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**FRANCHISE AGREEMENT**

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By and Between:

**JUMBOKING FOODS PRIVATE LIMITED**

(“**FRANCHISOR**”)

And

(“**FRANCHISEE**”)

This Franchise Agreement **(“Agreement**”) is entered into at Mumbai on this **day** of  **2020**(**“Execution Date”**).

**BETWEEN**

**JUMBOKING FOODS PRIVATE LIMITED**, a Company incorporated under Companies Act, 1956 and having its registered office at **73, Virwani Industrial Estate, Western Express Highway, Goregaon East, Mumbai- 400 063**, through its authorized signatory **Mr. Dheeraj Gupta**, herein after referred to as the **“Franchisor”**, (which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include its successors and assigns) of the FIRST PART;

**AND**

**In case of proprietor: -**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** a proprietor, residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as the **“Franchisee”**, (which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include his/her heirs, executors and administrators) of the; SECOND PART;

**WHEREAS**:

1. The Franchisor has a chain of outlets based primarily in Mumbai, specializing in Indian Burgers and is engaged in the operation of quick service outlets, restaurants, take away and express format fast food outlets for selling Franchisor’s branded snacks and beverages in Mumbai and other cities in India (hereinafter referred to as (**“the Franchised Business”**).
2. The Franchisor owns and intends to license certain proprietary and other rights and interests held under its Trademark “Jumboking” (hereinafter referred to as the **“said Brand”**) and such other trademarks, trade names, service marks, logo types, insigns, trade dress, designs and commercial symbols which the Franchisor may, from time to time authorize or direct the Franchisee for license use in connection with the operation of the Franchised Business.
3. The Franchisor has spent a substantial amount of time, effort and money in the development and implementation of a unique and proprietary system relating to the establishment, development and operation of the Franchised Business together with any and all intellectual property or proprietary rights including any and all rights over all receipts of food and beverages, data, information, techniques, methodologies and materials, and shall include all rights as applicable relating to any copyright (including rights in audiovisual works), trademarks (including logos, slogans, tag lines, domain names, trade names and service marks), patents (including patent applications and disclosures), designs, know-how, inventions, and trade secret rights, recognized in India (hereinafter referred to as the **“Intellectual Property Rights”**). The Franchisor has exclusive right, title and interest over the said Intellectual Property Rights.
4. Vide Master Franchise Agreement dated **30th June 2016** executed between the Franchisor and one **Mr. Harikishan Pawar** therein referred to as the Master Franchise., the Master Franchise is under an obligation to give Unit Franchisee to the proposed Franchisee in its territory situated at **Next to Ganesh Mandir, Phadke Road, Dombivali East therein** referred to as “**the said territory**” and set various outlets and to run the Franchised Business within the said territory of the said Master Franchise.
5. The Franchisee has expressed its desire and has approached to the Master Franchise to obtain the Franchisor’s Franchise to establish and operate Franchised Outlet under the trade name JUMBOKING, offering food products and services authorized and approved by the Franchisor of the Master Franchise zone \_\_\_\_ area within the said territory (hereinafter referred to as **“the said zone”**). The said zone shall consist of single outlet as per the understanding between the Parties hereto within the said territory.
6. The Franchisee acknowledges to the Franchisor that the consideration for granting the Franchise and to run the Franchised Business, the Franchisee shall pay to the Franchisor the Franchisee Fee, Royalty and perform the convents and obligations mentioned herein under this Agreement.
7. This Agreement does not grant the rights to own additional outlets of the Franchisor.
8. The Franchisee represents that they understand the risk of owning a business and specifically the risks of running a Jumboking outlet and the Franchisee is able to bear such risks. The Franchisee recognizes that some Jumboking outlets have failed and more may fail in future. The Franchisee acknowledges that the success of the franchise will depend primarily on their own efforts and abilities to those of Franchisee’s staff and will have to work hard and use their best efforts to operate the outlet successfully.
9. On the basis of the representations and assurances given by the Franchisee, the Franchisor and the said Master Franchise have agreed to grant Franchise rights in the said zone within the said Territory to the Franchisee and the Franchisee has agreed to act as a Franchisee in the said zone within the said territory in accordance with the terms and conditions set forth in this Agreement.

**NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AND CONFIRMED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

1. **DEFINITIONS AND INTERPRETATION:**
2. **Definitions:-**
3. **“Affiliate”** means a person or entity controlled by, controlling or under direct or indirect control of the Franchisor.
4. **“Agreement”** means this Franchise Agreement executed between the Parties along with Annexures and Schedules.
5. **“Accounting Year”** means the accounting period of the Franchisee consisting of one year starting from 1st April of the current year and ending on 31st March of the following calendar year, for a new franchisee or a new outlet if the business commences from any month other than 1st April, the accounting year will still end on 31st March of the following year.
6. **“Agreement Term”** shall mean the duration of this Agreement.
7. **“Approvals”** means any approval, consent, permit, license, authorization, certificate, exemption, filing, registration, ordinance, guidelines, policies, notices, direction, directives and standards of any Governmental Authority which are legally mandatory in nature and/or other requirements, which are required to be obtained by the Franchisee under the Applicable Law in order to run the Franchised Business effectively.
8. “**Audit**” shall mean and include audit of accounts but not limited to audits of inventory, quality, cleanliness and such other form of audit as mentioned in the operational manual and more particularly described in Clause 15 and Clause 16 herein below.
9. **“Business”** shall mean the operation of quick service outlets, restaurants, take away and express format fast food outlets for selling Franchisor’s branded Vada Pav, Indian Burgers, snacks and beverages and such other food and beverage items as may be introduced by the Franchisor from time to time.
10. **“Business Day”** means any working day other than Sunday and Government holidays.
11. **“City Master Franchisee”** means Master Franchisee having license from the Franchisor to scout for the Franchisee to establish & operate Jumboking Outlet/s under the territory than prescribed and allotted by the Franchisor.
12. **“Color Combinations”** shall mean and include the following:
13. The yellow color appearing on the signage board of “*Jumboking.”*
14. The combination of yellow and red color appearing on the signage board as well as in the word “*Jumboking.”,* and;
15. Such other color combinations used by the Franchisor in the due course of its business.
16. **“Commencement Date”** shall mean the date on which the Franchisee executes their Leave & License/Conduction/Lease Agreement for their outlet.
17. **“Confidential Information”** means any documents, data, or information related to the Franchisor’s business that is not generally known to the public, more specifically mentioned in Clause 26(a)herein below.
18. **“Equipment”** includes but does not limit to machineries, tools and utensils, appliances, kitchen net, gadgets, electrical equipment’s provided by the Franchisor as per requirements of Franchised Business from time to time, which the Franchisee shall be bound to comply with.
19. **“Franchise Fee”** means such sums to be paid to the Franchisor as a one-time payment on or before the date of execution of this Agreement as a condition precedent. The said sum paid by the Franchisee to the Franchisor shall be non-refundable and the Franchisee shall not be entitled to claim the Franchisee Fee from the Franchisor in any manner whatsoever.
20. **“Effective Date”** means the date of commencement of this Agreement as notified by Franchisor under Clause 30(a) of this Agreement.
21. **“Force Majeure”** means act of God (such as tornadoes, earthquakes, hurricanes, floods, fire or other natural catastrophe); strikes, lockouts or other industrial disturbances; war, terrorist acts, riot, or other civil disturbance; epidemics; or other similar forces which Franchisee by the exercise of reasonable diligence could not have avoided and as more particularly mentioned at Clause 36 h(i)herein below.
22. **“Franchise Operational Manual” or “Manual” or “Guidelines”** means expression of procedure, specification or method of construction, selection, operation, administrative functions, modes, techniques, scheduling, evaluation, training, marketing, technical, and specifications in relation to provisioning or services provided in the outlet, administration and operation of outlet or any other instruction as may be specified or adopted by Franchisor/Franchisee, from time to time in its sole discretion.
23. **“Intellectual Property Rights”** means patents, patent applications, know-how, trademarks, trade mark applications, trade names, trade dress, color combinations, registered designs, copyright or other similar intellectual or commercial right more particularly mentioned in Clause 18 herein below.
24. **“Net Sales”** shall mean gross sales from the outlet after reducing Goods and Service Tax (GST) or any other taxes paid to the Government.
25. **“Operating Conditions”** shall mean the operating conditions as more particularly stated herein under this Agreement and additional conditions notified by the Franchisor to the Franchisee from time to time.
26. **“Premises or Outlet”** shall mean the outlet admeasuring sq. ft. and situated at \_\_\_\_\_\_\_\_\_\_\_ established by the Franchisee, exclusively for selling and marketing the products and services under the brand name ‘Jumboking’ within the said zone in the said Territory as approved and confirmed by the Franchisor to the Franchisee.
27. “**Products”** shall mean and include all raw materials, sauces, chutneys, raw vegetables, frozen vegetables and all other food items whether in liquid or otherwise required to prepare beverages offered by Jumboking from time to time and more particularly described in Schedule 1 hereto.
28. **“Royalty”** shall mean royalty amount charged by the Franchisor, as more particularly mentioned in Clause 2(h)(i) herein below.
29. **“Tax” or “Taxes”** shall mean and include any and all taxes (including, without limitation, any and all income, sales, Goods and Service Tax, excise, customs, withholding, employment, payroll, or property taxes) and similar assessments, customs, duties, charges and fees (including interest, penalties and additions to such taxes, assessments, customs, duties, charges and fees, penalties for failure to file or late filing of any return, report or other filing, and any interest in respect of such penalties and additions) imposed or assessed by any Central, state, local Authority and shall include:
30. any charge imposed by the Government Authority including without limitation any amount towards customs duty, income tax, sales tax, Goods and Service Tax (GST) value added tax, excise and stamp duties;
31. interest and penalties (civil or criminal) imposed in connection with such charges and taxes; and
32. any cost, including professional fees, incurred in connection with the determination or litigation of any of the foregoing.
33. **“Trade Dress”** shall mean and include all elements combined to create the whole visual image, colour combinations, wordmark, logo presented to its’ customers which represent the overall impression of “*Jumboking*”, the totality of the elements in which the Jumboking’s products are packed or presented, the shape and design of the Jumboking’s products (more particularly stated in Schedule - 1 appended to this agreement – **PRODUCT SCHEDULE**) and upon subsequent modifications, the same shall be communicated by the Franchisor to the Franchisee from time to time.
34. **“Zone”** shall mean the area as defined in Recital E hereinabove.
35. **Interpretation: -**

Unless the context or meaning thereof otherwise requires:

