenant fails to allow Landlord to reenter and repossess the Premises, Landlord shall have full and free license to enter into and upon the Premises with or without process of law for the purpose of repossessing the Premises, expelling or removing Tenant and any others who may be occupying or within the Premises, and removing any and all property therefrom. Landlord may take these actions without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, without accepting surrender of possession of the Premises by Tenant, and without incurring any liability for any damage resulting therefrom, including without limitation any liability arising under applicable state law and without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law or in equity, Tenant hereby waiving any right to claim damage for such reentry and expulsion, including without limitation any rights granted to Tenant by applicable state law.

Section 8.5 Rights of Landlord in Bankruptcy. Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency, by reason of the expiration or termination of this Lease or the termination of Tenant's right of occupancy, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to in this Section 8.5. In the event that under applicable law, the trustee in bankruptcy or Tenant has the right to affirm this Lease and continue to perform the obligations of Tenant hereunder, such trustee or Tenant shall, in such time period as may be permitted by the bankruptcy court having jurisdiction, cure all defaults of Tenant hereunder outstanding as of the date of the affirmance of this Lease and provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations under this Lease.

Section 8.6 Waiver of Certain Rights. Tenant hereby expressly waives any and all rights Tenant may have under applicable state law to its right to redeem the Premises or otherwise recover possession of the Premises after a termination of this Lease or Tenant's right of possession hereunder pursuant to Section 8.2 herein.

Section 8.7 Non-Waiver. Failure on the part of either party to complain of any action or nonaction on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by the non-defaulting party of any of its rights under this Lease. Further, it is covenanted and agreed that no waiver at any time of any of the provisions hereof by either party shall be construed as a waiver of any of the other provisions hereof and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval by Landlord to or of any action by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant.

Section 8.8 Holding Over. In the event Tenant remains in possession of the Premises after the expiration or termination of this Lease without the execution of a new lease, then Tenant, at Landlord's option, shall be deemed to be occupying the Premises as a tenant-at-will (and not a month-to-month tenancy) at a base rental equal to one hundred fifty percent (150%) of the then applicable Base Rent, and shall otherwise remain subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will, including without limitation the payment of all other Rent; provided, however, nothing contained herein shall require Landlord to give Tenant more than thirty (30) days prior written notice to terminate Tenant's tenancy-at-will. No holding over by Tenant after the expiration or termination of this Lease

shall be construed to extend or renew the Term or in any other manner be construed as permission by Landlord to hold over, and Tenant hereby waives any rights that Tenant may have under KRS §383.160 to extend the term.

Section 8.9 Abandonment of Personal Property. Any personal property left in the Premises or any personal property of Tenant left about the Project at the expiration or termination of this Lease or the termination of Tenant's right to occupy the Premises shall be deemed abandoned by Tenant and may, at the option of Landlord, be immediately removed from the Premises or such other space by Landlord and stored by Landlord at the full risk, cost and expense of Tenant. Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. In the event Tenant does not reclaim any such personal property and pay all costs for any storage and moving thereof within thirty (30) days after the expiration or termination of this Lease, the termination of Tenant's right to occupy the Premises or the abandonment, desertion or vacating of the Premises by Tenant, Landlord may dispose of such personal property in any way that it deems proper. If Landlord shall sell any such personal property, it shall be entitled to retain from the proceeds the amount of any Rent or other expenses due Landlord, together with the cost of storage and moving and the expense of the sale. Notwithstanding anything contained herein to the contrary, in addition to the rights provided herein with respect to any such property, Landlord shall have the option of exercising any of its other rights or remedies provided in the Lease or exercising any rights or remedies available to Landlord at law or in equity.

Section 8.10 Landlord Default. The following shall be deemed a "Landlord Default" by Landlord hereunder and a material breach of this Lease: If Landlord fails to keep, perform or observe any of the covenants, agreements, terms or provisions, warranties or representations contained in this Lease that are to be kept or performed by Landlord and Landlord fails to cure such default within thirty (30) days after receiving notice from Tenant thereof (or, if same cannot reasonably be cured within thirty (30) days, if Landlord shall fail to commence such cure within thirty (30) days following Tenant's notice and diligently prosecute said cure to completion). If a Landlord Default occurs, Tenant may, at any time thereafter prior to the curing thereof and without waiving any other rights hereunder or available to Tenant at law or in equity (Tenant's rights being cumulative), do any one or more of the following: (A) perform Landlord's obligations hereunder and offset the reasonable costs and expenses incurred by Tenant in doing so against Base Rent thereafter coming due hereunder to the extent Landlord fails to reimburse such reasonable costs within thirty (30) days following written demand (provided in no event shall Tenant be permitted to offset more than twenty percent [20%] of Base Rent in any given month); or (B) bring suit for the collection of any amounts for which Landlord is in default, seek injunctive relief, or seek specific performance for any other covenant or agreement of Landlord, without terminating this Lease.

ARTICLE IX.

Section 9.1 Transfers. Tenant shall not, by operation of law or otherwise, (a) assign, transfer, mortgage, pledge, hypothecate or otherwise encumber this Lease, the Premises or any part of or interest in this Lease or the Premises, (b) grant any concession or license within the Premises, (c) sublet all or any part of the Premises or any right or privilege appurtenant to the Premises, or (d) permit any other party to occupy or use all or any part of the Premises (collectively, a "Transfer"), without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. This prohibition against a Transfer includes, without limitation, (i) any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure; (ii) an assignment or subletting to or by a receiver or trustee in any Federal or State bankruptcy, insolvency, or other proceedings; or (iii) the sale, assignment or transfer of all or substantially all of the assets of Tenant, with or without specific assignment of Lease. If Tenant requests Landlord's consent to any Transfer, then Tenant shall provide Landlord with a written description of the terms and conditions of the proposed Transfer, copies of the proposed documentation, and the following information about the proposed transferee: name and address; reasonably satisfactory information about its business and business history; its proposed use of the Premises; a copy of the proposed sublease or assignment agreement; banking, financial and other credit information; and general references sufficient to enable Landlord to determine the proposed transferee's creditworthiness and character. Landlord's consent to a Transfer shall not release Tenant from performing its obligations under this Lease, but rather Tenant's transferee shall assume all of Tenant's obligations under this Lease in a writing satisfactory to Landlord, and Tenant and its transferee shall be jointly and severally liable therefor. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfer. While the Premises or any part thereof are subject to a Transfer and if Tenant is in default beyond the expiration of any applicable notice and cure periods hereunder, Landlord may collect directly from such transferee all rents or other sums relating to the Premises becoming due to Tenant or Landlord and apply such rents and other sums against the Rent and any other sums payable hereunder. In the event that Tenant is in default beyond the expiration of any applicable

notice and cure periods, Tenant authorizes its transferees to make payments of rent and any other sums due and payable, directly to Landlord upon receipt of notice from Landlord to do so. Any attempted Transfer by Tenant in violation of the terms and covenants of this Article IX shall be void and shall constitute a default by Tenant under this Lease. In the event that Tenant requests that Landlord consider a sublease or assignment hereunder, Tenant shall pay Landlord's reasonable fees, not to exceed Five Hundred and 00/100 Dollars (\$500.00) per transaction, incurred in connection with the consideration of such request.

