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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES AND EXCHANGE ACT OF 1934

For the Fiscal Year Ended December 31, 2015

Commission File Number 001-35570

**CHANTICLEER HOLDINGS, INC.**

(Exact name of registrant as specified in the charter)

**Delaware**

**20-2932652**

(State or other jurisdiction of  
incorporation or organization)

(I.R.S. Employer  
Identification Number)

**7621 Little Avenue, Suite 414, Charlotte, NC 28226**

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(704) 366-5122**

Securities registered pursuant to Section 12(g) of the Act:

**Common Stock, \$0.0001 par value**  
**Common Stock Warrants, \$5.00 exercise price**  
(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. [ ] Yes [X] No.

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. [ ] Yes [X] No.

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). [X] Yes [ ] No.

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [X] Yes [ ] No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer [ ] Accelerated filer [ ]  
Non-accelerated filer [ ] Smaller reporting company [X]

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). [ ] Yes [X] No.

The aggregate market value of the voting stock held by non-affiliates was \$30,632,579 based on the closing sale price of the Company's Common Stock as reported on the NASDAQ Stock Market on June 30, 2015.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date. There were 21,337,247 shares of common stock issued and outstanding as of March 25, 2016.

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## PART I

### FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K contains forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. These statements include projections, predictions, expectations or statements as to beliefs or future events or results or refer to other matters that are not historical facts. Forward-looking statements are subject to known and unknown risks, uncertainties and other factors that could cause the actual results to differ materially from those contemplated by these statements. The forward-looking statements contained in this Annual Report are based on various factors and were derived using numerous assumptions. In some cases, you can identify these forward-looking statements by the words “anticipate”, “estimate”, “plan”, “project”, “continuing”, “ongoing”, “target”, “aim”, “expect”, “believe”, “intend”, “may”, “will”, “should”, “could”, or the negative of those words and other comparable words. You should be aware that those statements reflect only the Company’s predictions. If known or unknown risks or uncertainties should materialize, or if underlying assumptions should prove inaccurate, actual results could differ materially from past results and those anticipated, estimated or projected. You should bear this in mind when reading this Annual Report and not place undue reliance on these forward-looking statements. Factors that might cause such differences include, but are not limited to:

- Operating losses may continue for the foreseeable future; we may never be profitable;
- Inherent risks in expansion of operations, including our ability to acquire additional territories, generate profits from new restaurants, find suitable sites and develop and construct locations in a timely and cost-effective way;
- Inherent risks associated with acquiring and starting new restaurant concepts and store locations;
- General risk factors affecting the restaurant industry, including current economic climate, costs of labor and food prices;
- Intensive competition in our industry and competition with national, regional chains and independent restaurant operators;
- Our rights to operate and franchise the Hooters-branded restaurants are dependent on the Hooters’ franchise agreements;
- We do not have full operational control over the businesses of our franchise partners or operations where we hold less 100% ownership;
- Failure to protect our intellectual property rights, including the brand image of our restaurants;
- Our business has been adversely affected by declines in discretionary spending and may be affected by changes in consumer preferences;
- Increases in costs, including food, labor and energy prices;

- Our business and the growth of our Company is dependent on the skills and expertise of management and key personnel;
- Constraints could affect our ability to maintain competitive cost structure, including, but not limited to labor constraints;
- Work stoppages at our restaurants or supplier facilities or other interruptions of production;
- Our food service business and the restaurant industry are subject to extensive government regulation;
- We may be subject to significant foreign currency exchange controls in certain countries in which we operate;
- Inherent risk in foreign operations and currency fluctuations;
- Unusual expenses associated with our expansion into international markets;
- The risks associated with leasing space subject to long-term non-cancelable leases;
- We may not attain our target development goals and aggressive development could cannibalize existing sales;
  
- Current conditions in the global financial markets and the distressed economy;
- A decline in market share or failure to achieve growth;
- Negative publicity about the ingredients we use or the potential occurrence of food-borne illnesses or other problems at our restaurants;
- Breaches of security of confidential consumer information related to our electronic processing of credit and debit card transactions;
- Unusual or significant litigation, governmental investigations or adverse publicity, or otherwise;
- Our debt financing agreements expose us to interest rate risks, contain obligations that may limit the flexibility of our operations, and may limit our ability to raise additional capital;
- Adverse effects on our results from a decrease in or cessation or clawback of government incentives related to investments; and
- Adverse effects on our operations resulting from certain geo-political or other events.

You should also consider carefully the Risk Factors contained in Item 1A of Part I of this Annual Report, which address additional factors that could cause its actual results to differ from those set forth in the forward-looking statements and could materially and adversely affect the Company's business, operating results and financial condition. The risks discussed in this Annual Report are factors that, individually or in the aggregate, the Company believes could cause its actual results to differ materially from expected and historical results. You should understand that it is not possible to predict or identify all such factors. Consequently, you should not consider such disclosures to be a complete discussion of all potential risks or uncertainties.

The forward-looking statements are based on information available to the Company as of the date hereof, and, except to the extent required by federal securities laws, the Company undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. In addition, the Company cannot assess the impact of each factor on its business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

#### **ITEM 1: BUSINESS**

Chanticleer Holdings, Inc. (“Chanticleer” or the “Company”) is in the business of owning, operating and franchising fast casual dining concepts domestically and internationally. The Company was organized October 21, 1999, under its original name, Tulvine Systems, Inc., under the laws of the State of Delaware. On April 25, 2005, Tulvine Systems, Inc. formed a wholly owned subsidiary, Chanticleer Holdings, Inc., and on May 2, 2005, Tulvine Systems, Inc. merged with, and changed its name to, Chanticleer Holdings, Inc.