1. Any reference in this Agreement to any enactment, rule, regulation, guideline, directive or document shall be construed as including a reference to that enactment, rule, regulation, guideline, directive or document as from time to time amended, modified, extended or re-enacted whether before or after the date of this Agreement.
2. Clause and paragraph headings are inserted for ease of reference only and shall not affect the interpretation of this Agreement. References to clauses and recitals shall be construed as references to clauses or recitals of this Agreement, unless specified otherwise.
3. Any reference to an article, clause, sub-clause, paragraph or sub-paragraph is to such article, clause, sub-clause, paragraph or sub-paragraph in this Agreement.
4. Any reference to a person shall include bodies corporate, unincorporated associations and partnerships and also shall include affiliates of the parties.
5. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.
6. The words “include”, “including” and “among other things” shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases or words of like import.
7. The words denoting the singular shall include the plural and vice versa, the words denoting any gender shall include any other gender, as the context may require.
8. **Payments: -**
9. **Franchise Fee: -** The Franchisee shall pay a non-refundable one-time sum of INR **1,77,000/- (Rupees One lac seventy-seven thousand only)** inclusive of all applicable taxes being **“Franchise Fees”** in lieu of using the Franchisor’s name, logo, trademark, Intellectual Property Rights, goodwill along with the Franchised Business including the Franchise Operational Manual and other support extended by the Franchisor under this Agreement. The receipt whereof is duly acknowledged by the Franchisor hereto. It is further agreed between the parties hereto that all the applicable taxes payable under this Agreement shall be borne only by the Franchisee.
10. **Security Deposit:** The Franchisee shall deposit and keep deposited with the Franchisor an amount **Rs.50,000/- (Rupees Fifty Thousand Only)** inclusive of all taxes, as interest free security deposit. In the event of expiry or termination of this Agreement, if any amounts are found to be due and payable by the Franchisee, or in case the Franchisee has any liabilities to third parties at the time of such expiry or termination, as the case may be, the Franchisor shall use the security deposit in defraying such expenses/liabilities. In the event of any excess amounts lying with the Franchisor after the payment of such expenses/liabilities, the balance amounts, if any, shall be refunded by the Franchisor to the Franchisee within 90 days. It is clarified for avoidance of doubts that if the amounts due and payable by the Franchisee at the time of expiry or termination are more than the amount of Security Deposit, then the Franchisee shall continue to remain liable to pay the amounts to third parties. Payments made by Franchisor on behalf of Franchisee towards outstanding payables by using the Security Deposit shall not render the Franchisee free from their liabilities towards the Franchisor or third parties, as the case may be.
11. **Renewal Fees:** It is agreed by and between the parties hereto that the Franchisee shall pay to the Franchisor a renewal fee chargeable at the rate of **Rs. 10,000/- (Rupees Ten Thousand only)** for every **5** years.
12. **Additional Outlet Fees:** In the event, the Franchisee is desirous of opening an additional outlet during the term of this Agreement, then in that event: -
13. The Franchisee represents that it is an existing Franchise of the brand “Jumboking” and this Agreement is valid and subsisting prior to opening an additional outlet and the Franchisee is in compliance to the terms and conditions of this Agreement.
14. The Franchisee represents that and there are no defaults committed by the Franchisee of the terms and conditions under this Agreement.
15. The Franchisee represents that the Franchisee has paid the royalty amount due to the Franchisor as per the agreed terms under this Agreement.
16. The Franchisee shall after obtaining a prior written approval of the Franchisor for an additional outlet pay such franchisee fees as agreed between the parties under this Agreement.
17. The Franchisee represents that they have not opened directly and/or indirectly any restaurant similar to Jumboking.
18. **Relocation Fees:** In the event, the Franchisee is desirous of relocating its outlet to some other place within the said zone within the said Territory, then there shall be no relocation fees levied upon the Franchisee. The Franchisee undertakes to obtain prior written approval from the Franchisor and their discretion on such relocation of the outlet shall be final.
19. **Transfer Fees:** In the event the Franchisee is desirous of assigning or transferring their rights under this Agreement to any third party, the Franchisee shall give to the Franchisor, 30 days prior written notice of intimation of the same. Any such assignment shall be approved by the Franchisor in writing and provided that the transferee is not running any other business competing with Jumboking whether directly or indirectly and that the Franchisee shall provide all documents for such transfer and indemnify the Franchisor in the event the Transferor fails to pay the Royalty, Franchise Fee, etc. The Franchisor shall be entitled to receive from the Franchisee 100 % of the then existing Franchise Fees as Assignment/Transfer Fees and the same shall be exclusive of all applicable taxes at that point of time. The Franchisee cannot assign or sell its business without prior written approval from the Franchisor. The decision of the Franchisor in this regard shall be binding and final.
20. **Duties and Taxes: -** 
    * 1. The Franchisee shall be under obligation to collect all taxes, cess, fees etc. from the customers and be responsible for the payment of the same to the requisite government bodies, as the case may be in terms of the local laws applicable to the Designated Territory and under no circumstances shall such taxes, cess, fees, penalty be the liability that of the Franchisor.
      2. It is mandatory for the Franchisee to obtain a Goods and Service Tax (GST) Number and make timely payments towards their GST tax liability. The Franchisee is liable to pay GST on invoice raised to customer. The Franchisor shall not, at any point of time, be held liable and/or responsible for the payment of the tax liability that of the Franchisee.
      3. All payments to be made in accordance to the terms of this Agreement shall be subject to the deduction of tax at source, wherever applicable and the Franchisee shall furnish a Certificate to the extent of such deduction of tax at source to such person or person(s) from time to time as per the provisions of the Income Tax Act, 1961 and any as per any amendment thereof.
21. **Royalty:**
    * 1. The Franchisee shall pay 10% (Ten percent) of the total monthly net sales (Gross Sales less GST) revenue as Royalty. The said Royalty Amount shall be paid to the Franchisor without any deduction or set off to such bank account as the Franchisor may from time to time specify.
      2. The said Royalty shall be exclusive of applicable taxes such as Goods and Service Tax (GST), which shall be charged separately by the Franchisor. However, the Franchisee may deduct Tax Deducted at Source (TDS) from the said Royalty, if applicable, for which the Franchisee shall submit Form 16 to the Franchisor against such deductions on periodic basis.
      3. In addition to the Royalty, the Franchisee shall also pay a sum to the Franchisor as specified from time to time towards the cost of Point of Sale (POS) and other software’s.
      4. The said Royalty shall be payable by the Franchisee on weekly basis as Thursday day. However, Franchisor has the option to change the date in future and the same will be communicated to the franchise.
      5. In the event of Franchisee failing to pay the Royalty in time as specified above, the Franchisor shall be entitled to charge interest @ 18% per annum for the delayed period in addition to other remedies available to the Parties under this Agreement.
      6. The Franchisee shall agree that within 12 hours from the end of the business day the Franchisee must report the Gross Sales and submit the designated control system data to the location the Franchisee has designated. The Franchisee may call upon the Franchisee to poll the Franchisee’s POS System to retrieve information at any time during the term of this Agreement. In the event, the Franchisee fails to report the Gross Sales on time, the Franchisor may estimate the Gross Sales and charge the Franchisee on the basis of estimation along with a penalty on the Franchisee as may deem fit.
      7. If the Franchisee under-reports its sales, then in that event Franchisee shall be liable to pay to the Franchisor 100% of the under-reported sales as quantified by the auditor under its report. The decision of the auditor shall be final and binding upon the Franchisee.
      8. If the Franchisee fails to submit its Monthly Sales Reconciliation, then in that event, the Franchisor shall be entitled to charge a penalty of 100% on the products’ M.R.P. towards the difference in opening stock and closing stock of such month as sales reconciliation difference.
      9. The Franchisor shall have the rights to assign Area Developer or any third party duly appointed by the Franchisor to collect Royalty, additional charges and penalties from the Franchisee from time to time.
      10. The Franchisee shall make all the payments of the Royalty through Electronic Clearing System (“ECS”) from designated bank account to the bank of the Franchisor in such proportions as specified.
      11. The Franchisee is obligated to maintain sufficient balance in their Bank Account so as to ensure that all timely ECS payment is made to the Franchisor. In case the Franchisee fails to maintain the required amount on the day of ECS, then in that event, the Franchisee is obligated to make NEFT/RTGS within 24 hours from the date of ECS.
      12. The Parties hereto specifically state, confirm, agree and declare that the time shall be the essence of this Agreement and as such, all the payments agreed hereby shall be made strictly in accordance with the provisions as set out in this Agreement.
      13. The Franchisee shall open a Bank Account, being a designated account, with any bank having ECS facilities. The Franchisee agrees and confirms to only use the designated account for the Franchised Business and all related transactions only and shall not use such designated account to operate other business monetary transactions.
22. **Franchisee’s Outlet:**
23. **Property Selection: -**
24. THE FRANCHISEE UNDERSTANDS THAT HIS/HER SUCCESS WILL ALSO DEPEND ON THE LOCATION SHE/HE CHOOSES. THE FRANCHISEE ACKNOWLEDGES THE FRANCHISOR’S APPROVAL OF THE LOCATION FOR THE PREMISES AND THE FRANCHISOR DOES NOT GUARANTEE THE OUTLETS SUCCESS AT THAT PREMISE AND THE OUTLET MAY LOSE MONEY AND FAIL.
25. THE FRANCHISEE HEREIN FURTHER EXPLICITLY AND EXPRESSLY STATES, CONFIRMS AND AGREES THAT, IN THE EVENT THE FRANCHISEE FAILS TO OPEN THE OUTLET AND/OR COMMENCE THE BUSINESS FROM THE OUTLET ON THE EFFECTIVE DATE, WITHIN 12 MONTHS FROM THE DATE OF EXECUTION OF THIS AGREEMENT, AS STIPULATED IN ABOVE, THE FRANCHISOR MAY AT ITS SOLE DISCRETION GRANT SUCH FURTHER EXTENSION OF TIME FOR OPENING AND/OR COMMENCING THE BUSINESS FROM THE SAID OUTLET AS IT DEEMS FIT AND PROPER.
26. THE FRANCHISEE SHALL, IN MUTUAL CONSULTATION WITH THE CMF, ACQUIRE PREMISES ON LEAVE AND LICENSE BASIS WITHIN A PERIOD OF 12 MONTHS (INCLUSIVE OF THE FIT-OUT PERIOD) FROM THE DATE OF EXECUTION OF THE THIS AGREEMENT, SUBJECT TO PRIOR WRITTEN APPROVAL OF THE FRANCHISOR TO START THE FRANCHISED BUSINESS AT THE OUTLET. FOR THIS PURPOSE, THE FRANCHISEE SHALL EXECUTE SUCH BUSINESS CONDUCTION AGREEMENT OR LEAVE AND LICENSE AGREEMENT OR LEASE WITH TENANTS AND OWNER OF THE SAID PREMISES. IT IS AGREED BY THE FRANCHISEE THAT ALL OUTGOINGS INCLUDING LEGAL COST FOR THE PROCESS OF SELECTION OF PREMISES TO OPERATE FRANCHISE OUTLET SHALL BE BORNE BY THE FRANCHISEE. ANY WAIVER TO THE INFORMATION, SHALL BE PERMITTED ONLY AS PER FRANCHISOR’S DISCRETION IN WRITING. IT IS ALSO AGREED BY THE FRANCHISEE THAT THEY ARE SOLELY LIABLE TO PAY THE RENTS TOWARDS THE PREMISES AS DECIDED AND MENTIONED UNDER THE RESPECTIVE AGREEMENT FOR THE PREMISES. IT IS ALSO AGREED BY THE FRANCHISEE THAT ON TERMINATION AND EXPIRATION OF THIS AGREEMENT WHICHEVER IS EARLIER, THEY SHALL VACANT THE PREMISE WITHIN 48 HOURS AND SHALL IMMEDIATELY STOP FUNCTIONING AND OPERATING JUMBOKING BUSINESS/OUTLET FROM THE SAID PREMISES.
27. FURTHER, IN ADDITION TO THE ABOVE, IF THE FRANCHISOR IS OF THE OPINION THAT THERE HAS BEEN UNREASONABLE/UNJUSTIFIABLE DELAY ON THE PART OF FRANCHISEE TO OPEN/LAUNCH/INAUGURATE THE OUTLET AND/OR TO COMMENCE THE BUSINESS FROM THE OUTLET EVEN AFTER THE EFFECTIVE DATE OR SUCH EXTENDED TIME PERIOD GRANTED BY THE FRANCHISOR, AS THE CASE MAY BE, THEN THE FRANCHISOR SHALL ALSO HAVE THE RIGHTS TO TERMINATE THIS AGREEMENT FORTHWITH AT ANY TIME AT ITS SOLE DISCRETION, UPON THE EXPIRY OF AFORESAID 12 MONTHS OR SUCH EXTENDED TIME PERIOD AS THE CASE MAYBE. IN SUCH EVENT OF TERMINATION ANY AMOUNT PAID BY THE FRANCHISEE TO THE FRANCHISOR SHALL STAND FORTHWITH FORFEITED AS COMPENSATION FOR THE UNDUE LOSS CAUSED TO THE FRANCHISOR DUE TO NON-OPERATION OF THE SAID OUTLET BY THE FRANCHISEE FOR SUCH LONG PERIOD OF TIME.
28. **Store Profitability: -**
29. THE FRANCHISEE HAS HAD THE OPPORTUNITY TO ASK THE FRANCHISOR, CMF OR REPRESENTATIVES ANY QUESTION RELATED TO THE BUSINESS AND THAT QUESTION HAVE BEEN ANSWERED TO SATISFACTION.
30. PROJECTION OF ESTIMATED SALE AT PROPOSED LOCATION HAS BEEN MADE BY THE FRANCHISOR, THE CMF OR REPRESENTATIVES, BASED ON THEIR PAST EXPERIENCE.
31. THE FRANCHISEE ACKNOWLEDGES AND ACCEPTS THAT ANY STATEMENT OF PROFIT AND LOSS MADE BY THE FRANCHISOR OR THE CMF IS AN ESTIMATE, HOWEVER, IT IS NOT A GUARANTEE.
32. THE FRANCHISEE UNDERSTANDS THAT THE JUMBOKING BUSINESS HAS RISK INVOLVED. OPERATING THE JK OUTLET MAY OR MAY NOT SUCCEED DEPENDING UPON OPERATIONS OF THE STORE. IT WILL DEPEND PRIMARILY ON THE FRANCHISEES OWN EFFORTS AND ABILITIES AND THAT OF HIS EMPLOYEES. THE FRANCHISEE WILL HAVE TO WORK HARD AND PUT EFFORTS TO SUCCESSFULLY OPERATE A JUMBOKING RESTAURANT/OUTLET.
33. THE FRANCHISEE RECOGNIZES THAT SOME JUMBOKING OUTLETS HAVE FAILED IN THE PAST AND MORE MAY FAIL IN THE FUTURE.
34. THE FRANCHISEE WILL USE HIS OWN JUDGMENT WHILE SIGNING UP FOR ANY PROPERTY TO ESTABLISH THE JUMBOKING BUSINESS.
35. THE FRANCHISEE HEREBY ACKNOWLEDGES THAT THE FRANCHISOR IN GIVING ITS ADVICE, ASSISTING IT TO ESTABLISH THE FRANCHISED BUSINESS, RECOMMENDING EQUIPMENT AND MATERIALS TO THE FRANCHISEE AND ASSISTING IN THE PREMISES SEARCH AND FINALIZATION, THE FRANCHISOR HAS BASED ITS RECOMMENDATIONS ON EXPERIENCE OBTAINED IN PRACTICE BUT DOES NOT GIVE ANY GUARANTEE OR WARRANTY WITH REGARD TO SUCH MATTERS OR GENERALLY IN CONNECTION WITH THE SALES VOLUME, PROFITABILITY OR ANY OTHER ASPECT OF THE BUSINESS.
36. **Representations, Warranties and Obligations of the Franchisor:**
    1. The Franchisor shall provide General consultation and advice with a view to enable the Franchisee to open and run an efficient business including, advice and consultation on the purchase of equipment, selection and training of employees and supervision of employees, book keeping, accounting, equipment control, promotions and day-to-day operations of the Business.
    2. The Franchisor represents that the Franchisor reserves the sole right to fix the purchase price of the products. The Franchisor has the right to change or revise the prices or rates of the products at its sole discretion and the same shall be binding on the Franchisee and the Franchisee has also given unequivocal consent for the same.
    3. The Franchisor represents and warrants that the Franchisor shall provide for initial training to the Franchisee (free of charge other than in respect of travelling, accommodation, and subsistence costs over the training period) prior to the date the Franchisee commences the Business for such periods as the Franchisor shall reasonably require to complete the training program. For the avoidance of doubt, the acceptance of such training by the Franchisee shall be compulsory. It is also agreed that the training shall be held at the location decided by Franchisor in Mumbai.
    4. The Franchisor represents and warrants that the Franchisor shall advise on the general equipment stocking requirements, the working of the initial advertising and promotional campaign in respect of the Business.
    5. The Franchisor shall lend to the Franchisee, during the Term, the access to such software system and update such software as and when the Franchisor deems necessary.
    6. The Franchisor shall be obligated but not bound to develop and provide the Operational Manual and any updates thereto to the Franchisee from time to time and a set of the Operational Manual shall be provided to the Franchisee upon execution of this Agreement.
    7. The Franchisor shall from time to time update the seasonal offer, discount schemes, gift vouchers under the working of the Outlet and share with the Franchisee, the latest flavors in food and beverages developed by the Franchisor.
    8. The Franchisor, its employees, authorized representatives, architect(s), contractor(s), reserve the right to enter the Outlet at all reasonable time to inspect/supervise, to conduct audit /inspect/restrict activities at the Outlet if not found in compliance with this Agreement.
    9. The Franchisor represents and warrants that the Franchisor shall communicate to the Franchisee such incidental changes in its Trade Mark, Trade Dress, Color Combinations and in such other Intellectual Property that of the Franchisor from time to time.
37. **Representations, Warranties & Obligations of Franchisee: -**
38. The Franchisee possesses the requisite experience, infrastructure, manpower, mobility and communication modes required to efficiently perform the obligations under the present agreement.
39. The Franchisee hereby agrees that the Franchisor has established substantial reputation and goodwill in the said Business and acknowledges the necessity of conforming to the high standards and uniform specifications of the Franchised Business by employing best efforts, skill and diligence to promote and establish the Franchised Business.
40. The Franchisee shall commence the Franchised Business from the Effective date.
41. The Franchisee shall conduct the Franchised Business only from the Outlet in the said Territory as specified herein and no other place.
42. The Franchisee will perform their respective obligations under this Agreement in compliance with all applicable and laws, rules and regulations and will obtain and maintain in full force and effect, any permits, licenses, consents, approvals and authorizations necessary for the performance of its obligations hereunder. The Franchisee understands that taking all permissions, approval, registration and consent from concerned government authorities, departments, etc. is the sole responsibility of the Franchisee and the Franchisor shall not be held liable for the same.
43. The Franchisee herein further explicitly and expressly states, confirms and agrees that, in the event the Franchisee fails to open the Outlet and/or commence the business from the Outlet on the effective date, within **12**months from the date of execution of this Agreement, as stipulated in above, the Franchisor may at its sole discretion grant such further extension of time for opening and/or commencing the business from the said Outlet as it deems fit and proper.
44. Before entering into this Agreement or any other agreements and transactions with the Franchisor, the Franchisee shall make full disclosure of all the material facts or circumstances known to it, relative to such contract or transaction, which are likely to influence the conduct of the Franchisor with regards to entering into such agreement or transaction including any material facts concerning the Franchisee or its ability to hold licenses of any type of running a restaurant or others as the case may be.
45. In case of expiry of this agreement/early termination of this agreement, the Franchisee hereby irrevocably and unconditionally agrees and undertakes that the Franchisee shall not directly or indirectly or through any of its affiliates or any person/s or entities in any manner whatsoever conduct/operate/run its own/carry on business of similar nature in the same area either directly or indirectly through any third party for a minimum period of **5**years. The Franchisee shall not conduct any other business or any business directly or indirectly or through any of its affiliates or any person/s or entities in any manner whatsoever, similar to the nature of the Franchised Business, whatsoever, from the said Outlet and/or from the said premises except as mentioned in the present Agreement during the continuation of this Agreement.
46. The Franchisee shall perform its obligations with requisite care and skill and as per the specifications stated under this Agreement and the Franchise Operational Manual as may be given by the Franchisor or any other document, from time to time and in the absence of the same as per the industry standards.
47. The Franchisee represents and warrants that it will get all the IT systems installed and functional and report all sales truthfully and maintain proper records and makes timely payment for all the purchases made from the Franchisor.
48. The Franchisee undertakes that the employees who are engaged in providing the services under this agreement will neither be engaged in any manner whatsoever in providing services of a similar nature to a competitor of Franchisor or otherwise nor shall they disclose any intellectual property of the Franchisee including but not limited to receipts in any manner whatsoever to any person/s or entities.
49. The Franchisee represents and warrants that the Franchisee shall purchase products required for the running and functioning of the Outlet from Franchisor’s authorized person/entity/suppliers.
50. The Franchisee hereby undertakes to act as the official representative of the Franchisor in the Designated Territory during the subsistence of this Agreement.
51. All the employees, agents, staff, officers and other personnel employed by the Franchisee for the purposes of and in connection with the operation of Franchised Business shall at all times be regarded as employees of the Franchisee. The Franchisor shall not, in any manner whatsoever be responsible for the obligations of an employer under any law, rules, regulations or any service contract or otherwise for the payment of salaries and/or the employment for any reason whatsoever.
52. The Franchisee shall not during the Term except for the purpose of conducting the Franchised Business (or any disclosure to the lawful authority) divulge or use whether directly or indirectly for its own benefit or for the benefit of any person firm or company other than the Franchisor any information or knowledge concerning the Franchised Business which may be communicated to the Franchisee or which the Franchisee may acquire in carrying out its obligations under this Agreement.
53. The Franchisee confirms that there is no investigation, arbitration, litigation, whether civil or criminal, or any other proceedings pending or threatened against the Franchisee or the Outlet at the instance of any third party and there are no outstanding court orders, court decrees, attachment orders or prohibitory orders or court stipulations to which the Franchisee is a party, by which any restriction has been placed upon the Franchisee or the Outlet for the performance of its obligations under present Agreement or may affect the performance of the present Agreement.
54. The Franchisee warrants that they are not at the time of entering into this Agreement bankrupt, insolvent, apparently insolvent, in liquidation or in administration and knows of no circumstances, which would entitle anyone to appoint a trustee, or administrator over or against his assets. The Franchisee hereby consents and authorizes to the Franchisor obtaining an independent credit check against the Franchisee at any time.
55. Further, in addition to the above, if the Franchisor is of the opinion that there has been unreasonable/unjustifiable delay on the part of Franchisee to open/launch/inaugurate the Outlet and/or to commence the business from the Outlet even after the effective date or such extended time period granted by the Franchisor, as the case may be, then the Franchisor shall also have the rights to terminate this Agreement forthwith at any time at its sole discretion, upon the expiry of 12 months or such extended time period as the case maybe. In such event of Termination any amount paid by the Franchisee to the Franchisor shall stand forthwith forfeited as compensation for the undue loss caused to the Franchisor due to non-operation of the said Outlet by the Franchisee for such long period of time.
56. The Parties hereto specifically state, confirm, agree and declare that the time shall be the essence of this Agreement and as such, all the payments agreed hereby shall be made strictly in accordance with the provisions as set out in this Agreement.
57. The Franchisee shall not grant any sub-licenses of the Franchised Business or any part of it nor assign, or otherwise deal with this Agreement or any part of it in any respect nor shall the Franchisee delegate or sub-contract any duties and obligations arising under this Agreement unless expressly permitted by the Franchisor in writing.
58. The Franchisee shall comply in the conduct of the Business with all applicable laws, including (without limitation) town planning laws and all other bye-laws and regulations applicable to the Business, including health and safety at work.
59. The Franchisee shall maintain all records pertaining to Gross Receipts for the Outlet and all payments and other expenditure required pursuant to this Agreement dated and filed in the consecutive order, together with income and sales tax or similar returns, for a period of at least 8 years and shall make such records available for inspection and audit by the representatives of the Franchisor anytime during the Franchisee’s business hours and/or at other reasonable time upon prior written notice by the Franchisor. The Franchisee shall also make available such other records and information as may be required by the Franchisor to verify the data submitted by the Franchisee during the course of any inspection, examination and/or audit by the Franchisor or Franchisor’s Representative. The Franchisee shall keep accurate records and accounts of the Business in accordance with good accountancy practice and in compliance with the Franchisor’s requirement.