In the event that Tenant sublets the Premises to an unrelated third party during the Term of this Lease, then Tenant shall pay to Landlord as Additional Rent an amount equal to fifty percent (50%) of any Increased Rent (as hereinafter defined) when and as such Increased Rent is received by Tenant net of any Transfer Costs (as hereinafter defined) in accordance with and subject to the terms and conditions of this paragraph. Tenant shall pay such amounts to Landlord within fifteen (15) days following the date Tenant receives the Increased Rent less any Transfer Costs from such subtenant. As used in this Section paragraph, "Increased Rent" shall mean the excess of (1) all Base Rent which Tenant is entitled to receive by reason of any sublease of the Premises, over (2) the Base Rent otherwise payable by Tenant under this Lease at such time. As used in this Lease, "Transfer Costs" means the outstanding balance of the sum of the following items: (i) the monthly amortization of the cost of any additional tenant improvements required for the subleasing of such portion of the Premises paid by Tenant (amortized over the term of the applicable sublease); (ii) the monthly amortization cost of reasonable and actual leasing commissions paid by Tenant in connection with the sublease to the transferee (amortized over the term of the applicable sublease); and (iii) reasonable marketing expenses paid directly by Tenant to sublease the space (to the extent not included in a brokerage commission paid by Tenant). Landlord shall have the right to audit Tenant's books and records relating to amounts relating to this paragraph, provided Landlord gives at least thirty (30) days prior written notice to Tenant of its election to audit such books and records. For clarity, the provisions of this paragraph shall not apply with respect to rents received by Tenant pursuant to the Subleases (as defined in Section 11.1 below)

Notwithstanding any provision to the contrary, Tenant may assign this Lease or sublet the Premises without Landlord's consent (i) to any corporation or other entity that controls, is controlled by or is under common control with Tenant; (ii) to any corporation or other entity resulting from a merger, acquisition, consolidation or reorganization of or with Tenant; and/or (iii) to the purchaser in connection with the sale of all or substantially all of the assets of Tenant (a "Permitted Transferee"), so long as Tenant provides evidence to Landlord in writing that such assignment or sublease complies with the criteria set forth in (i), (ii) or (iii) above and provided the following conditions are met: (1) if Tenant does not remain in existence as a separate legal entity following the transfer, the net worth of the transferee is equal to or greater than the Required Net Worth (as defined in Section 7.4(c) above) at the time of such assignment, (2) if Tenant remains in existence as a separate legal entity following the transfer, it shall not be released from liability under this Lease, (3) the transferee shall assume in a writing delivered to Landlord all of Tenant's obligations under the Lease effective upon the consummation of the transfer, and (4) Tenant shall give written notice to Landlord of the proposed transfer at least fifteen (15) days in advance of the consummation thereof. Notwithstanding any Transfer to a Permitted Transferee or any Transfer made with Landlord's consent, Tenant shall remain liable (jointly and severally with any transferee) for all obligations hereunder for the entire Term. Additionally, at all times, Tenant shall have the right, without Landlord's consent (but otherwise subject to the terms and conditions of this Lease), to allow a third party to operate the restaurant to be located in the Connector Building.

Section 9.2 Assignment by Landlord. Landlord shall have the right at any time to sell, transfer or assign, in whole or in part, by operation of law or otherwise, its rights, benefits, privileges, duties, obligations or interests in this Lease or in the Premises, the Building, the Land, the Project and all other property referred to herein, without the prior consent of Tenant, and such sale, transfer or assignment shall be binding on Tenant. After such sale, transfer or assignment and provided such transferee assumes Landlord's obligations thereafter arising under this Lease in writing, Tenant shall attorn to such purchaser, transferee or assignee, and Landlord shall be released from all liability and obligations under this Lease first accruing after the effective date of such sale, transfer or assignment. Notwithstanding the foregoing, Tenant shall have no obligation to pay any Base Rent or any other charges becoming due hereunder to any successor of Landlord until such time as Tenant has received written notice regarding the assignment of this Lease to such successor of Landlord, and Landlord shall remain liable to such successor for all Base Rent (and any other payments by Tenant for charges hereunder) received by Landlord after such assignment and prior to Tenant's receipt of written notice of such assignment and Landlord shall defend Tenant against any claim by such successor of Landlord for such Base Rent (and any other payments by Tenant for charges hereunder) received by Landlord following the actual date of such assignment but prior to the date Tenant receives written notice of the same.

Section 9.3 Limitation of Landlord's Liability. Any provisions of this Lease to the contrary notwithstanding, Tenant hereby agrees that no personal or entity liability of any kind or character (including, without limitation, the payment of any judgment) whatsoever now attaches or at any time hereafter under any condition shall attach to Landlord or any of Landlord's Related Parties or any mortgagee for payment of any amounts payable under this Lease or for the performance of any obligation under this Lease. The exclusive remedies of Tenant for the failure of Landlord to perform any of its obligations under this Lease shall be to proceed against the interest of Landlord in and to the Project. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest or any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by Landlord. In no event shall Landlord be liable to Tenant, or any interest of Landlord in the Project be subject to execution by Tenant, for any indirect, special, consequential or punitive damages. Notwithstanding the foregoing, in the event that Landlord shall be adjudicated, according to a final non-appealable judgment, to be liable to Tenant for damages arising under this Lease, and such liability of Landlord cannot be satisfied by Landlord's interest in the Project or from the proceeds of Landlord's insurance to the extent applicable, Tenant shall have the right to satisfy the remaining liability of Landlord by offsetting against fifty percent (50%) Tenant's monthly Rent obligations under this Lease until the liability of Landlord under the judgment has been satisfied.

ARTICLE X.