60. The Franchisee shall not use the Outlet for any purpose other than for the operation of the Franchised Business in full compliance with this Agreement and the Franchise Operational Manual, unless approved by the Franchisor in writing.
61. The Franchisee shall, in mutual consultation with the CMF, acquire premises on leave and license basis within a period of 12 months (inclusive of the fit-out period) from the date of execution of the Term Sheet, subject to prior written approval of the Franchisor to start the Franchised Business at the outlet. For this purpose, the Franchisee shall execute such Business Conduction Agreement or Leave and License Agreement or Lease with tenants and owner of the said Premises. It is agreed by the Franchisee that all outgoings including legal cost for the process of selection of premises to operate Franchise outlet shall be borne by the Franchisee. Any waiver to the information, shall be permitted only as per Franchisor’s discretion in writing. It is also agreed by the Franchisee that they are solely liable to pay the rents towards the premises as decided and mentioned under the respective agreement for the Premises. It is also agreed by the Franchisee that on termination and expiration of this Agreement whichever is earlier, they shall vacant the Premise within 48 hours and shall immediately stop functioning and operating Jumboking Business/Outlet from the said Premises.
62. The Franchisee shall be responsible to employ appropriate employees as per the specifications provided by the Franchisor in the Franchise Operation Manual from time to time and the Franchisee shall also be responsible to make payments to all its employees. The Franchisor shall not be responsible for any such payments but the Franchisee shall, at all times, retain primary management responsibility, including responsibility to train its staff as per the Standards set by the Franchisor under Franchised Business System.
63. The Franchisee through its Directors/Partner/Proprietor as the case may be shall personally be present in the said Outlet and conduct the business.
64. The Franchisee shall get appropriate license for starting the Outlet and shall at all times make sure to get the FSSAI, Health, Fire and such other licenses as may be required from the competent authority. The Franchisee shall be under an obligation to obtain the Goods and Service Tax Registration Number (GST Number).
65. The Franchisee shall ensure that all personnel employed in the Business wear the uniforms from time to time prescribed in the Franchise Operation Manual and at all times present a neat and clean appearance, and give competent, sober, and courteous service to customers and comply with all directions of the Franchisor in this respect in relation to dress, appearance, and demeanor.
66. All the food items and beverages prepared by the Franchisee shall only be as per the recipes provided by the Franchisor in the Franchised Operation Manual or any other document and the Franchisee shall not deviate/alter/modify/change/amend from the recipes already provided in the Franchise Operation Manual or those provided by the Franchisor from time to time. The Franchisee shall not add any new items, dishes, beverages or amend the ones existing without the prior approval of the Franchisor and post termination of the said Agreement, the Franchisee shall not directly or indirectly use the recipes of the Franchisor and this clause shall survive termination.
67. The Franchisee shall arrange the brochures, pamphlets and flex banners of the brand for the advertisement purposes. The design of the ordering forms, bills format and stationery shall also be arranged by the Franchisee. The cost for the same shall be borne by the Franchisee.
68. The Franchisee shall display and have available at the Premises such materials as prescribed by the Franchisor from time to time. In the event the Franchisee is found marketing the products of other competitors at the outlet, then in that event without prejudice to any other remedies available to the Franchisor, the Franchisor may instruct the Franchisee to remove from the Premises, without liability, any signs, cards, notices, displays, advertising, promotional or any other materials of any nature, which have not been approved by the Franchisor and whenever so instructed by the Franchisor, the Franchisee shall comply with the directions as the same shall be final and binding on the Franchisee. The Franchisee shall diligently carry on the Franchised Business and use its best endeavors to promote and increase the Business and to co-operate with the Franchisor and the other franchisees and outlets of the Franchisor in this regard.
69. The Franchisee shall supply the Franchisor with all information, which may come into its possession during the course of Business, which may have significant impact on the Business or Goodwill or other intellectual aspects/properties of the Franchisor or may assist the Franchisor in developing and improving its products, processes, and business format. The Franchisee shall immediately provide details of any and all unresolved customer or any authority complaint or adverse publicity to the Franchisor.
70. The Franchisee shall notify the Franchisor of any suspected infringement of the Intellectual Property and will take such reasonable action as the Franchisor shall direct (at the Franchisor’s expense) in relation to any infringement. The Franchisee shall not use any name or marks similar to or capable of being confused with the Trade Marks or any other trade name used by the Franchisor at any time whether during or after the Agreement Term. The Franchisee shall not use the Trade Marks or any derivative thereof in any corporate name of the Franchisor. The Franchisee acknowledges that the Goodwill and rights in and associated with the Trade Marks belong to the Franchisor and that all such rights will at all times and for all purposes remain vested with the Franchisor. If any such rights at any time accrue to the Franchisee, the Franchisee will, at its own expense, immediately on demand, do all such things and execute all such documents as the Franchisor shall deem necessary to vest such rights absolutely in the name of the Franchisor.
71. The Franchisee represents and warrants that the Franchisee shall not use the Franchisor’s Intellectual Property or any other trade mark, trade name, trade dress, Color Combination or derivative thereof, similar to the look and feel of the Franchisor’s Trade Mark and/or Intellectual property, during or after the term of the said Agreement. The Franchisee also represents and warrants to abide by such changes in the Trade Marks, Trade Dress and other Intellectual Property, as communicated by the Franchisor or by any of its representative from time to time.
72. The Franchisee shall open a Bank Account, being a designated account, with any bank having ECS facilities. The Franchisee agrees and confirms to only use the designated account for the Franchised Business and all related transactions only and shall not use such designated account to operate other business monetary transactions.
73. The Franchisee shall not make any false representations to the customers.
74. The Franchisee shall not offer Products/Services at a price more than that fixed by the Franchisor to the customers. The Franchisee shall only quote the prices decided by the Franchisor for the running of Franchised Business. The Franchisee shall only sell, or offer for sale, such Products/Services as are listed as standard items in the Operational Manual.
75. The Franchisee shall ensure that at all times there is sufficient food storage and equipment’s at any one time at the Outlet to ensure that there will be no disruption to the Business as a result of any shortage. In any event, the quality of the food and level of equipment’s should not fall.
76. All the necessary products used for preparing foodstuffs and all beverages including patties, bread, sauces, soft drinks, packaging material etc. shall be obtained by the preferred suppliers as nominated by the Franchisor to the Franchisee in writing on the terms and conditions specified by the Franchisor.
77. The Franchisee shall procure or import the machinery and equipment as required for the production, preservation and upkeep of Products, from the suppliers as nominated by the Franchisor in writing.
78. The Franchisee’s payments to the preferred suppliers shall be made by way of NEFT/RTGS from the Franchisee’s designated bank account only. These payments have to be made to the respective suppliers in advance upon placing the order by the Franchisee. All payments and/or expenses towards the Business shall be borne by the Franchisee only.
79. The Franchisee shall be responsible for all expenses for setting up including equipment of the Outlet and its décor, designing and furnishing, rent, operational expenses, maintenance, emoluments of the employees, training expenses, and any other expenses related to the Franchised Business.
80. The Franchisee shall not make any alteration in the aesthetic look of the Outlet without the written permission of the Franchisor which may lead to the damage to the Brand image in any way whatsoever.
81. The Franchisee shall be responsible for the cost of consumables like gas, internet connections, water, electricity, telephone bills, etc.
82. The Franchisee shall place upon all letter headings, bills, invoices, and all other documents and literature used in connection with the Business in such manner and at such place as the Franchisor may direct (and shall display at the Premises in such manner and in efficient prominence as is acceptable to the Franchisor) the following word (or such other words to similar effect, as may from time to time be specified by the Franchisor):- “**Jumboking, a franchise owned and operated under license by**” followed by the name of the Franchisee.
83. The Franchisee ensures and undertakes that all other payments to its employees, suppliers, etc. and all the costs, expenses, charges, taxes, and outgoings of any nature relating to the Franchised Business, shall be paid directly by the Franchisee alone. The Franchisor shall not be held liable for the same.
84. **License and Approval: -**
85. The Franchisee shall get appropriate license for starting the Outlet and shall at all times make sure to get the FSSAI, Health, Fire and such other licenses as may be required from the competent authority. The Franchisee shall be under an obligation to obtain the Goods and Service Tax Registration Number (GST Number).
86. The Franchisee will perform their respective obligations under this Agreement in compliance with all applicable and laws, rules and regulations and will obtain and maintain in full force and effect, any permits, licenses, consents, approvals and authorizations necessary for the performance of its obligations hereunder. The Franchisee understands that taking all permissions, approval, registration and consent from concerned government authorities, departments, etc. is the sole responsibility of the Franchisee and the Franchisor shall not be held liable for the same.
87. **Training And Operations Manual: -**
88. The Franchisor shall provide for initial training to the Franchisee (free of charge other than in respect of travelling, accommodation, and subsistence costs over the training period) prior to the date the Franchisee commences the Business for such periods as the Franchisor shall reasonably require to complete the training program. For the avoidance of doubt, the acceptance of such training by the Franchisee shall be compulsory. It is also agreed that the training shall be held at the location decided by Franchisor in Mumbai.
89. The Franchisee or its representative shall, before opening the Outlet, successfully complete the training program. If the Franchisee or its representative fails to complete the program successfully at first, then he shall be entitled to a 2nd attempt to complete the training program successfully. However, if in any event, the Franchisee or its representative fail to complete the training program even after the 2nd attempt or fail to act in accordance with the training provided by the Franchisor, then in that event, the Franchisee shall be dismissed from the training program and this Agreement shall stand terminated with no refund of the Franchise Fee.
90. The Franchisor shall provide further training as the Franchisor deems necessary to the Franchisee or its representative engaged in the Business following any improvements of the Franchise Business System. The training programs including the initial training program shall be attended either by the Franchisee or any one representative of the Franchisee since it is mandatory to understand the quality system of the Franchisor. Such cost of initial training of new employees shall be incurred by the Franchisee which would also include the Franchisor’s standard training rate, travel, accommodation and substantive costs and the employees’ salaries over the training period.
91. The Franchisee shall run the business from the Outlet as per the guidelines issued by the Franchisor to the Franchisee in its Franchise Operation Manual.
92. The Franchisor shall provide to the Franchisee, concurrently with the commencement of the Franchisee’s training program, one (1) copy of the Franchisor’s Operational Manual. This Operational Manual contains the introduction and other operational aspect of the Franchise Business.
93. The Operational Manual is the exclusive and intellectual property of the Franchisor and shall not be duplicated, copied, disclosed or disseminated in whole or in part in any manner except with the Franchisor’s express prior written consent.
94. The Franchisee shall at all times treat the Operational Manual created for or approved for use in the operation of the Outlet and the information contained therein, as confidential, and shall use all reasonable efforts to maintain such information as secret and confidential. Except for those portions of the Operational Manuals that Franchisor designates, in writing, as appropriate for copying.
95. The Operational Manual shall at all times remain the sole property of Franchisor and shall at all times be kept in a secure place at the Outlet.
96. The Franchisor may make such additions or modifications in the Franchise Operational Manual without prior notice to Franchisee and the Franchisee expressly agrees to make corresponding revisions to its copy of the Franchise Operational Manual and to comply with each new or changed standard. In the event of any dispute as to the contents of the Franchise Operational Manual the terms of the master copy of the Manual maintained by Franchisor and shall be binding on the Franchisee.
97. In order to protect the reputation and goodwill associated with the trade mark “Jumboking” and to maintain uniform standards of operation, the Franchisee shall conduct its Franchised Business and all operations and procedures in strict conformity with the Franchisor’s Operational Manual.
98. **Store Fit out: -**
99. The Franchisor hereby authorizes and appoints the Franchisee herein as its authorized Franchisee to use its Brand, products, equipment’s and to open and operate an Outlet under the name and style of “JUMBOKING” from the said Premises only and sell only products to the customers as authorized by the Franchisor, which are more particularly described in the Schedule 1 hereto and shall also include any other products introduced from time to time.
100. The Franchisee shall purchase the list of equipment’s ~~which are more particularly described in Schedule 2~~ given at the time of store opening from the Franchisor’s approved vendors/suppliers at such price as set out by the Franchisor’s approved vendors/suppliers. The Franchisee shall purchase the equipment’s from the Franchisor’s approved supplier/vendor and shall not purchase the equipment’s from any third party.
101. To use Franchisor’s Brand, products, equipment’s from the said Premises only and sell such products to the customers as authorized by the Franchisor and the Franchisee shall maintain the interiors of the said Premises as per the Franchisor’s requirements ~~which are more particularly described in the Schedule 3 hereto.~~ , the checklist will be given at the time of store opening.
102. Without prejudice to the foregoing generality, if such variations require a change of color scheme, equipment or of dress styles or uniforms of the Franchisee or employees, the Franchisee shall at its own expense carry out and complete such changes as above without any delay. All the provisions of the Franchised Business, as may be amended or revised from time to time, or any new edition of it, considered as incorporated into and form part of this Agreement as though fully set forth in it and if there is any conflict between a provision of this Agreement and a provision in the Franchised Business, this Agreement shall prevail. If there is any dispute at any time on the interpretation of the Franchised Business, the Franchisor’s decision shall be final and binding upon the Franchisee.
103. The Franchisee understands and acknowledges that each and every detail of the Franchise Business and associated with the Brand name is important to the Franchisor and to the Franchisee, and to other Franchisees of the Franchisor in order to develop and maintain uniformity of the services provided in the Outlet, and therefore, to enhance the reputation, trade, demand and goodwill of the Franchise Business.
104. The Franchisee shall not make any alteration in the aesthetic look of the Outlet without the written permission of the Franchisor which may lead to the damage to the Brand image in any way whatsoever.
105. The Franchisee shall place upon all letter headings, bills, invoices, and all other documents and literature used in connection with the Business in such manner and at such place as the Franchisor may direct (and shall display at the Premises in such manner and in efficient prominence as is acceptable to the Franchisor) the following word (or such other words to similar effect, as may from time to time be specified by the Franchisor):- **“Jumboking, a franchise owned and operated under license by”** followed by the name of the Franchisee.
106. The Franchisee specifically confirms that the furniture used by the Franchisee at the Outlet shall be in strict conformity to the color, style, design, quality and shall at all times maintain the Outlet in the highest degree of sanitation, hygiene, repair and cleanliness.
107. The Franchisor shall make available at no charge to the Franchisee, copies of standard plans and specifications (but not construction drawings or blueprints) for the development of the Outlet, including specifications for exterior and interior design and layout, fixtures, equipment, decor and signs. Such plans and specifications are subject to alteration as may be necessary in the Franchisor's sole discretion. The Franchisee shall cause the Outlet to be developed, equipped and improved in accordance with such plans and specifications approved by the Franchisor. It is further agreed that the Franchisee shall at all times purchase such furniture and fixture from suppliers provided by the Franchisor.
108. The Franchisor, its employees, authorized representatives, architect(s), contractor(s), reserve the right to enter the Outlet at all reasonable time to inspect/supervise, to conduct audit /inspect/restrict activities at the Outlet if not found in compliance with this Agreement.
109. The Franchisee shall be responsible for all expenses for setting up including equipment of the Outlet and its décor, designing and furnishing, rent, operational expenses, maintenance, emoluments of the employees, training expenses, and any other expenses related to the Franchised Business.
110. **Advertisement, Marketing and Promotions: -**
111. To operate, advertise and promote the franchise under the Brand name “Jumboking” without prefix or suffix; and
112. To adopt and use the Brand licensed hereunder solely in the manner prescribed by Franchisor and no other; in case it is found out that Franchisee has misused or tried to use the Brand name which is not in accordance with the guidelines laid under this Agreement, then in that event the Franchisor shall address a notice in writing to the Franchisee directing the Franchisee to incorporate such changes immediately as prescribed under the said notice and within such time period as may be prescribed by the Franchisor under the said notice. In the event the Franchisee fails to comply with the said notice, then the Franchisor shall issue another notice to comply with the earlier notice in addition to other remedies available to the Franchisor under the Law and if the Franchisee continues to do such default, the Franchisor shall have right to terminate this agreement and claim for further damages.
113. The Franchisor shall advise on, the working of the initial advertising and promotional campaign in respect of the Business.
114. The company will come up with time to time promotions and the Franchise with full dedication will have to participate in such promotions.
115. The Franchisee shall arrange the brochures, pamphlets and flex banners of the brand for the advertisement purposes. The design of the ordering forms, bills format and stationery shall also be arranged by the Franchisee. The cost for the same shall be borne by the Franchisee.
116. The Franchisee undertakes to exclusively use advertisement artworks provided by the Franchisor alone and under no circumstances such Artworks are to be created locally/altered locally.
117. The Franchisee shall not, on its own and without any express authority from the Franchisor, advertise, correspond in writing or through any media on behalf of the Franchisor. It is also agreed that the Franchisee shall not even publicize through newspapers, pamphlets or any other media about the services rendered by him as authorized Franchisee of the Franchisor, without prior written permission from the Franchisor.
118. The Franchisee shall bear the store launch and pre-opening expenses at their cost and Franchisor shall not be responsible for the payment of the same.
119. **IT & Point of Sale: -**
120. The Franchisee represents and warrants that it will get all the IT systems installed and functional and report all sales truthfully and maintain proper records.
121. The Franchisee shall get the IT Point of Sale (POS) system (which includes computer, Bill printer and the licensed version of Windows or any other IOS System at that relevant point in time) installed and functional in accordance with the Franchisor’s specifications at the cost of the Franchisee. It is mandatory for the Franchisee to make use of the IT system and also get Broadband Internet connection at the Outlet at its own cost. The Franchisee shall use a personal computer based Point-of-Sale (“POS System”) including Operational software that the Franchisor has specified in its Franchise Operational Manual and hardware compatible with the Franchisor’s requirements. Once a functioning POS System is available and is compliant to and not contrary to the local laws to record and report all sales and other designated business information to the Franchisor. The Franchisee agrees to install and upgrade or change required to update the POS System from time to time during the term of this Agreement.
122. The Franchisor shall lend to the Franchisee, during the Term, the access to such software system and update such software as and when the Franchisor deems necessary.
123. **Standard Operating Process: -**
124. To carry out the Franchised Business under said Brand in accordance with operational standards established by the Franchisor and as set forth in the Operational Manual and/or other documents, if such Operational Manual or other documents are provided to the Franchisee.
125. The Franchisor shall be obligated but not bound to develop and provide the Operational Manual and any updates thereto to the Franchisee from time to time and a set of the Operational Manual shall be provided to the Franchisee upon execution of this Agreement.
126. The Franchisor shall provide General consultation and advice with a view to enable the Franchisee to open and run an efficient business including, advice and consultation on the purchase of equipment, selection and training of employees and supervision of employees, book keeping, accounting, equipment control, promotions and day-to-day operations of the Business.
127. The Franchisee shall conduct and operate the Franchised Business from the Outlet in the Designated Territory in accordance with the rules laid down under the Operational Manual or such other communications, notifications etc. issued by the Franchisor from time to time. The Franchisor reserves the right to amend the Franchise Operation Manual at its sole discretion, at any time during the continuation of this Agreement and the said amended Franchise Operation Manual shall be binding on the Franchisee at all-time thereof.
128. The Franchisee through its Directors/Partner/Proprietor as the case may be shall personally be present in the said Outlet and conduct the business.
129. The Franchisee shall ensure that all personnel employed in the Business wear the uniforms from time to time prescribed in the Franchise Operation Manual and at all times present a neat and clean appearance, and give competent, sober, and courteous service to customers and comply with all directions of the Franchisor in this respect in relation to dress, appearance, and demeanor.
130. All the food items and beverages prepared by the Franchisee shall only be as per the recipes provided by the Franchisor in the Franchised Operation Manual or any other document and the Franchisee shall not deviate/alter/modify/change/amend from the recipes already provided in the Franchise Operation Manual or those provided by the Franchisor from time to time. The Franchisee shall not add any new items, dishes, beverages or amend the ones existing without the prior approval of the Franchisor.