Section 10.1 Subordination. This Lease shall be subject and subordinated at all times to (a) all ground or underlying leases now existing or which may hereinafter be executed affecting the Project, and (b) the lien or liens of all mortgages and deeds of trust in any amount or amounts whatsoever now existing or hereafter placed on the Project or Landlord's interest or estate therein or on or against such ground or underlying leases and to all renewals, modifications, consolidations, replacements and extensions thereof and to each advance made or hereafter to be made thereunder. Within thirty (30) days following written demand, Tenant shall execute and deliver any commercially reasonable instruments, releases or other documents reasonably requested by any lessor or mortgagee for the purpose of subjecting and subordinating this Lease to such ground leases, mortgages or deeds of trust. Landlord shall obtain, at Landlord's sole cost and expense, from any future mortgagee of Landlord a subordination, non-disturbance and attornment agreement (" SNDA ") in favor of Tenant, which SNDA shall be reasonably acceptable to Tenant and shall contain language setting forth that (A) such mortgagee or successor in interest shall not be (a) liable for any act or omission of, or subject to any rights of setoff, claims or defenses otherwise assertable by Tenant against, any prior owner of the Project (including without limitation, Landlord) unless such party has received written notice of any prior default and such default is continuing in nature, (b) bound by any rents paid more than one (1) month in advance to any prior owner, and (c) bound by any Material Modification (as hereinafter defined) of this Lease made without mortgagee or successor in interest's consent (such consent not to be unreasonably withheld, conditioned or delayed), and (B) Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail, to any mortgagee or lessor under a lien instrument or lease covering the Premises whose address has been given to Tenant, and affording such mortgagee or lessor a reasonable opportunity to perform Landlord's obligations hereunder. As used in this paragraph, the term " Material Modification " shall mean any amendment or modification of this Lease which (i) shortens or extends the Term of this Lease (excluding Tenant's Extension Option(s) set forth in Section 12.19 below), (ii) results in a reduction of rent or other sums due and payable by Tenant pursuant to this Lease, (iii) increases Landlord's obligations under this Lease by more than a de minimus extent, or (iv) decreases Tenant's obligations under this Lease by more than a de minimus extent. Tenant shall attorn to any party succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease or otherwise, only upon such party's request and at such party's sole discretion but not otherwise. Tenant shall execute all such agreements confirming such attornment as such party may reasonably request. Notwithstanding the generality of the foregoing, any mortgagee or ground lessor may at any time subordinate any such deeds of trust, mortgages, other security instruments or ground leases to this Lease on such terms and conditions as such mortgagee or ground lessor may deem appropriate.

Section 10.2 Estoppel Certificate. Each party agrees within thirty (30) days following request by the other party to execute, acknowledge and deliver to the requesting party and any other person or entity reasonably specified in such request, a certificate, certifying (i) that this Lease is unmodified and in full force and effect, or, if modified, stating the nature of such modification, (ii) the date to which the Rent and other charges are paid in advance, if any, (iii) that there are not, to either party's actual knowledge, any uncured defaults beyond any applicable notice and cure period, or so specifying such defaults, if any, as are claimed and/or (iv) any other matters as may reasonably be requested.

Section 10.3 Notices. Any notice, request, approval, consent or other communication required or contemplated by this Lease must be in writing, unless otherwise in this Lease expressly provided, and may be given or be served by depositing the same in the United States Postal Service, postpaid and certified and addressed to the party to be notified, with return receipt requested, or by delivering the same in person to such party (or, in case of a corporate party, to an officer of such party), or by prepaid telegram or express overnight mail service, when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be effective from and after three (3) business days after such deposit. Notice given in any other manner shall be effective only if and when delivered to the party to be notified or at such party's address for purposes of notice as set forth herein. For purposes of notice the addresses of the parties shall, until changed as herein provided, be as provided on the first page of this Lease; provided, that any notices sent to Landlord will only be effective if copies thereof are simultaneously sent to Paragon Centre Holdings, LLC, 6060 Dutchmans Lane, Suite 110, Louisville, Kentucky 40205, Attention: Mr. David Nicklies; and provided, that any notices sent to Tenant will only be effective if copies thereof are simultaneously sent to the attention of Tenant at 6040 Dutchmans Lane, Louisville, Kentucky 40205, Attention: Legal Department. The parties hereto shall have the right from time to time to change their respective addresses by giving at least fifteen (15) days' written notice to the other party in the manner set forth in this Section 10.3.

ARTICLE XI.

Section 11.1 Subleases. Portions of One Paragon Centre are leased to CBRE, Inc. and Nicklies & Company (individually an "Existing Tenant" and, collectively, the "Existing Tenants") pursuant to the Lease Agreements set forth on Exhibit E attached hereto and incorporated herein (individually a "Sublease" and, collectively, the "Subleases"). In furtherance of this Lease and Tenant's lease of the entire Building, Landlord shall assign its interest in the Subleases to Tenant, and Tenant shall then sublease such portions of the Premises to the Existing Tenants pursuant to the Subleases. Notwithstanding anything in this Lease to the contrary, Landlord and Tenant agree as follows with respect to the Subleases:

- (a) Contemporaneous with the execution hereof, Landlord and Tenant shall execute and deliver to each other a Lease Assignment and Assumption Agreement in the form attached hereto and incorporated herein as Exhibit F, pursuant to which Landlord shall assign all of its right, title and interest in and to the Sublease Agreements to Tenant, and Tenant shall assume, perform and discharge all obligations of the "landlord" under the Subleases.
- (b) Tenant shall hereafter perform, observe and discharge all obligations of the "landlord" under the Subleases as fully as if the Subleases were a direct sublease entered into by and between Tenant and the Existing Tenants.
- (c) The lobby, hallways and common restrooms on the first floor of One Paragon Centre shall remain "common areas" pursuant to the Subleases for the non-exclusive use and benefit of the Existing Tenants and their respective agents, employees, licensees and invitees so long as at least one of the Subleases is in effect. Tenant shall maintain, repair and, if necessary, replace such common areas in a first-class condition at its sole cost and expense.
- (d) Contemporaneous with the execution of this Lease, Landlord shall assign any and all security deposits currently being maintained by Landlord under the terms and conditions of the Subleases.
- (e) To the extent the Subleases are still in effect, then upon the expiration or termination of this Lease, Tenant shall assign its entire right, title and interest in the Subleases to Landlord.

Section 11.2 Existing Lease. This Lease shall be a replacement for and shall operate to terminate the Existing Leases in their entirety; provided, however, Landlord and Tenant shall remain liable for their respective obligations under the Existing Leases with respect to periods prior to the date hereof.

ARTICLE XII.

Section 12.1 Rights and Remedies Cumulative. The rights and remedies of each party under this Lease shall be nonexclusive and each right or remedy shall be in addition to and cumulative of all other rights and remedies available to the non-defaulting party under this Lease or at law or in equity. Pursuit of any right or remedy shall not preclude pursuit of any other rights or remedies provided in this Lease or at law or in equity, nor shall pursuit of any right or remedy constitute a

forfeiture or waiver of any Rent due to Landlord or of any damages accruing to Landlord by reason of the violation of any of the terms of this Lease.

Section 12.2 Legal Interpretation. This Lease and the rights and obligations of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the state in which the Building is located and the United States. The determination that one or more provisions of this Lease is invalid, void, illegal or unenforceable shall not affect or invalidate any other provision of this Lease, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Lease, and, so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. All obligations of either party hereunder not fully performed as of the expiration or termination of the Term of this Lease shall survive the expiration or termination of the Term of this Lease and shall be fully enforceable in accordance with those provisions pertaining thereto. Article and section titles and captions appearing in this Lease are for convenient reference only and shall not be used to interpret or limit the meaning of any provision of this Lease. No custom or practice which may evolve between the parties in the administration of the terms of this Lease shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms of this Lease. Except as otherwise set forth herein, this Lease is for the sole benefit of Landlord and Tenant, and, without the express written consent thereto, no third party shall be deemed a third party beneficiary hereof. Subject to Section 11.2 above, Tenant agrees that this Lease supersedes and cancels any and all previous statements, negotiations, arrangements, brochures, agreements and understandings, if any, between Landlord and Tenant with respect to the subject matter of this Lease or the Premises and that this Lease, including written extrinsic documents referred to herein, is the entire agreement of the parties, and that there are no representations, understandings, stipulations, agreements, warranties or promises (express or implied, oral or written) between Landlord and Tenant with respect to the subject matter of this Lease or the Premises. It is likewise agreed that this Lease may not be altered, amended, changed or extended except by an instrument in writing signed by both Landlord and Tenant. The terms and provisions of this Lease shall not be construed against or in favor of a party hereto merely because such party is the "Landlord" or the "Tenant" hereunder or because such party or its counsel is the draftsman of this Lease. All references to days in this Lease and any Exhibits or Addenda hereto mean calendar days, not working or business days, unless otherwise stated.

Section 12.3 Tenant's Authority. Tenant warrants and represents unto Landlord that (a) Tenant is a duly organized and validly existing legal entity, in good standing and qualified to do business in the state in which the Building is located, with no proceedings pending or contemplated for its dissolution or reorganization, voluntary or involuntary, (b) Tenant has full right, power and authority to execute, deliver and perform this Lease, (c) the person executing this Lease on behalf of Tenant is authorized to do so, and (d) upon execution of this Lease by Tenant, this Lease shall constitute a valid and legally binding obligation of Tenant.

Section 12.4 No Brokers. Landlord and Tenant warrant and represent to the other that it has not dealt with any real estate broker and/or salesman (other than Nicklies Development, who represented Landlord) in connection with the negotiation or execution of this Lease and no such broker or salesman has been involved in connection with this Lease, and each party agrees to defend, indemnify and hold harmless the other party from and against any and all costs, expenses, attorneys' fees or liability for any compensation, commission and charges claimed by any real estate broker and/or salesman (other than the aforesaid brokers) due to acts of such party or such party's representatives.

Section 12.5 Consents by Landlord. In all circumstances under this Lease where the prior consent or permission of Landlord is required before Tenant is authorized to take any particular type of action, except as specifically provided in this Lease, such consent must be in writing and the matter of whether to grant such consent or permission shall not be unreasonably withheld, conditioned or delayed by Landlord unless otherwise provided herein. With respect to any provision of this Lease which provides that Landlord shall not unreasonably withhold or unreasonably delay any consent or any approval, Tenant, in no event, shall be entitled to make, nor shall Tenant make, any claim for, and Tenant hereby waives any claim for money damages; nor shall Tenant claim any money damages by way of setoff, counterclaim or defense, based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed any consent or approval; but Tenant's sole remedy shall be an action or proceeding to enforce any such provision, or for specific performance, injunction or declaratory judgment. Notwithstanding the foregoing, in the event Landlord is adjudicated to have acted in bad faith in withholding Landlord's consent or approval to any requested action by Tenant hereunder, then in addition to specific performance, Tenant shall be entitled to recover from Landlord Tenant's actual damages resulting from Landlord's bad faith actions.

Section 12.6 Independent Covenants. The obligation of Tenant to pay Rent and other monetary obligations provided to be paid by Tenant under this Lease and the obligation of Tenant to perform Tenant's other covenants and duties under this Lease constitute independent, unconditional obligations of Tenant to be performed at all times provided for under this Lease, save and except only when an abatement thereof or reduction therein is expressly provided for in this Lease and not otherwise.

Section 12.7 Attorneys' Fees and Other Expenses. In the event either party hereto defaults in the faithful performance or observance of any of the terms, covenants, provisions, agreements or conditions contained in this Lease, the party in default shall be liable for and shall pay to the nondefaulting party all expenses incurred by such party in enforcing any of its remedies for any such default, including, without limitation reasonable attorneys' fees and expenses.

Section 12.8 Recording. Neither Landlord nor Tenant shall record this Lease, but a short-form memorandum hereof may be recorded at the request of either party (at the sole cost of the requesting party).

Section 12.9 Disclaimer, Waiver of Jury Trial. LANDLORD AND TENANT EXPRESSLY ACKNOWLEDGE AND AGREE, AS A MATERIAL PART OF THE CONSIDERATION FOR LANDLORD'S ENTERING INTO THIS LEASE WITH TENANT, THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS LEASE, LANDLORD HAS MADE NO WARRANTIES TO TENANT AS TO THE USE OR CONDITION OF THE PREMISES OR THE PROJECT, EITHER EXPRESS OR IMPLIED, AND LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES OR THE PROJECT ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE OR ANY OTHER WARRANTY (EXPRESS OR IMPLIED) REGARDING THE PREMISES OR THE PROJECT. EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE, LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE NO, AND SHALL NOT BE ANY, IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER KIND ARISING OUT OF THIS LEASE, ALL SUCH OTHER EXPRESS OR IMPLIED WARRANTIES IN CONNECTION HERewith BEING EXPRESSLY DISCLAIMED AND WAIVED.

LANDLORD AND TENANT WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS LEASE. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY TENANT AND TENANT ACKNOWLEDGES THAT NEITHER LANDLORD NOR ANY PERSON ACTING ON BEHALF OF LANDLORD HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. TENANT FURTHER ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED (OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS LEASE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT, LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL, TENANT FURTHER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION AND AS EVIDENCE OF SAME HAS EXECUTED THIS LEASE.

Section 12.10 No Access to Roof. Tenant shall have no right of access to the roof of the Premises except Tenant's maintenance personnel or third party contractors may have access to the extent required for necessary maintenance; provided, however, Tenant shall not make any roof penetrations unless same (a) are performed by Landlord's roof contractor at Tenant's sole cost and expense, and (b) do not violate or void any warranties related to the roof.

Section 12.11 No Accord or Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent and other sums due hereunder shall be deemed to be other than on account of the earliest Rent or other sums due, nor shall any endorsement or statement on any check or accompanying any check or payment be deemed an accord and satisfaction; and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or other sum and to pursue any other remedy provided in this Lease.

Section 12.12 Acceptance. The submission of this Lease by Landlord does not constitute an offer by Landlord or other option for, or restriction of, the Premises, and this Lease shall only become effective and binding upon Landlord, upon full execution hereof by Landlord and delivery of a signed copy to Tenant.

Section 12.13 Waiver of Counterclaim. Each party hereby waives the right to interpose any non-compulsory counterclaim of whatever description in any summary proceeding.

Section 12.14 Time is of the Essence. Time is of the essence of this Lease. Unless specifically provided otherwise, all references to terms of days or months shall be construed as references to calendar days or calendar months, respectively.