131. The Franchisee shall display and have available at the Premises such materials as prescribed by the Franchisor from time to time. In the event the Franchisee is found marketing the products of other competitors at the outlet, then in that event without prejudice to any other remedies available to the Franchisor, the Franchisor may instruct the Franchisee to remove from the Premises, without liability, any signs, cards, notices, displays, advertising, promotional or any other materials of any nature, which have not been approved by the Franchisor and whenever so instructed by the Franchisor, the Franchisee shall comply with the directions as the same shall be final and binding on the Franchisee. The Franchisee shall diligently carry on the Franchised Business and use its best endeavors to promote and increase the Business and to co-operate with the Franchisor and the other franchisees and outlets of the Franchisor in this regard.
132. The Franchisee shall not offer Products/Services at a price more than that fixed by the Franchisor to the customers. The Franchisee shall only quote the prices decided by the Franchisor for the running of Franchised Business. The Franchisee shall only sell, or offer for sale, such Products/Services as are listed as standard items in the Operational Manual.
133. The Franchisee shall ensure that at all times there is sufficient food storage and equipment’s at any one time at the Outlet to ensure that there will be no disruption to the Business as a result of any shortage. In any event, the quality of the food and level of equipment’s should not fall.
134. The Franchisee shall be responsible for the cost of consumables like internet connections, water, electricity, telephone bills, etc.
135. The Franchisee shall perform its obligations with requisite care and skill and as per the specifications stated under this Agreement and the Franchise Operational Manual as may be given by the Franchisor or any other document, from time to time and in the absence of the same as per the industry standard.
136. If the Franchisee fails to submit its Monthly Sales Reconciliation, then in that event, the Franchisor shall be entitled to charge a penalty of 100% on the products’ M.R.P. towards the difference in opening stock and closing stock of such month as sales reconciliation difference.
137. **Manpower: -**
138. All the employees, agents, staff, officers and other personnel employed by the Franchisee for the purposes of and in connection with the operation of Franchised Business shall at all times be regarded as employees of the Franchisee. The Franchisor shall not, in any manner whatsoever be responsible for the obligations of an employer under any law, rules, regulations or any service contract or otherwise for the payment of salaries and/or the employment for any reason whatsoever.
139. The Franchisee shall be responsible to employ appropriate employees as per the specifications provided by the Franchisor in the Franchise Operation Manual from time to time and the Franchisee shall also be responsible to make payments to all its employees. The Franchisor shall not be responsible for any such payments but the Franchisee shall, at all times, retain primary management responsibility, including responsibility to train its staff as per the Standards set by the Franchisor under Franchised Business System.
140. The Franchisee shall ensure that the employees and staff recruited for the Outlet are well equipped with the basic knowledge of the operation of the Franchised Business. The Franchisee shall ensure that their designated staff and the respective employees appointed for the purpose of the Franchised Business adhere to the specifications enumerated under the Franchise Operational Manual of the Franchisor, while handling the Franchised Business.
141. Sourcing of the manpower shall be entire responsibility of the Franchisee and the Franchisor shall specify the minimum number of staff members to be maintained by the Franchisee for the operation of the Franchised Business in its Franchise Operation Manual. The Franchisee shall recruit required number of qualified and experienced technical and administrative staff for the efficient operation of the franchise business and all such persons shall be taken on the payrolls of the Franchisee.
142. The Franchisee to maintain a detail record of all the staff/employees recruited in the Outlet for operation of the Franchise Business.
143. The Franchisee undertakes that the employees who are engaged in providing the services under this agreement will neither be engaged in any manner whatsoever in providing services of a similar nature to a competitor of Franchisor or otherwise nor shall they disclose any intellectual property of the Franchisee including but not limited to receipts in any manner whatsoever to any person/s or entities.
144. In case any employee of the Franchisee meets with any unfortunate circumstance like accident during his/her course of employment, the liability shall only be that of the Franchisee and the Franchisor will always be free from any liability of any kind whatsoever.
145. The Franchisee shall adhere to all the applicable statutory laws which shall mean and include but not limited to Child La21bour (Prohibition and Regulation) Act, 1986, Contract Labour (Regulation & Abolition) Act, 1970, Employees Compensation Act, 1923, Employers Liability Act, 1938, Employee State Insurance Act, 1948, Employees Provident Fund and Misc. Provisions Act, 1952, Payment of Gratuity Act, 1972, Shops and Establishment Act of respective State of India where the Outlet is located etc.
146. **Supply Chain: -**
147. The Franchisee shall purchase the products which are more particularly described in Schedule 1 from the Franchisor’s approved vendors/suppliers at such price set by the Franchisor’s approved vendors/suppliers and can sell the said products to the customer at such price as may be fixed by the Franchisor from time to time. The Franchisee shall sell the products so purchased from the Franchisor’s approved supplier/vendor at the Outlet and shall not purchase any other products from any third party.
148. The Franchisee represents and warrants that the Franchisee shall purchase products required for the running and functioning of the Outlet from Franchisor’s authorized person/entity/suppliers.
149. The Franchisor reserves the sole right to fix the purchase price of the products. The Franchisor has the right to change or revise the prices or rates of the products at its sole discretion and the same shall be binding on the Franchisee and the Franchisee has also given unequivocal consent for the same.
150. All the necessary products used for preparing foodstuffs and all beverages including patties, bread, sauces, soft drinks, packaging material etc. shall be obtained by the preferred suppliers as nominated by the Franchisor to the Franchisee in writing on the terms and conditions specified by the Franchisor.
151. The Franchisee shall procure or import the machinery and equipment as required for the production, preservation and upkeep of Products, from the suppliers as nominated by the Franchisor in writing.
152. The Franchisee’s payments to the preferred suppliers shall be made by way of NEFT/RTGS from the Franchisee’s designated bank account only. These payments have to be made to the respective suppliers in advance upon placing the order by the Franchisee. All payments and/or expenses towards the Business shall be borne by the Franchisee only.
153. The Franchisee hereby agrees and confirms that the Franchisee shall procure all raw materials and products only from the authorized suppliers as informed by the Franchisor from time to time. The Franchisee shall maintain complete records and reports of such purchases and shall furnish such records to the Franchisor as and when demanded.
154. **New Product Development: -**
155. The Franchisor shall from time to time update the seasonal offer, discount schemes, gift vouchers under the working of the Outlet and share with the Franchisee, the latest flavors in food and beverages developed by the Franchisor.
156. New products are developed and introduced with the Franchise on timely basis as per the market demand and trends.
157. Franchisor will keep updating of the Jumbokings products (more particularly stated in Schedule – I appended to the agreement – PRODUCT SCHEDULE).
158. **Operation’s Audit:**
159. The Parties hereto agree that the Franchisor shall, through its authorized auditors conduct an internal audit every 30 days of the Franchisee’s outlet situated within the said zone of the said territory. The Franchisee shall assist the auditors with all the information sought by such auditors and shall not cause any hindrance during the process of the audit.
160. The Auditor shall submit its audit report after conducting the audit of the said outlet of the Franchisee. The Auditor may classify the said outlet to fall under the following two categories as the case may be:
161. **“Green Zone”**:- If the said outlet of the Franchisee is found to be in compliance of the Franchise Operational Manual and guidelines as laid down by the Franchisor and the auditor has in its audit report evaluated the said outlet operating as per the required standards (which shall mean and even include standards as laid down by the appropriate authorities but not limited to maintenance of equipment’s, storage/refrigeration of raw materials and products, hygiene, dressing of the Franchisee’s employees working within the said outlet) shall qualify to be declared under the category of Green Zone;
162. **“Red Zone”**:- If the said outlet of the Franchisee is not found to be in compliance with the Franchise Operational Manual and guidelines as laid down by the Franchisor and the auditor has in its audit report evaluated the said outlet in breach of the required standards (which shall mean and even include standards as laid down by the appropriate authorities but not limited to maintenance of equipment’s, storage/refrigeration of raw materials and products, hygiene, dressing of the Franchisee’s employees working within the said outlet) then upon such occasion, the auditor may classify the said outlet to fall under the category of Red Zone. In the event the said outlet has been classified under ‘Red Zone’, then the Franchisor shall conduct audit on weekly basis (maximum of 3 audits) until the outlet of the franchisee is evaluated to be under ‘Green Zone’ and shall also be entitled to levy a penalty upon the Franchisee of such amount as may be decided by the Franchisor, every time the said outlet is classified under the Red Zone.
163. If the Franchisor finds any unapproved product/raw material at the store at the time of audit, then the Franchisor shall have the right to destroy, confiscate the product immediately.
164. On continuous default on part of the franchisee (maximum of 3 Audits), the franchisor may put the franchisee and his team for training at an audited Green Zone store. The franchisee’s store shall be temporary shut during this period.
165. The Franchisor shall have the right to conduct surprise audit of the Franchisee as and when the Franchisor deems fit and necessary, without giving notice to the Franchisee, during the normal working hours of the Franchisee. The Franchisee shall provide all assistance as may be necessary during the course of the audit by the Franchisor. In the event, the Franchisee does not give assistance and access to records of the Outlet to the Franchisor, then the Franchisor shall be entitled to levy a penalty upon the Franchisee on per day basis of such amount as may be decided by the Franchisor from time to time, for non-compliance from the day of such audit till providing of such access to the records. In the event, the Franchisor finds the Franchisee not complying with the necessary standards, the Franchisee shall be entitled to a cure period of 15 days to cure such defects, failing which the Franchisor shall be entitled to levy a penalty upon the Franchisee on per day basis of such amount as may be decided by the Franchisor from time to time, for such continuous breach till the Franchisee remedies such short-coming or non-compliance. The Franchisor shall also be entitled to terminate this agreement in the event of such continuous breach.
166. **Financial Audit:**
167. In the event, the auditor evaluates that the said outlet of the Franchisee has made negative sales i.e. sales less than system closing report per day, then in that event the Franchisor shall be entitled to levy 100% penalty of the Franchise Fees for such negative quantity as may be determined by the auditor in its audit report.
168. In the event the auditor evaluates that the said outlet of the Franchisee has made positive sales i.e. sales more than system closing report per day, then in that event the Franchisor shall be entitled to penalty to be quantified to such additional quantity sold per day into its sale price.
169. The Franchisee indemnifies and agrees that in case at the time of audit, the Franchisor finds inaccuracy and/or under reporting of sales, then in such case, Franchisee shall be liable to pay penalty amount which is equivalent to the double the amount of the Franchisee fee and on continuous breach, the Franchisor shall have an option to terminate this Agreement.
170. **Indemnification: -**
171. The Franchisee represents that it has reached to the age of majority and have legal capacity to enter into this Agreement and operate a restaurant business. The Franchisee represents that he/she has taken proper legal advice and has gone through all the Clauses, Terms and Conditions according to the legal advice provided to him/her and have then signed the Agreement. The Franchisee understands and agrees to be bound by the terms, conditions and obligations of this Agreement.
172. The Franchisee understands the risk of owning a Business and specifically the risk of owning a Jumboking Outlet and the Franchisee is able to bear such risks. The Franchisee acknowledges the success of the Restaurant/Outlet will mainly depend primarily on franchisee own efforts and abilities and those of her employees and the Franchisee will have to work hard and use best efforts to operate the Restaurant/Outlet. The Franchisee also acknowledges other factors beyond Franchisor’s Affiliates or the Franchisee’s control which may affect the Restaurant/Outlet success included but not limited to competition, demographic patterns, consumer trends, interest rates, economic condition, government policies, weather local laws, rules and regulations, legal claims, inflation, labour cost, lease terms, market conditions and other conditions which may be difficult to anticipate, access or even identify. The Franchisee acknowledges that the Franchisee is subject to all national, territorial, state provisional and local laws relating to the Franchise Business. The Franchisee recognizes that some Jumboking Outlets have failed in the past and more may fail in the future.
173. Where more than one person is identified as the Franchisee in terms of this Agreement, all obligations of the Franchisee shall be deemed to be accepted by such persons, jointly and severally. In the case of the Franchisee being a partnership, the provisions of this Agreement shall apply as if the references to the Franchisee were to each of the partners of the partnership.
174. The Franchisee further acknowledges that no employee, agent, area developer or representative of the Franchisor made any oral, written or visual representation to her of actual or potential sales, earnings or net gross profits. The Franchisee also acknowledges that no employee, area developer or representative of the Franchisor has made any statement that are contrary to or different from the information under this Agreement including but not limited to any statements about advertising, marketing, media support, media presentation, training, outlet density, outlet locations, support services and assistance or the costs to establish or operate a Jumboking restaurant.
175. The Franchisee hereby indemnifies, hold harmless and undertakes to defend the Franchisor, Master Franchise its Promoters, Directors, Affiliates, employees, officers, agents and representatives etc. against any claim, damages, costs, expenses by any party, including Statutory Authority/ies, where such claim, damages, costs, expenses or the cause for such claim, damages, costs, expenses are raised out of or arises from:
176. Infringement of any third party’s Intellectual Property Rights by the Franchisee.
177. Taxes/charges/cess/levies (interest or penalties assessed thereon) against the Franchisor, which are obligations of the Franchisee pursuant to this Agreement.
178. Any damages for bodily injury (including death) and damage to real property and/or tangible personal property of any person, caused by Franchisee.
179. Any claim or action by or on behalf of the Franchisee’s personnel based on his or her employment with the Franchisee, including but not limited to claims arising under occupational health and safety, worker’s compensation, provident fund or other applicable laws or regulations.
180. Claims by government regulators or agencies for fines, penalties, sanctions or other remedies arising from or in connection with the Franchisee’s failure to comply with its regulatory/legal requirements and compliances.
181. Any claim on account of breach of confidentiality and security of data occurring as a result of acts of omissions or commission of Franchisee, its employees, officer, agent or sub-contractors.
182. Any claim occurring on account of misconduct, negligence or wrongful acts of omission and/or commission by either Franchisee or employee(s) of Franchisee, and/or its agent.
183. Any claim arising on account of misuse or negligent application, misuse of systems, failure to follow established procedure by Franchisee or its employee or its agent(s).
184. Any claim arising out of adulterated food provided at the Outlet by the Franchisee.
185. The Franchisee hereby unequivocally undertake to indemnify, defend and agree to hold Franchisor including each and all promoters, employees of Franchisor harmless against each and all losses, liabilities, penalties, damages, claims, actions, proceedings, cost and expenses, including reasonable attorney’s fees and disbursements in connection therewith, asserted or claimed against or incurred by Franchisor which may arise out of or result from or payable on account of the Franchisee failing to comply with the terms and conditions as mentioned in this Agreement.
186. The Franchisee acknowledges and agrees and indemnifies the Franchisor that, on termination of this Agreement either by any of the parties herein, for any reason whatsoever, the Franchisee and/or its employee, any people associated with the Franchisee, shall not conduct, indulge, get associated, consult, or manage the same or similar Business than that of the Franchisor or the Business of Restaurants or fast food outlets for a period of 5 years from the date of termination of this Agreement.
187. **Proprietary Marks/Trade Marks/ Trade Dress and Goodwill: -**
188. In consideration of the terms of this Agreement, the Franchisor grants to the Franchisee a revocable, non-exclusive limited right/license to use the said Brand and other Intellectual Property in relation to the Outlet by way of permitted use, the said outlet in Designated Territory, strictly as approved and prescribed by the Franchisor herein, subject to the terms and conditions of this Agreement and only for the purposes of and during the continuation of this Agreement alone.
189. **Trade Dress** shall mean and include all elements combined to create the whole visual image, Colour combinations, word mark, logo presented to its’ customers which represent the overall impression of “*Jumboking*”, the totality of the elements in which the Jumboking’s products are packed or presented, the shape and design of the Jumboking’s products (more particularly stated in Schedule –1 appended to this agreement – **PRODUCT SCHEDULE**) and upon subsequent modifications, the same shall be communicated by the Franchisor to the Franchisee from time to time. However, Trade Dress shall mean and include the following but not limited to:
190. **Signage Board:** The Signage is a backlit signage wherein the colour combination of the board is “Yellow” colour in the background with “Jumboking” font written in “RED” colour alongwith Jumboking Logo.The Word “Jumbo” and “King” cannot be used in collaboration or in any formbeyond this Agreement.
191. **Backlit Translite:**Situated at counter area placed with 05 Translites and 01 Menu board which displays the Franchisor’s products as per the approved format. The size of Translite are 2 x 3 with white background depicting product names as registered under Trade mark Act.
192. The name and photographs of the Franchisor’s products as depicted on the menu.
193. **Wall Paper:** The interior walls situated at the customer area within the Franchisee’s outlet covered with the wall paper of a specific design as approved by the Franchisor’s architect/interior designer.
194. The layout plan, appearance, placement and alignment of the equipment’s placed at the counter area of the outlet as provided to the Franchisee by the Franchisor’s architect/interior designer.
195. The Franchisee shall notify the Franchisor of any suspected infringement of the Intellectual Property and will take such reasonable action as the Franchisor shall direct (at the Franchisor’s expense) in relation to any infringement. The Franchisee shall not use any name or marks similar to or capable of being confused with the Trade Marks, trade dress, color combinations or any other trade name used by the Franchisor at any time whether during or after the Agreement Term. The Franchisee shall not use the Trade Marks or any derivative thereof in any corporate name of the Franchisor. The Franchisee acknowledges that the Goodwill and rights in and associated with the Trade Marks belong to the Franchisor and that all such rights will at all times and for all purposes remain vested with the Franchisor. If any such rights at any time accrue to the Franchisee, the Franchisee will, at its own expense, immediately on demand, do all such things and execute all such documents as the Franchisor shall deem necessary to vest such rights absolutely in the name of the Franchisor.
196. The Franchisee warrants, covenants and undertakes not to challenge, or to assist others in challenging, the validity of the Intellectual Property and/or the Brand and/or any other trade name, trade mark,trade dress, color combinations and/or to dispute Franchisor’s Proprietary rights in and to the Intellectual Property and/or the Brand and/or any other trade name, trade mark, trade dress, color combinations during the continuance of this Agreement and/or even after the expiration/termination of this Agreement. All sort of use of Intellectual Property and/or the Brand and/or any other trade name, trade mark, trade dress, color combinations of the Franchisor by the Franchisee shall ensure to the benefit of Franchisor alone. Save and except the permitted use of Intellectual Property granted to the Franchisee herein, all proprietary rights in and to the Intellectual Property and/or the Brand and/or any other trade name, trade mark, trade dress, color combinations of the Franchisor shall remain exclusively with the Franchisor alone, and no provision of this Agreement shall be interpreted as conferring upon the Franchisee any proprietary interest in or with respect to the Intellectual Property and/or the Brand and/or any other trade name, trade mark, trade dress, color combinations of the Franchisor herein.
197. The Franchisee agrees to promptly notify the Franchisor of any claim, demand, or suit based upon or arising from, or of any attempt by any other person, firm, or corporation, to use the Brand name and/or trademarks licensed hereunder, or any trademark, service mark, symbol, trade name, trade dress, color combinations copyright, or colorable variation thereof, in which the Franchisor has a proprietary interest.
198. The Franchisee hereby agrees that the Franchisor has established substantial reputation and goodwill in the said Business and acknowledges the necessity of conforming to the high standards and uniform specifications of the Franchised Business by employing best efforts, skill and diligence to promote and establish the Franchised Business.
199. The Franchisee shall not, during the term of this agreement and/or after the termination of this agreement, use the Franchised Business, its repute and the goodwill attached to it as part of its corporate or other business ventures.
200. The Franchisee shall supply the Franchisor with all information, which may come into its possession during the course of Business, which may have significant impact on the Business or Goodwill or other intellectual aspects/properties of the Franchisor or may assist the Franchisor in developing and improving its products, processes, and business format. The Franchisee 1shall immediately provide details of any and all unresolved customer or any authority complaint or adverse publicity to the Franchisor.
201. **Insurance: -**
202. The Franchisee agrees to maintain all insurances, at its sole expense, throughout the tenure of this Agreement and until the extended period(s), insurance coverage including but not restricted to, Comprehensive General Liability Insurance covering bodily harm, injury, death of all individuals employed/assigned by the Franchisee to perform the Services; Workmen Compensation Insurance in respect of all individuals employed/assigned by the Franchisee to perform the Services and/or such other insurance that may be required by the Franchisor, including the loss or damage to property howsoever caused. The Franchisee shall not cause or permit any breach of any insurance policy/policies maintained by it whether in respect of the Premises, the Franchised Business or otherwise and shall comply at all times with all relevant claim intimation procedures.
203. The insurance liability for the entire Outlet and the liability for any loss or damage due to any fire, burglary, theft, etc. shall be solely of the Franchisee. The Franchisor shall not be held liable for any loss, pilferage or damage of the stock at the Franchisee’s premises and the safety of merchandise, and the same shall be the sole responsibility of the Franchisee.
204. In the event of failure to take insurance policy and/or renew the policy in time, the Franchisee shall be solely responsible for all and any loss and/or damage sustained and the Franchisor shall have no responsibility or liability towards the same.
205. **No Implied Warranty: -**