Section 12.15 Counterparts. This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

Section 12.16 Execution and Delivery of Lease. This Lease shall not be valid and binding on Landlord and Tenant unless and until it has been completely executed by and delivered to both parties.

Section 12.17 Real Estate Investment Trust. During the term of this Lease, should a real estate investment trust become Landlord hereunder, all provisions of this Lease shall remain in full force and effect except as modified by this paragraph. If Landlord in good faith determines that its status is a real estate investment trust under the provisions of the Internal Revenue Code of 1986, as heretofore or hereafter amended, will be jeopardized because of any provision of this Lease, Landlord may request reasonable amendments to this Lease and Tenant will not unreasonably withhold, delay or defer its consent thereto, provided that such amendments do not (a) increase the monetary obligations of Tenant pursuant to this Lease or (b) in any other manner adversely affect Tenant's interest in the Premises.

Section 12.18 Quiet Enjoyment. Subject to the Subleases, Landlord covenants that it will put Tenant into complete and exclusive possession of the Premises as herein provided, and that, if Tenant shall pay the rent and perform all the covenants and provisions of this Lease to be performed by Tenant, Tenant shall during the Term of this Lease, peaceably and quietly occupy and enjoy the full possession of the Premises hereby leased, and the tenements hereditaments and appurtenances thereto belonging and the rights and privileges herein granted without hindrance by anyone claiming by, through or under Landlord.

Section 12.19 Extension Options.

(a) So long as this Lease is in full force and effect and Tenant is not in default beyond any applicable notice and cure period in the performance of any of the covenants or terms and conditions of this Lease at the time of notification to Landlord or at the time of commencement of the Extension Period, as that term is hereinafter defined, Tenant shall have the option (the "Extension Option") to extend the Term for the entire Premises for three (3) additional periods of five (5) years each (each, an "Extension Period"). To exercise an Extension Option, Tenant shall give Landlord written notice of its exercise thereof at least twelve (12) months prior to the expiration of the initial Term or then-current Extension Period, as applicable. Each Extension Period shall commence upon the expiration of the initial Term or immediately prior Extension Period, as applicable, and shall be upon the same terms and conditions of this Lease, except that the Base Rent during the first year of the first Extension Period shall be adjusted to the Fair Market Rent as provided below and thereafter (including during the second and third Extension Periods, if exercised) shall increase annually by three percent (3%).

For the purposes of this Section 12.19, the phrase "Fair Market Rent" shall mean the most probable annual rent that the Project would lease for on the open market in Louisville, Kentucky at the time of the exercise of the Extension Option (except as otherwise expressly described in this Section 12.19). Landlord and Tenant shall have sixty (60) days (the "Negotiation Period") after Landlord receives notice from Tenant that it has exercised its first Extension Option, to agree on the Fair Market Rent for the first year of the first Extension Period. If Landlord and Tenant cannot agree on the Fair Market Rent within the Negotiation Period, then within fifteen (15) days thereafter: (A) each party shall hire an appraiser to provide an opinion of what the Fair Market Rent should be in accordance with all of the terms and conditions of this Section 12.19; and (B) the parties shall agree upon a third appraiser, who shall determine which of the parties' appraisals shall be used to set the Fair Market Rent for the first year of the first Extension Period. If it becomes necessary for the parties to engage appraisers to determine the Fair Market Rent, then: (A) each party shall be responsible for paying its own appraiser in accordance with the terms of a separate agreement to be entered into by that party and their appraiser, and (B) Landlord and Tenant shall each be responsible for paying one-half (½) of the fees due to the third appraiser, in accordance with the terms of an agreement to be entered into by all three parties.

On or by the sixtieth (60th) day after the expiration of the Negotiation Period (the "Appraisal Submission Deadline"), Landlord and Tenant shall each submit a copy of their appraiser's Appraisal Report to the other party and the third appraiser.

The third appraiser shall determine which of the two appraisals contains the Fair Market Rent that is closer to the third appraiser's independent estimate of the Fair Market Rent. The third appraiser must select the Fair Market Rent as set forth on one of the two appraisals submitted by Landlord and Tenant, and cannot attempt to reconcile, compromise, change, or modify, in any way, any of the Fair Market Rent conclusions of either such appraisal. Within thirty (30) days after the Appraisal Submission Deadline, the third appraiser will produce a written opinion stating with reasonable specificity the Fair Market Rent he or she selected and such Fair Market Rent shall be used as Base Rent hereunder for the first year of the first Extension Period (which amount shall increase three percent (3%) annually thereafter (including during the second and third Extension Periods, if exercised)).

Notwithstanding anything to the contrary contained in this Section 12.19, in no event shall the Fair Market Rent due and payable by Tenant to Landlord during the first year of the first Extension Period be less than ninety percent (90%) of the annual Base Rent payable by Tenant to Landlord during the last year of the initial Term of this Lease or more than one hundred ten percent (110%) of the annual Base Rent payable by Tenant to Landlord during the last year of the initial Term of this Lease.

(b) Tenant shall accept the Premises in their existing condition (on an "as is" basis) upon the commencement of the Extension Period(s) and Landlord shall have no obligation to grant or pay any allowance, abatement or concession of any kind with respect to the Premises. Tenant shall have no option to renew or extend this Lease beyond the expiration of the Extension Period(s).

—Signatures Appear on Following Page—

IN TESTIMONY WHEREOF , the parties hereto have executed this Lease as of the day and year first above written.

LANDLORD:

PARAGON CENTRE HOLDINGS, LLC,
a Kentucky liability company

By: /s/ David W. Nicklies

David W. Nicklies, Manager

TENANT:

TEXAS ROADHOUSE HOLDINGS LLC,
a Kentucky limited liability company

By: Texas Roadhouse, Inc.,
a Delaware corporation,
its Manager

By: /s/ Tonya Robinson

Name: Tonya Robinson

Title: CFO

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

Tract 1 - Paragon Centre One:

Beginning at an iron pin (fnd) at the Northern most corner of Tract C as conveyed to Louisville Dutchmans Lane Associates, Ltd, as recorded in Deed Book 5396, Page 960, in the Office of the Clerk of Jefferson County, Kentucky; said point being in the Southerly right of way line of Dutchmans Lane; thence South 54 degrees 52 minutes 12 seconds West, 73.00 feet to an iron pin (fnd) and the true point of beginning; thence leaving Dutchmans Lane, South 70 degrees 48 minutes 13 seconds East, 125.16 feet to an iron Pin (fnd); thence South 35 degrees 07 minutes 48 seconds East, 22.00 feet to an iron pin (fnd) thence South 53 degrees 03 minutes 20 seconds East, 164.96 feet to an iron pin (fnd); thence South 59 degrees 14 minutes 14 seconds East, 256.89 feet to an iron pin (fnd), in the Northerly line of the Watterson Expressway; thence South 35 degrees 15 minutes 42 seconds West, 116.76 feet to a steel pin (set); thence South 52 degrees 32 minutes 07 seconds West, 86.28 feet to an iron pin (fnd); thence South 59 degrees 00 minutes 49 seconds West, 166.65 feet to an iron pin (fnd); thence leaving said Northerly line of the Watterson Expressway, North 47 degrees 17 minutes 46 seconds West, 177.48 feet to a point; thence North 05 degrees 50 minutes 34 seconds West, 34.25 feet to a point; thence North 50 degrees 50 minutes 16 seconds West, 5.34 feet to a point; thence with an arc of a curve to the left having a radius of 11.00 feet and a single chord at North 73 degrees 20 minutes 26 seconds West, 8.43 feet to a point at the end of said curve; thence South 84 degrees 09 minutes 25 seconds West, 62.44 feet to a p.k. nail (set); thence North 50 degrees 50 minutes 34 seconds West, 24.00 feet to p.k. nail (set); thence North 39 degrees 09 minutes 26 seconds East, 18.32 feet to a x-cut (set); thence with the arc of a curve to the left having a radius of 12.00 feet and a single chord at North 06 degrees 36 minutes 16 seconds West, 17.20 feet to a x-cut (set) at the end of said curve; thence with the arc of a curve having a radius of 867.00 feet and a single chord at North 48 degrees 27 minutes 20 seconds West, 118.26 feet to a x-cut (set) at the end of said curve; thence North 46 degrees 11 minutes 52 seconds West, 112.93 feet to a x-cut (set); thence North 35 degrees 07 minutes 48 seconds West, 31.00 feet to a p.k. nail (set) in the Southerly line of Dutchmans Lane; thence north 54 degrees 52 minutes 12 seconds East, 245.07 feet along said line of Dutchmans Lane to an iron pin (fnd) and the true point of beginning.

Tract 2 - Paragon Centre Two:

Beginning at an iron pipe (fnd) at the intersection of the Southerly line of Dutchmans Lane as established by Deed as recorded in Deed Book 1238, Page 397, in the Office of the Clerk of Jefferson County, Kentucky, with the Southwesterly line of the tract conveyed to Linda L. Despain by Deed recorded in Deed Book 6865, Page 799, in the Office aforesaid; thence with said Southerly line of Dutchmans Lane along the arc of a curve to the left having a radius of 216.33 feet and the following chords: South 66 degrees 19 minutes 48 seconds East, 43.05 feet to an iron pin (set); South 78 degrees 40 minutes 38 seconds East, 50.00 feet to a steel pin (set); North 88 degrees 03 minutes 02 seconds East, 50.00 feet to a steel pin (set); North 74 degrees 46 minutes 42 seconds East, 50 feet, to a steel pin (set); North 61 degrees 30 minutes 22 seconds East, 50.00 feet to a steel pin (set) at the end of said curve; thence North 54 degrees 52 minutes 12 seconds East, 46.50 feet to a p.k. nail (set); thence leaving said Southerly line of Dutchmans Lane, South 35 degrees 07 minutes 48 seconds East, 31.00 feet to a x-cut (set); thence South 46 degrees 11 minutes 52 seconds East, 112.93 feet to a x-cut (set); thence with the arc of a curve to the left having a radius of 867.00 feet, and a single chord at South 48 degrees 27 minutes 20 seconds East, 118.26 feet to a x-cut (set) at the end of said curve; thence with the arc of a curve to the right having a radius of 12.00 feet and a single chord at South 06 degrees 36 minutes 16 seconds East, 17.20 feet to a x-cut (set) at the end of said curve; thence South 39 degrees 09 minutes 26 seconds West, 18.32 feet to a p.k. nail (set); thence South 50 degrees 50 minutes 34 seconds East, 24.00 feet to a p.k. nail (set); thence North 84 degrees 09 minutes 25 seconds East, 62.44 feet to a point; thence with the arc of a curve to the right having a radius of 11.00 feet and a single chord at South 73 degrees 20 minutes 26 seconds East, 8.43 feet to a point at the end of said curve; thence South 50 degrees 50 minutes 16 seconds East, 5.34 feet to a point; thence South 05 degrees 50 minutes 34 seconds East, 34.25 feet to a point; thence South 47 degrees 17 minutes 46 seconds East, 177.48 feet to an iron pin (fnd) in the Northerly line of the Watterson Expressway; thence South 59 degrees 00 minutes 48 seconds West, 308.38 feet to a steel pin (set); thence South 89 degrees 00 minutes 27 seconds West, 77.43 feet to an iron pipe (fnd); thence leaving said line of the Watterson Expressway, North 33 degrees 22 minutes 13 seconds West, 603.54 feet to an iron pin (fnd) and the point of beginning.

Being the same property acquired by PARAGON CENTRE HOLDINGS, LLC, a Kentucky limited liability company, by Special Warranty Deed dated January 29, 2004, of record in Deed Book 8348, Page 292, in the Office of the Clerk of Jefferson County, Kentucky.

EXHIBIT B

EXISTING LEASES

1. One Paragon Centre: Lease Agreement by and between Paragon Centre Holdings, LLC, as Landlord and Texas Roadhouse Holdings, LLC, as Tenant, dated December 11, 2012, as amended by First Amendment to Lease dated January 10, 2013; by Second Amendment to Lease dated February 11, 2015; Third Amendment to Lease dated January 25, 2016; by Fourth Amendment to Lease Agreement dated January 13, 2017; by Fifth Amendment to Lease Agreement dated November 2, 2017; by Sixth Amendment to Lease Agreement dated June 27, 2018; and by Seventh Amendment to Lease Agreement dated August 30, 2018.
 2. Two Paragon Centre - Amended and Restated Lease Agreement by and between Paragon Centre Holdings, LLC and Texas Roadhouse Holdings, LLC dated January 1, 2006, as amended by Letter Agreement dated February 23, 2006; by Letter Agreement dated December 18, 2006; by First Amendment to Lease dated December 27, 2006; by Second Amendment to Lease dated May 10, 2007; by Third Amendment to Lease dated September 7, 2007; by Fourth Amendment to Lease dated July 22, 2009, and by Fifth Amendment to Lease dated November 15, 2013.
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EXHIBIT C