Except as provided above (Representations and Warranties), there are no expressed or implied warranties, representations, undertakings or conditions (statutory or otherwise) including the implied warranties of merchantability and fitness or quality for a particular purpose in this Agreement, whether the same is identified as confidential or not.

1. **Liability for Consumable Items and Limitation of Liability: -**
   1. The Parties agree and confirm that the consumable items must be used within 2 hours from the time it has been prepared. The Franchisor shall not be held liable in any manner whatsoever if the consumable items are sold by Franchisee after 2 hours as the same is harmful to human health.
   2. The Parties agree and confirm that the raw materials and consumable items must be stored at appropriate temperatures.
   3. The Franchisor shall not be held responsible for consumable items which are negligently packaged, processed or served to end customers. Any action/conduct violating the standards set out herein shall mean negligence on the part of the Franchisee.
   4. The Franchisee shall promptly respond to any customer related issues and immediately communicate in writing about the same to Franchisor within 24 hours from the date of receipt of the complaint from the end consumer.
   5. Under no circumstances, the Franchisor shall be held liable to the Franchisee or any other person, for any direct, indirect, special, punitive, incidental, consequential damages and/or loss of any character, whatsoever, that may arise from the any act(s) or omission(s) of the Franchisee, its employees, agents, suppliers, etc. or any other user of the services provided by the Franchisee. It is specifically understood and agreed by the Franchisee that, the Franchisee shall be solely responsible for all acts or omissions committed within the designated Outlet. It is further also agreed that, in respect of any liability/liabilities arising out of non-performance, under-performance or wrong performance of any of the technical staff working at the said Outlet, the Franchisor shall not be held liable for the same. The Franchisee alone shall be responsible for any such liability/liabilities arising thereof.
2. **Reporting and Inspection: -**
3. The Franchisee shall maintain and preserve, during the term of the Agreement as also for the time period specified in the Franchise Operational Manual, full, complete and accurate books, records accounts including the business operational reports and along with all the supporting materials in accordance with the procedures and guidelines contained in the Franchise Operational Manual.
4. The Franchisee shall submit to the Franchisor such periodic inventory reports, forms and records, at its sole cost and in the manner and at the time as specified by the Franchisor.
5. The Franchisee shall ensure reconciliation of accounts of the parties on monthly basis or as required by the Franchisor.
6. The Franchisee shall permit Franchisor and agents of the Franchisor during normal hours of business to inspect and observe the Outlet and the Services provided at the Outlet. The Franchisor shall have the right to do surprise checking any time during the working hours of the Outlet.
7. **Changes in Constitution or Ownership: -**
8. This Agreement has been entered into between the parties on the basis of the present constitution of the Franchisee’s establishment as submitted to the Franchisor. However, if any change is proposed in the constitution of the Franchisee, the Franchisee shall give minimum of 30 days’ notice in advance to the Franchisor for approval of the same.
9. The Franchisee herein specifically state and declare that no change in present constitution of Franchisee’s constitution shall be effected unless an approval of the Franchisor is obtained in writing.
10. In the event if the Franchisor agrees to the changed constitution of the Franchisee; the rights, obligations and liabilities arising out of this agreement shall stand transferred as agreed to the new entity and the present agreement shall be considered valid and subsisting as if the new entity had entered into the said Agreement with the Franchisor. All the legal expenses including registration of the new franchise agreement will be borne solely by the Franchisee.
11. However, in the event of the Franchisor agrees to the changed constitution, the Franchisee shall ensure that the liabilities of the old entity under this agreement shall be honored by the new entity in addition to complying with all such formalities as may be intimated by Franchisor with regard to such change in constitution or ownership.
12. Where there is a change in constitution of Franchisee, all deposits paid to the Franchisor shall remain unaffected and transferred to the new entity.
13. In case the written consent is not sought from the Franchisor or if the Franchisor rejects the change in the constitution of the Franchisee, the Franchisor reserves its right to terminate this Agreement at its sole discretion by 30 days’ notice in writing.
14. The Franchisee hereby acknowledges that the Franchisor reserve the right at any time (and from time to time) to vary and amend the administration and/or operations and/or Franchised Business mentioned under this Agreement or otherwise and the Franchisee shall immediately comply with all such variations at its own expense under the supervision of and to the satisfaction of the Franchisor. The Franchisor shall notify the Franchisee on such amendments by way of written notification.
15. **Transfer of Rights Under This Agreement: -**
16. The grant of non-exclusive right and license to the Franchisee under this Agreement is exclusive and the Franchisee shall not have the right to assign (directly or indirectly) this Agreement or any of the rights granted hereunder. Provided however, the Franchisee may assign the rights under this Agreement only with the prior written consent of the Franchisor and subject to the settlement of all dues of the Franchisor and other terms and conditions as may be specified by the Franchisor.
17. In the event, the Franchisee is desirous of assigning its rights acquired by virtue of this agreement to a third party, then in that event, the Franchisee shall inform its intention to terminate this agreement by giving a 30 days prior written notice to the Franchisor and shall fill a form as mentioned in Schedule 4 hereto. The Franchisee shall introduce the prospective Franchisee to the Franchisor and shall enter into a fresh Franchise Agreement upon payment of such fees as per the Franchisor’s transfer policy. The prospective Franchisee shall adhere to all the compliances as laid down by the Franchisor in order to become the Franchisee and such compliance shall act as a condition precedent prior to the execution of the new Franchise Agreement.
18. **Relocation of Store: -**

The Franchisee shall not relocate the Franchised Business without the prior written consent of the Franchisor, which may be withheld or delayed at the Franchisor's sole discretion. If the lease for the Outlet expires or is terminated without the fault of the Franchisee or if the franchised Outlet is destroyed, condemned or otherwise rendered unusable or as otherwise may be agreed upon in writing by the Franchisor and the Franchisee, the Franchisor may in its reasonable discretion, allow the Franchisee to relocate the Franchised Business. Any such relocation shall be at Franchisee’s sole expense, and shall proceed in accordance with the requirements set forth in this Agreement. The Franchisor will be under no obligation to provide relocation assistance. If the Franchisor and the Franchisee do not agree upon a substitute location within 90 days after the lease expires or is terminated or the Outlet is rendered unusable, this Agreement shall stand terminated.

1. **Grant of Additional Outlets: -**

The Franchisee shall not be entitled to expand the above capacity or set up any other outlet without the prior written permission from the Franchisor. In the event of the Franchisee desiring to expand its prescribed capacity or wanting to open another Outlet, the prior written consent of the Franchisor shall be obtained, which permission if granted shall be subject to compliance of terms which shall be prescribed and/or payment of such Fee etc. as may be stipulated by the Franchisor at the relevant time, while granting the permission and the Franchisor shall have the right to enter upon fresh Franchise Agreement with the Franchisee on such terms and conditions as mutually agreed between the parties for opening of the new outlet.

The Franchisee shall have no objection if the Franchisor grants Franchisee rights to another Franchisee within the said territory.