BUILDING RULES AND REGULATIONS

1. Sidewalks, doorways, vestibules, halls, stairways, and other similar areas shall not be used for the disposal of trash, be obstructed by Tenant or be used by Tenant for any purpose other than ingress and egress to and from the Premises and for going from one part of the Building to another part of the Building.
 2. Plumbing fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags, or other unsuitable material shall be thrown or placed therein. Damage resulting to any such fixtures or appliances from misuse by Tenant shall be paid by such Tenant and Landlord shall not in any case be responsible therefor.
 3. Signs, advertisements, or notices visible in or from public corridors or from outside the Building shall be subject to Landlord's prior written approval (such approval not to be unreasonably withheld, conditioned or delayed).
 4. Intentionally Omitted.
 5. Movement in or out of the Building of furniture, office equipment, safes and other heavy equipment, or the dispatch or receipt by Tenant of any bulky material or merchandise, or materials which require use of elevators or stairways or movement through the Building entrances or lobby, shall be under the supervision of Landlord and in the manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement, to be initiated by Tenant, will include determination by Landlord as to the time, method, and routing of such movement and as to limitations for safety or other concerns. Tenant assumes all risks of damage to articles moved and injury to persons engaged or not engaged in such movement. Tenant shall be liable to personnel of Landlord damaged or injured as a result of acts in connection with carrying out this service for Tenant, and Landlord shall not be liable for the acts of any person engaged in, or any damage or loss to any property or persons resulting from any act in connection with, such service performed for Tenant.
 6. Building management shall have the right and authority to prescribe the maximum weight and position of safes and other heavy equipment, which may overstress any portion of a floor. All damages done to the Building by taking in or putting out any property of Tenant, or done by Tenant's property while in the Building, shall be repaired at the expense of Tenant.
 7. Corridor doors, when not in use, shall be kept closed.
 8. Tenant space visible from a public area must be kept neat and clean.
 9. Should Tenant require telegraphic, telephonic, annunciator, or other communication services, Landlord will direct the electricians as to where and how wires are to be introduced and placed, and none shall be introduced or placed except as Landlord shall direct. Electric current shall not be used for power or heating without Landlord's prior written permission.
 10. No animals shall be brought into or kept in, on, or about the Building.
 11. All routine deliveries to the Premises using the elevators shall be with wall and floor padding in place.
 12. All elevator lobbies are to be kept neat and clean. The disposal of trash or storage of materials in these areas by Tenant is prohibited.
 13. Intentionally Omitted.
 14. Tenant will comply with all security procedures during business hours and after hours and on weekends.
 15. Intentionally Omitted.
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16. No flammable or explosive fluids or materials shall be kept or used within the Building except in areas approved by Landlord (which permitted area shall include the restaurant located within the Connector Building), and Tenant shall comply with all applicable building and fire codes relating thereto.

17. Intentionally Omitted.

18. No smoking shall be permitted within the interior of the Premises. Smoking shall only be permitted in areas expressly designated by Landlord from time to time.

19. Without limiting Tenant's obligations elsewhere under this Lease, Tenant shall provide the following services and maintenance at its sole cost and expense with respect to any restaurant or other food service operation in the Premises:

(a) Tenant shall cause extermination services, including treatment for insects, spiders, rats, mice, and other rodents, to be provided to the Premises by a reputable exterminator on a monthly basis, or more often as Landlord, in Landlord's reasonable discretion, may require, at Tenant's expense.

(b) In order to eliminate the problem of sewer back-ups and health hazards, Tenant shall establish a cleaning program with respect to all grease traps serving the Premises, which shall contain frequent cleaning in a commercially manner determined by Tenant. In addition to the quarterly cleaning of the grease traps, Tenant shall use "Cloroben PT" or a similar type of chemical in all drain lines, in accordance with the manufacturer's recommendations, to help dissolve any grease build-up. Tenant shall provide Landlord with copies of its cleaning contract for its grease traps and its extermination contracts with ten (10) days following Landlord's written request. Without limitation of any of the foregoing, Tenant shall do whatever is necessary in order to maintain properly the grease trap and prevent, at all times, any overflow or discharge of grease at the surface of the grease trap manhole. The grease trap and all plumbing pipes shall be rooted and cleaned regularly and as often as necessary to prevent clogging or discharge. In the event of any such overflow or discharge, Tenant shall be responsible for all costs of cleanup of the overflow or discharge, including all costs of removing grease, and repair, restoration or replacement of property damaged by such overflow or discharge.

(c) The kitchen exhaust systems, including roofing hoods, ducts and fans used in connection with the kitchen operation, whether located in or outside of the Premises, shall be maintained by Tenant in good condition so as to meet the highest standard of cleanliness and health. Tenant shall establish a regular cleaning program with respect thereto, which shall contain frequent cleaning in a commercially manner determined by Tenant. Tenant shall provide Landlord with a copy of its cleaning contract for the exhaust system upon written request. Tenant shall do whatever is necessary in order to properly maintain the exhaust system. In the event of discharge, Tenant shall be responsible for all costs of clean up, including all costs of repair, restoration or replacement of property damaged by such discharge. Tenant's cleaning contract shall provide for grease deposit removal from all surfaces.

(d) Tenant shall store all trash and other waste in odor and vermin proof containers, such containers to be kept in temperature controlled areas not visible to members of the public. Tenant shall, at Tenant's expense, attend to the frequent disposal of such materials. Trash removal must be done by Tenant.

(e) Tenant shall make the following items part of a continuing maintenance program in order to reduce the possibility of fire, and shall provide Landlord with written documentation of compliance upon written request:

(i) Cooking hood filters and/or grease extractors should be cleaned in a commercially manner determined by Tenant.

(ii) The entire exhaust system should be inspected by a properly trained, qualified, and certified company or person in a commercially manner determined by Tenant.

(iii) After inspection, if components are found to be contaminated with deposits from grease laden vapors, the entire exhaust system (hoods, grease removal devices, fans, ducts, and other included appurtenances) shall be cleaned by a properly trained, qualified and certified company or person. A certificate of service shall be provided by any contracted service, and shall be delivered to Landlord upon request.

20. Landlord reserves the right to rescind any of these rules and regulations and to make such other and further rules and regulations as in its good faith judgment shall from time to time be needed for the safety, protection, care and cleanliness of the Project, the operation thereof, the preservation of good order therein, and the protection and comfort of the tenants and their agents, employees, and invitees, which rules and regulations, when made and written notice thereof is given to Tenant, shall be binding upon Tenant in like manner as if originally herein prescribed.

EXHIBIT D

PROPOSED CONNECTOR BUILDING

EXHIBIT E

SUBLEASES

1. Lease Agreement by and between Paragon Centre Holdings, LLC, as Landlord and CB Commercial/Nicklies & Company DBA CB Richard Ellis/Nicklies, as Tenant, dated March 1, 2005, as amended by First Amendment to Lease dated September 30, 2005; by Second Amendment to Lease dated October 4, 2007; by Third Amendment to Lease dated October 7, 2009; by Expansion Letter dated August 5, 2010; by Commencement Letter dated December 7, 2010; by the Assignment and Assumption of Lease dated September 12, 2014 by CB Richard Ellis Louisville, LLC as successor in interest to CB Commercial/Nicklies & Company, LLC dba CB Richard Ellis/Nicklies, and CBRE, Inc., and by Fourth Amendment to Lease dated October 20, 2015.
 2. Lease Agreement by and between Paragon Centre Holdings, LLC, as Landlord and Nicklies & Co., as Tenant, dated September 1, 2018, as affected by a Sublease of even date to English Construction.
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EXHIBIT F

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is made and entered into as of October __, 2018 by and between Paragon Centre Holdings, LLC (“Assignor”), and Texas Roadhouse Holdings LLC, a Kentucky limited liability company (“Assignee”).

WITNESSETH :

WHEREAS , Assignor is the landlord under the lease agreements described on Exhibit A attached hereto and made a part hereof (collectively, the “Subleases”); and

WHEREAS , Assignor desires to convey, transfer, and assign to Assignee all of Assignor’s right, title, and interest in and to the Subleases.

NOW, THEREFORE , in consideration of the premises, and of the covenants and conditions herein contained, the sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment; Representations and Warranties of Assignor . Assignor hereby assigns, sells, transfers, and conveys to Assignee all of Assignor’s right, title, and interest in, to and under the Subleases and any and all deposits relating thereto. Assignor hereby indemnifies Assignee and agrees to hold Assignee harmless from all losses, expenses, claims, liabilities and costs, including, without limitation, reasonable attorneys’ fees, now or hereafter incurred by Assignee by reason of Assignor’s breach of, or default under, the Subleases first arising or accruing on or prior to the date of this Assignment.

2. Acceptance of Assignment; Indemnity by Assignee . Assignee hereby accepts the foregoing assignment, transfer and conveyance of the Subleases, and assumes and agrees to perform, observe, and discharge all of the duties, obligations, and undertakings of Assignor which may arise and accrue under the Subleases from and after the date hereof. Assignee further agrees to indemnify and hold Assignor harmless from all losses, expenses, claims, liabilities and costs, including, without limitation, reasonable attorneys’ fees, by reason of Assignor’s breach of, or default under, the Subleases first arising or accruing on or after the date of this Assignment.

3. Assignment Binding . This agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each of the parties hereto. The parties hereto shall execute and deliver such further and additional instruments and other documents as may be necessary or reasonably requested to evidence or carry out the provisions of this agreement.

<signatures appear on the next page>

IN WITNESS WHEREOF , the parties hereto have executed and delivered this agreement as of the day and year first above written.

ASSIGNOR:

PARAGON CENTRE HOLDINGS, LLC, a
Kentucky limited liability company

By:

David W. Nicklies, Manager

ASSIGNEE:

TEXAS ROADHOUSE HOLDINGS LLC,
a Kentucky limited liability company

By:

Texas Roadhouse, Inc.,
a Delaware corporation,
its Manager

By: _____

Name: _____

Title: _____

EXHIBIT A to ASSIGNMENT AND ASSUMPTION AGREEMENT

LIST OF SUBLEASES

EXHIBIT G

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is made and entered into as of October ___, 2018 by and between Texas Roadhouse Holdings LLC, a Kentucky limited liability company (“Assignor”), and Texas Roadhouse, Inc., a Delaware corporation (“Assignee”).

WITNESSETH :

WHEREAS, Assignor is the tenant under that certain Paragon Centre Master Lease Agreement dated October ___, 2018 by and between Assignor and Paragon Centre Holdings, LLC (the “Master Lease”);

WHEREAS, Assignor is the landlord under those certain sublease agreements described on Exhibit A attached hereto and made a part hereof (collectively, the “Subleases”); and

WHEREAS, Assignor desires to convey, transfer, and assign to Assignee all of Assignor’s right, title, and interest in and to the Master Lease and Subleases, and Assignee desires to assume all obligations of Assignor thereunder.

NOW, THEREFORE, in consideration of the premises, and of the covenants and conditions herein contained, the sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment; Representations and Warranties of Assignor. Assignor hereby assigns, sells, transfers, and conveys to Assignee all of Assignor’s right, title, and interest in, to and under the Master Lease, Subleases and any and all deposits relating thereto. Assignor hereby indemnifies Assignee and agrees to hold Assignee harmless from all losses, expenses, claims, liabilities and costs, including, without limitation, reasonable attorneys’ fees, now or hereafter incurred by Assignee by reason of Assignor’s breach of, or default under, the Master Lease or Subleases first arising or accruing on or prior to the date of this Assignment.

2. Acceptance of Assignment; Indemnity by Assignee. Assignee hereby accepts the foregoing assignment, transfer and conveyance of the Master Lease and Subleases, and assumes and agrees to perform, observe, and discharge all of the duties, obligations, and undertakings of Assignor under the Master Lease and Subleases. Assignee further agrees to indemnify and hold Assignor harmless from all losses, expenses, claims, liabilities and costs, including, without limitation, reasonable attorneys’ fees, by reason of Assignor’s breach of, or default under, the Master Lease or Subleases first arising or accruing on or after the date of this Assignment.

3. Notices. Following the date of this Assignment, any and all notices due to Assignee under the Master Lease and Subleases shall be sent to the following address: Texas Roadhouse, Inc., 6040 Dutchmans Lane, Louisville, Kentucky 40205, Attention: Legal Department.

4. Assignment Binding. This agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each of the parties hereto. The parties hereto shall execute and deliver such further and additional instruments and other documents as may be necessary or reasonably requested to evidence or carry out the provisions of this agreement.

<signatures appear on the next page>

IN WITNESS WHEREOF , the parties hereto have executed and delivered this agreement as of the day and year first above written.

ASSIGNOR:

TEXAS ROADHOUSE HOLDINGS LLC,
a Kentucky limited liability company

By: Texas Roadhouse, Inc.,
a Delaware corporation,
its Manager

By: _____
Name: _____
Title: _____

ASSIGNEE:

TEXAS ROADHOUSE, INC.,
A Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT A to ASSIGNMENT AND ASSUMPTION AGREEMENT

LIST OF SUBLEASES

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF SARBANES-OXLEY ACT**

I, W. Kent Taylor, certify that:

1. I have reviewed this report on Form 10-Q of Texas Roadhouse, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 2, 2018

By: /s/ W. KENT TAYLOR

W. Kent Taylor
Chief Executive Officer

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF SARBANES-OXLEY ACT**

I, Tonya R. Robinson, certify that:

1. I have reviewed this report on Form 10-Q of Texas Roadhouse, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 2, 2018

By: /s/ TONYA R. ROBINSON

Tonya R. Robinson
Chief Financial Officer

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350**

I, W. Kent Taylor, Chief Executive Officer of Texas Roadhouse, Inc. (the “Company”), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (1) The Quarterly Report on Form 10-Q of the Company for the quarterly period ended September 25, 2018 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 2, 2018

By: /s/ W. KENT TAYLOR

W. Kent Taylor
Chief Executive Officer

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350**

I, Tonya R. Robinson, Chief Financial Officer of Texas Roadhouse, Inc. (the “Company”), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (1) The Quarterly Report on Form 10-Q of the Company for the quarterly period ended September 25, 2018 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 2, 2018

By: /s/ TONYA R. ROBINSON

Tonya R. Robinson
Chief Financial Officer