1. **Confidentiality and Non-Disclosure: -**
2. “Confidential Information” means:

“any documents, data, or information related to the Franchisor’s business that is not generally known to the public including, but not limited to, all tangible, intangible, visual, electronic, present, or future information such as (a) financial information; (b) technical information, including formulas, layouts, research, development, procedures, data, designs, and know-how; (c) business information, including operations, planning, marketing interests, and products disclosed by Franchisor to the Franchisee: (d) Personal information of any customer (e) all information or data which Franchisee has access in connection with performance of the present Agreement, whether before or after execution of the present Agreement (f) all confidential or proprietary concepts, recipes of food and beverages and plating, documentation, reports, lists, files, data, specifications, customer software, standard operational manual, all documentation related to products, equipment and trainings conducted, flow charts, databases, data files, inventions, information, know-how and trade secrets, whether or not patentable or copyrightable”.

1. The Franchisee undertakes and agrees to regard and preserve as confidential, all Confidential Information of the Franchisor, which may be obtained from any source as a result of this Agreement. In maintaining confidentiality hereunder, the Franchisee agrees that it shall not disclose or make available or divulge to any third party, person, firm or enterprise, reproduce or transmit, or use (directly or indirectly) for its own benefit or the benefit of others or otherwise, any Confidential Information of the Franchisor.
2. The Franchisor acknowledges the exclusive right of the Franchisee to the proprietary right of its information and agree that nothing in this Agreement shall be construed as giving rise to any right of lien or set off by any Franchisee on the proprietary right on the information of the Franchisor.
3. The Franchisee agrees to implement appropriate measures designed to ensure the security and confidentiality of Confidential Information of the Franchisor, to protect such information against any anticipated threats or hazards to the security or integrity of such information, and to protect against its unauthorized access to, or use of, Confidential Information that could result in substantial harm or inconvenience to the Franchisor or any customer or any of its subsidiaries, affiliates, or licensees. The Franchisee further agrees to cause all its employees, agents, representatives, subcontractors, or any other party to whom the Franchisee may provide access to or disclose Confidential Information to implement appropriate measures designed to meet the objectives set forth in this paragraph; and the Franchisee shall provide the Franchisor copies of audits and test result information sufficient to assure the Franchisor that the security measures implemented are consistent with this paragraph.
4. On the expiry or termination of this Agreement, the Franchisee shall hand over or cause to be handed over forthwith all such Confidential Information of the Franchisor and all other related materials in its possession to the authorized officer of the Franchisor and/or destroy the same in consultation with the Franchisor.
5. In the event of a breach or a threat of breach by the Franchisee of this article, the monetary damages may not be an adequate remedy. Therefore, the Franchisor shall be entitled to injunctive relief to restrain the Franchisee from any such breach, threatened or actual.
6. Notwithstanding the other provisions of this paragraph, neither Party shall be prevented from disclosing Confidential Information: (i) that, at the time of disclosure, was in the public domain, (ii) that was lawfully disclosed on a non-confidential basis by a third party who is not bound by a confidentiality Agreement with either Party, (iii) that is disclosed with the Parties’ prior written approval or (iv) to the recipient Party’s attorney, auditors, insurers, subcontractors and employees who have a need to access such confidential information in connection with their employment (or engagement, if applicable) by the recipient Party; (v) that is in response to valid legal process, whether issued by a court or administrative or regulatory body. If confidential information is required to be disclosed pursuant to a requirement of a legal process, the Party required to disclose the confidential information, to the extent possible, shall provide the other Party with timely prior notice of such requirement and shall coordinate with such other Party in an effort to limit the nature and scope of such required disclosure.
7. The terms and conditions of the present Agreement shall be treated as confidential information and neither the execution of this Agreement nor its terms shall be disclosed to any other person by either of the Parties without prior written consent of the other Party unless disclosure is required by applicable law or laws of India and disclosure shall then only be made (i) after the disclosing Party has taken reasonable steps to consult with the other Party as to the terms of disclosure, and (ii) only to the person or persons and in the matter required by law or the relevant stock exchanges or other regulatory authorities or as otherwise agreed between the Parties.
8. That the Parties to this Agreement expressly states, confirms and agrees that the contents of this Agreement shall be deemed to be confidential. This Clause i.e., “CONFIDENTIALITY AND NON DISCLOSURE” shall survive the expiry or termination of this Agreement.
9. To use of the Franchisor’s Software, technical know-how, Confidential Information, training material, Franchise Operational Manual, etc. in accordance with the terms and conditions of this Agreement for the purpose of selling the products, publicity, marketing under the brand name “Jumboking”. However, the Franchisee shall not claim at any time, any and all right, title or interest in the Intellectual Property Rights, Software, Technical Know-How, Confidential Information, Training Material, Franchise Operational Manual, Property or Goodwill of the Franchisor derived there from which shall include this Agreement save and except expressly granted under this Article.
10. **Default Notice: -**

In the event of breach by the Franchisee of any of the provisions of this Agreement, the Franchisor may serve a notice requiring the breach to be remedied within 30 days from the date of receipt of written notice to make good the breach failing which the Franchisor shall be entitled to terminate this Agreement.

1. **Suspension: -**
2. In lieu of exercising the Franchisor’s right to terminate pursuant to this Clause, the Franchisor may suspend the Business for so long as any of the breach as mentioned hereinbelow, not waiving its right to terminate this Agreement:
3. Non-payment of royalty, additional outlet fee and/or renewal fees;
4. Non-payment of statutory duties and taxes;
5. Non-compliance of the Franchisor’s Operational Manual and guidelines as set out by the Franchisor;
6. In the event the auditor’s report classifies the said outlet of the Franchisee under ‘Red Zone’ (3 Occurrence)
7. Purchase of raw materials and equipment’s from any third party;
8. Selling unauthorized products from the outlet;
9. Selling of adulterated food products and beverages from the outlet;
10. Misuse of any Intellectual Property Rights of the Franchisor;
11. Any reported misconduct of the Franchisee and/or its employees;
12. Manipulation of cash register.
13. Advertising and/or promoting any other business/brands other than the Franchised Business; and
14. Such other breach as may be brought to the notice of the Franchisee during the term of this agreement.
15. The Franchisor shall notify to the Franchisee in writing, of the enforcing and lifting of such suspension within Seven (7) days’ of becoming aware that the breach has been remedied in full.
16. **Term and Termination: -**
17. Notwithstanding anything stated under this Agreement, but subject to provisions of this Clause, this Agreement shall be valid and subsisting from the Effective Date\_\_\_\_\_\_\_\_**\_\_\_\_\_**and shall remain in full force and effect for a period of 5 years from thereon till its expiry on \_\_\_\_\_\_\_\_\_\_\_. This agreement shall be subject to renewal upon payment of a renewal fee as more particularly mentioned in Clause 2(c) hereinabove unless terminated earlier as mentioned in this agreement. It is agreed by and between the parties hereto, that this agreement shall be renewable only for a period of three consecutive terms of **5** years each and in no event shall the parties be entitled to renew this agreement beyond the abovementioned tenure.
18. The Franchisor may at their sole discretion either agree or disagree to renew this Agreement on such terms and conditions as may be desirable to the Franchisor at that point of time, and the Franchisee shall be bound by such terms and conditions. The Franchisee hereby agrees and acknowledges that only the Franchisor shall hold the exclusive right to alter, modify or add to, any of the terms and/or conditions of this Agreement due for renewal. The Franchisor may consider renewing the term of this agreement every Five (5) years with the Franchisee. The Franchisee further agrees that they shall be liable to pay all the Statutory and Regulatory Taxes existing at that point of time. It is agreed between the parties hereby that there shall not be any additional Franchisee Fees payable on the Renewal Term.
19. This Agreement may be terminated by either party by giving thirty days (30) advance notice in writing to other party after giving due reasoning. The defaulting party shall cure such breach within 30 days from the notice being provided by the aggrieved party. If the defaulting party is unable to cure such defect within 30 days of receipt of the notice, the aggrieved party may terminate this Agreement.
20. Notwithstanding what is stated in this Agreement, the Franchisor shall have the sole right to terminate this Agreement forthwith by giving 30 days’ notice in writing addressed to the Franchisee at its last known address, in case of happening or occurrence of any of the events including but not limited to the following:
21. If the Franchisee fails to commence the Business within the period of 365 days from the date of execution of this Agreement.
22. Failure to achieve the Operating Standards set out in this Agreement and set out in the Franchise Operation Manual and otherwise.
23. Prosecution of any criminal offence against the Franchisee or any final award/ order passed by the competent courts in India in respect of Criminal, Tenancy or any award under third party claim. If the Franchisee is adjudicated bankrupt, declared insolvent, or a court appoints a receiver for any property or part thereof owned or possessed by the Franchisee, or makes a general assignment for the benefit of creditors, or a resolution is passed to wind-up, or suffers the filing of a voluntary or involuntary bankruptcy petition.
24. If the relocation is without the Franchisor’s approval, this Agreement shall stand terminated. The parties herein are obligated to sign a fresh Franchise Agreement for the new premises.
25. If the Franchisee uses sub-standard raw materials and/or products.
26. If the Franchisee is found selling any unauthorized product not approved by the Franchisor or conducting any other businesses from the Franchise Outlet.
27. If the Franchisee is found buying products or raw materials from the suppliers or vendors not approved by the Franchisor.
28. If the Franchisee serves sub-standard food or adulterated food.
29. Failure to pay any sum due to the Franchisor within One (1) month of the due date.
30. Any material change occurring in the management or control of the Franchisee without the consent of the Franchisor.
31. Any act of dishonesty by the Franchisee or any of its employees or any attempt by the Franchisee or its employees to conceal or withhold from the Franchisor any of the Financial Information including sales data required under this Agreement.
32. If the Franchisee keeps the Outlet shut for 7 days for any reason whatsoever without prior written permission of the Franchisor.
33. In the event, the Franchisee is found manipulating the cash register to under pay the Royalty amount and does not maintain proper receipts of all the sales made from the Outlet.
34. If the Franchisee breaches and/or misuses any Intellectual Property Right of the Franchisor.
35. If the Franchisee commits breach or is in violation of any of the provisions of this Agreement or defaults in performance of any of its obligations set out under this Agreement.
36. If the Franchisee fails to honor any of its monetary obligations including but not limited to payment of royalty, arising from and by virtue of this Agreement, outstanding and due to the Franchisor, and the same is not cured within a minimum period of 48 hours after having served a written notice, then in that event, the Franchisee’s Unique Identification Number (UID No.) so allotted shall automatically be blocked for such period of time till the Franchisee makes good the breach. In the event, the Franchisee’s UID No. remains blocked for three consecutive times, then the Franchisor is entitled to terminate this agreement after having served a written notice to the Franchisee.
37. If the Franchisee abandons its operations, by failing to operate the Franchised Business in the manner desired by the Franchisor, for a period of 90 days, and that the Franchisee does not intend to continue to operate Franchised Business, unless such failure to operate is due to fire, flood, earthquake or any other similar acts of God or natural disasters, or acts of war, beyond the control of the Franchisee.
38. If the leave and license agreement/lease/business conducting agreement expires and/or is terminated; if the Franchisee fails to renew the leave and license agreement/lease/business conducting agreement and/or fails to relocate the outlet and resume the franchised business within 90 days from the date of termination of leave and license agreement/lease/business conducting agreement as the case may be,then in that case, the Franchisor shall have the right to terminate this Agreement.
39. If the appointment or continuance of the Franchisee under this Agreement is likely to result in any loss of goodwill, reputation, status or standing of the Franchisor.
40. If the Franchisee commits any misconduct, fraud, cheating, misappropriation or any act lacking good faith.
41. Failure of the Franchisee to obtain or maintain any license or the suspension or revocation of any necessary license, sanctions, approvals, registrations for the conduct of the business of the other party pursuant to this Agreement.
42. If the Franchisee is found promoting any other brand(s) in the Outlet. Any violation, infringement or challenge to the Intellectual Property Rights that of the Franchisor by the Franchisee or its Affiliate including but not limited to trademarks, trade names, trade dress, color combinations logo, word mark and any other derivatives or due to any act of the Franchisee depicting such advertisements and/or marketing of such products not possessing a prior written approval of the Franchisor.
43. The Franchisee fails to make good the non-compliance of manuals, franchise, business system and/or such other compliance as may be informed by the Franchisor to the Franchisee under the Audit report.
44. In the event, the Franchisee fails three consecutive times to make good the non-compliance of manuals, franchise, business system and/or such other compliance as may be informed by the Franchisor to the Franchisee under the Audit report. However, it shall be at the sole discretion of the Franchisor to provide such further opportunity to cure the defect.
45. **Consequences of Termination: -**

Notwithstanding any other rights and remedies provided elsewhere in the Agreement, on termination or expiry of this Agreement:

1. All rights of the Franchisee under this Agreement shall immediately cease to operate and shall cease to provide services at the Outlet of the Franchised Business. The Franchisor shall not be responsible for any loss of goodwill, anticipated profits, any investment and/or any other claims or losses in respect of such termination. The Franchisee hereby waives any claim to receive any compensation whatsoever as a consequence of the termination of this Agreement. However, it shall not be relieved of the obligations to pay any monetary dues to the Franchisor as per the terms of this Agreement.
2. The Franchisee shall deliver to the Franchisor all documents including without limitation Franchise Operational Manual, signage board, catalogues, instructions, notes, publicity promotional and advertising material, literatures, samples, letterheads, business cards relating to the business, all books of accounts, Software, products and equipment’s, its functional support and all other documents shared by the Franchisor in accordance to the terms and conditions of this Agreement and/or to facilitate the services rendered by the Franchisee. The Franchisee shall ensure that the premises no longer resemble the distinctive image of the Franchisor with the Franchisor having the right to access the Premises (where necessary) to remove any and all such materials and signs if the Franchisee fails to do within 30 days of termination.
3. All rights of the Franchisee under this Agreement shall cease to exist with immediate effect and the Franchisor shall not be responsible for any loss of goodwill, anticipated profits, any investment and/or any other claims or losses in respect of such termination. The Franchisee hereby waives any claim to receive any compensation whatsoever as a consequence of the termination of this Agreement.
4. The Franchisee shall furnish complete financial and non-financial details in such form and format as may be required by the Franchisor within 30 days of the termination of this Agreement.
5. The Franchisee shall have the obligation to tender payment of all outstanding consideration due and payable in accordance hereunder and also all the debts owing to the creditors of the Business.
6. Terminate the Leave & License /Business Conduction/Lease Agreement of the Premises and cease to operate from the Premises.
7. The Franchisee shall to cease using Stationery, Trade Marks and the Franchisor’s Logos, color schemes and the Format and remove all references to these and return the same to the Franchisor.
8. The outgoing Franchisee shall at first offer for sale to the new incoming Franchisee, the fittings and fixtures, equipment, machinery etc. owned and used by the outgoing Franchisee in the Franchised Business. However, in case the new incoming Franchisee refuses to buy back the same, then in that event the outgoing Franchisee shall offer for sale, its fittings and fixtures, equipment, machinery, etc. in the open market for such amount as may be agreed between the outgoing Franchisee and the new incoming Franchisee.
9. The Franchisor shall be entitled to immediately obtain an order of injunction in case the Franchisee, despite termination, continues to directly or indirectly uses or display the name, trademark, trade name, logo, goodwill or its past association with the Franchisee in any way or manner. In such an event, the Franchisee shall be liable to pay to the Franchisor damages to the tune of **Rs.10, 000/-** per day from the date of such notified breach until the date on which the Franchisor is notified about such breach being cured.
10. The Franchisee shall stop using the Brand, the name, trademarks, logos, etc. of Franchisor herein in any form whether audio or visual or otherwise with immediate effect.
11. return to the Franchisor or otherwise dispose/destroy as per the written instructions of the Franchisor all the promotional materials, signs, advertising materials, stationery, invoices, forms, specifications, designs, records, data, samples, models, programs and drawings, and other materials relating to any Advertising undertaken by the Franchisee.
12. remove and cause to be removed all signs or advertisements identifiable in any way with the name or Brand of the Franchisor and in the event of failure to do so, to permit the authorized agents of the Franchisor to enter on the Premises and do the needful.
13. return to the Franchisor all copies of the Standard Operating Manual and any other training materials, manuals, books possessed by the Master Franchisee.
14. The Franchisee shall at its own expense return to Franchisor promptly all information, documentation and materials confidential to Franchisor and/or software and future marketing plans or future models of the Franchisor together with any copies thereof or any other documents entrusted to Franchisee by Franchisor.
15. **Post Termination Consequences: -**
16. The Franchisee shall not use the Intellectual Property Rights of the Franchisor for purposes of selling the products, publicity, marketing, or directly or indirectly use the recipes of the Franchisor and provision of other services under the Franchisor’s brand and shall automatically be revoked/ cancelled upon expiry of the Term or earlier termination of this Agreement, unless the Franchisor conveys its intention to renew this Agreement.
17. In case of expiry of this agreement/early termination of this agreement, the Franchisee hereby irrevocably and unconditionally agrees and undertakes that the Franchisee shall not directly or indirectly or through any of its affiliates or any person/s or entities in any manner whatsoever conduct/operate/run its own/carry on business of similar nature in the same area either directly or indirectly through any third party for a minimum period of 5 years. The Franchisee shall not conduct any other business or any business directly or indirectly or through any of its affiliates or any person/s or entities in any manner whatsoever, similar to the nature of the Franchised Business, whatsoever, from the said Outlet and/or from the said premises except as mentioned in the present Agreement during the continuation of this Agreement.
18. For a period of 5 year thereafter engage in, be employed by or be concerned or interested in any capacity directly or indirectly in any business which (a) is similar to or competes with the Business or (b) is similar to the Business and is located at the Premises or within five kilometers of the Premises or any other franchise of the Franchisor. In the event, if the Franchisee is found to be engaged in the similar business that of the Franchisor, then the Franchisor shall be entitled to lump sum damages amounting to **Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only).**
19. For a period of five years thereafter solicit for the purposes of a business covered under this agreement, to the custom of any person, firm or company that has been a customer of the Business or any other Business of the Franchisor at any time in the twelve months prior to termination or expiry.
20. For a period of one year thereafter solicit, interfere with or endeavor to entice away or employ any employee of the Franchisor or any of the Franchisor’s franchisees or any other employees of the Business who have been an employee of the Business in the period of six months prior to such termination or expiration.
21. The Franchisee agrees that each of the restrictions contained herein shall be strictly followed and complied with.
22. **Non-Compete: -**
23. The Franchisee specifically agrees, covenants and undertakes that the Franchisee shall not, either directly or through any agent, employee or person including any affiliate, company, corporation, partnership, joint venture, trust, society or other unincorporated body which is, or shall be, wholly or substantially, owned or controlled by Franchisee or license has controlling interest, during the subsistence of the Term hereof engage, directly or indirectly, in any business, for the period of 5 years.

* similar to the Franchised Business carried out by Franchisee pursuant to the present Agreement; or
* solicit or accept the business similar to Franchisee pursuant to the present Agreement for itself or for and on behalf of any other person; or
* solicit any employees of Franchisor or encourage any person who is an employee of Franchisor to leave the services or employment of Franchisor, as the case may be; or
* use any trade mark, name or nomenclature, which is intended or is like to cause confusion with any mark, trade mark, name or nomenclature used by Franchisor.

1. If the Franchisee is found to do any business similar to the Franchise Business, then Franchisor is entitled to claim compensation of **Rs. 4,50,000/- (Rupees Four Lakhs Fifty Thousand Only)** from Franchisee along with the other remedies available under the law.
2. **Dispute resolution and Arbitration: -**
3. The Franchisee confirms that there is no investigation, arbitration, litigation, whether civil or criminal, or any other proceedings pending or threatened against the Franchisee or the Outlet at the instance of any third party and there are no outstanding court orders, court decrees, attachment orders or prohibitory orders or court stipulations to which the Franchisee is a party, by which any restriction has been placed upon the Franchisee or the Outlet for the performance of its obligations under present Agreement or may affect the performance of the present Agreement.
4. The Parties shall attempt in good faith to resolve any dispute, difference or claim arising out of or in relation to this Agreement through mutual discussion. In case it is not resolved within 30 days from receipt of the written notice (setting out the dispute or claim) by the other party, the complaining party may issue a notice of reference, invoking settlement of such dispute through Arbitration.
5. Any and all disputes ("Disputes") arising out of or in relation to this Agreement between the Parties hereto or arising out of or relating to or in connection with this Agreement or the performance or non-performance of the rights and obligations set forth herein or the breach, termination, invalidity or interpretation thereof, shall be referred for arbitration in accordance to the provisions of the Arbitration and Conciliation Act, 1996 or any amendments thereof.
6. The place and seat of arbitration shall be Mumbai and the language used in the arbitral proceedings shall be English. Arbitration shall be conducted by a Sole Arbitrator to be appointed mutually by both the parties. The Arbitrator shall reach his decision within 45 days of reference to him which decision shall be final and binding upon the parties.
7. Costs of arbitration shall be borne equally by the Franchisor and the Franchisee herein.
8. The arbitral award issued by such Arbitrator shall be in writing.
9. **Governing Law and Jurisdiction: -**

This Agreement shall be governed by the laws in India and the Courts in Mumbai alone shall have exclusive jurisdiction over matters relating to or arising from this Agreement.

1. **Miscellaneous: -**

The Franchisee is self-employed and an independent contractor and the relationship between the parties are as herein described. No employment, partnership, joint venture or agency relationship shall be deemed to subsist between the parties and either shall have the power to bind the other.

The Franchisee has sought its independent Legal Advice prior to the signing of this Agreement and has not relied only on promises, representations or Agreements about the Franchisor or the system not expressly contained in this Agreement or the Franchise Operational Manual in making its decision to sign this Agreement. The Franchisor have not made any promises, representations or Agreements, oral or written, except as expressly contained in this Agreement and the Franchise kit. The Franchisee has received a copy of this Agreement 30 days prior to the signing of this Agreement. The Franchisee also represent that he had full opportunity to ask Franchisor and Franchisor’s employees, development agents, or representatives all appropriate question and that question have been answered to the Franchisee’s satisfaction and understood and accepted by the Franchisee fully and entirely. If the Franchisee did not use the professional advisor, the Franchisee represents that the Franchisee is satisfied on relying on her own education, experience, and skill in evaluating the merits of the Franchise offering.

**Notice-** Except as specifically provided elsewhere in this Agreement, all notices required or permitted to be given by one Party to the other under this Agreement shall be in writing and shall be sufficient if made (i) by personal delivery, (including delivery by any commercial delivery service with acknowledgment received); or (ii) by registered or certified mail. Any such notice shall be deemed to have been received immediately (if hand delivered) and within 3 working days of sending (if posted).

All notices shall be sent, if to Franchisee, to the attention of Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, if to Franchisor, to the attention of **‘Jumboking Foods Pvt Ltd’**, at the respective addresses as set out in this Agreement or as amended by notice from time to time by writing by the Parties.

**Waiver-** Failure to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition of this Agreement or the right to subsequently enforce such term or condition in the future. No waiver, by either party, of any provision of this Agreement shall, in any event, become effective unless the same shall be in writing and such waiver shall be effective only in the specific instance described and for the purpose that the waiver is given.

**Severability**- If any provision of this Agreement shall be found by any Government or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or un-enforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision with a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

**Amendment-** Franchisor shall always have right to add, delete, amend or alter all or any of the terms and conditions of this Agreement and such amended terms and conditions shall be binding on the Franchisee as and when these are intimated to the Franchisee by way of circular, notice or otherwise and even if the Franchisee has failed to send its acceptance letter giving acceptance specifically to the amended, altered, varied or deleted terms and conditions.

**Survival-** Any and all obligations under this Agreement which, by their very nature should reasonably survive the termination or expiration of this Agreement, will so survive, including, but not limited to, those arising from the confidentiality, Intellectual Property and consequences of termination provisions

of this Agreement.

**Force Majeure-**

1. Except as provided herein, no party shall be liable to the other for any delay in the performance or any non-performance of any of its obligations under the present Agreement (and shall not be liable for any loss or damages caused thereby), where the same is occasioned by any cause, which is beyond control of the parties to the present Agreement including but not limited to an Act of God; such as flood, lightning, earthquake, fire, explosion, inundation, sabotage, equipment failure as a result of an event of Force Majeure, civil disturbance, war, illegal strikes involving the employees of Franchisee and Franchisor, which prohibits performance of the obligations hereunder.
2. In event of occurrence of any event as mentioned in this clause, the Party claiming Force Majeure shall use all reasonable efforts to continue to partially perform its obligations hereunder, as far as possible and to mitigate the effect of such event of Force Majeure expeditiously and diligently.
3. Upon happening of any event as mentioned in this clause, parties may agree to suspend performance of obligations hereunder for a reasonable period as agreed between the parties, if in opinion of both the parties, inspite of reasonable efforts, obligations of respective party cannot be fulfilled. Upon cessation of the event of Force Majeure, within 30 days of cessation of the effect of Force Majeure, Party claiming Force Majeure shall serve upon other Party with mandatory notice of the cessation of the event of Force Majeure and shall promptly thereupon resume performance hereunder.
4. In event of partial performance of obligation or suspension of the Agreement due to the event of Force Majeure by the party claiming Force Majeure, the party claiming Force Majeure shall not be relieved of its obligations to comply with the local laws/applicable laws or its obligations to make any payment for performance rendered prior to period of Force Majeure or partial performance during periods of Force Majeure.
5. In event of occurrence of any event as mentioned in this Article and in event of failure of parties to agree to suspend performance of obligations of the party claiming Force Majeure of this Agreement, either party may terminate this Agreement in terms of Termination Clause hereinabove.
   * + 1. This Agreement is on a **"principal to principal"** basis and the parties are independent of each other and nothing contained herein is intended to or shall be deemed to create any employer-employee relationship or partnership, joint venture, employment or relationship of principal and agent between the parties hereto or between Franchisor and Franchisee or their respective representatives and employees or to provide any of the parties with any right, power or authority, whether express or implied to create any such duty or obligation.
       2. **Entire Agreement-** This Agreement constitutes the entire Agreement between the Parties and supersedes all oral and written representations and Agreements between the Parties including but not limited to any earlier Agreement relating to the subject matter thereof or any other Agreement between the Parties in relation to the subject matter hereof. However, this Agreement will not relieve the Parties from their respective rights and obligations against each other arising out of or in connection with any previous Agreement.
       3. **Counterparts-** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the day and year first above written.**

**Jumboking Foods Pvt. Ltd.**

**through its duly authorized signatory**

**(Managing Director – Dheeraj Gupta)**

**Franchisee.**

**through its authorized signatory**

**( )**

**Date:**

**RECEIPT**

**RECEIVED from the Franchisee herein an amount of Rs. \_\_\_\_\_\_\_\_\_\_/-, (Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_), even thousand only towards one-time non-refundable “Franchise Fee”. Together with amount of Rs. 50,000/- (Rupees Fifty Thousand Only) towards refundable Security Deposit has paid by franchisee. Way of CHQ/IMPS Ref No [\_\_\_\_\_\_\_\_\_\_\_\_\_] dated [\_\_\_\_\_\_\_\_\_\_] drawn on the [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] Bank [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] branch in favor of the Franchisor.**

***Schedule I to The Franchising Agreement***

***Name of the products***

|  |  |
| --- | --- |
| **Sr. No** | **Jumboking Products** |
| 1 | Regular JK |
| 2 | Mumbai Masala JK |
| 3 | Crispy Veg JK |
| 4 | Nachos JK |
| 5 | Corn Palak JK |
| 6 | Big Crunch JK |
| 7 | Mac n Cheese JK |
| 8 | Spicy Mexican JK |
| 9 | French Fries |
| 10 | Fries with Cheese |
| 11 | Peri Peri with Cheese |
| 12 | Softy & Thickshake |
| 13 | Beverages |