The consolidated financial statements include the accounts of Chanticleer Holdings, Inc. and its subsidiaries presented below (collectively referred to as the “Company”):

| Name   | Jurisdiction of Incorporation | Percent Owned | Name                                     | Jurisdiction of Incorporation | Percent Owned |
|--|-------------------------------|---------------|--|-------------------------------|---------------|
| <b>CHANTICLEER HOLDINGS, INC.</b>                    |                               |               |  |                               |               |
| <b>Burger Business</b>                               |                               |               | <b>Pacific Northwest Hooters</b>         |                               |               |
| American Roadside Burgers, Inc.<br><i>ARB Stores</i> | Delaware, USA                 | 100%          | Oregon Owl's Nest, LLC                   | Oregon, USA                   | 100%          |
| American Roadside McBee, LLC                         | North Carolina, USA           | 100%          | Jantzen Beach Wings, LLC                 | Oregon, USA                   | 100%          |
| American Burger Morehead, LLC                        | North Carolina, USA           | 100%          | Tacoma Wings, LLC                        | Washington, USA               | 100%          |
| American Roadside Morrison, LLC                      | North Carolina, USA           | 100%          | <b>South African Hooters</b>             |                               |               |
| American Burger Ally, LLC                            | North Carolina, USA           | 100%          | Hooters On The Buzz (Pty) Ltd            | South Africa                  | 95%           |
| BGR Acquisition, LLC                                 | North Carolina, USA           | 100%          | Chanticleer South Africa (Pty) Ltd.      | South Africa                  | 100%          |
| BGR Franchising, LLC                                 | Virginia, USA                 | 100%          | Hooters Emperors Palace (Pty.) Ltd.      | South Africa                  | 88%           |
| BGR Operations, LLC                                  | Virginia, USA                 | 100%          | Hooters PE (Pty) Ltd                     | South Africa                  | 100%          |
| BGR Old Town, LLC                                    | Maryland, USA                 | 100%          | Hooters Ruimsig (Pty) Ltd.               | South Africa                  | 100%          |
| BGR Dupont, LLC                                      | Virginia, USA                 | 100%          | Hooters Umhlanga (Pty.) Ltd.             | South Africa                  | 90%           |
| BGR Arlington, LLC                                   | Virginia, USA                 | 100%          | Hooters SA (Pty) Ltd                     | South Africa                  | 78%           |
| BGR Old Keene Mill, LLC                              | Virginia, USA                 | 100%          | Hooters Willows Crossing (Pty) Ltd       | South Africa                  | 100%          |
| BGR Potomac, LLC                                     | Maryland, USA                 | 100%          | <b>Australian Hooters</b>                |                               |               |
| BGR Cascades, LLC                                    | Virginia, USA                 | 100%          | HOTR AUSTRALIA PTY LTD                   | Australia                     | 80%           |
| BGR Washingtonian, LLC                               | Maryland, USA                 | 100%          | HOTR CAMPBELLTOWN PTY LTD                | Australia                     | 80%           |
| BGR Tysons, LLC                                      | Virginia, USA                 | 100%          | HOTR GOLD COAST PTY LTD                  | Australia                     | 80%           |
| BGR Springfield Mall, LLC                            | Virginia, USA                 | 100%          | HOTR PARRAMATTA PTY LTD                  | Australia                     | 80%           |
| Capitol Burger, LLC                                  | Maryland, USA                 | 100%          | HOTR PENRITH PTY LTD                     | Australia                     | 80%           |
| BT Burger Acquisition, LLC                           | North Carolina, USA           | 100%          | HOTR TOWNSVILLE PTY LTD                  | Australia                     | 80%           |
| BT's Burgerjoint Biltmore, LLC                       | North Carolina, USA           | 100%          | <b>European Hooters</b>                  |                               |               |
| BT's Burgerjoint Promenade, LLC                      | North Carolina, USA           | 100%          | Chanticleer Holdings Limited             | Jersey                        | 100%          |
| BT's Burgerjoint Sun Valley, LLC                     | North Carolina, USA           | 100%          | West End Wings LTD                       | United Kingdom                | 100%          |
| BT's Burgerjoint Rivergate LLC                       | North Carolina, USA           | 100%          | Crown Restaurants Kft.                   | Hungary                       | 80%           |
| LBB Acquisition, LLC                                 | North Carolina, USA           | 100%          | <b>Inactive Entities</b>                 |                               |               |
| Cuarto LLC   | Oregon, USA                   | 100%          | Hooters Brazil                           | Brazil                        | 100%          |
| Segundo LLC  | Oregon, USA                   | 100%          | DineOut SA Ltd.                          | England                       | 89%           |
| Noveno LLC   | Oregon, USA                   | 100%          | Avenel Financial Services, LLC           | Nevada, USA                   | 100%          |
| Primero LLC  | Oregon, USA                   | 100%          | Avenel Ventures, LLC                     | Nevada, USA                   | 100%          |
| Septimo LLC  | Oregon, USA                   | 100%          | Chanticleer Advisors, LLC                | Nevada, USA                   | 100%          |
| Quinto LLC   | Oregon, USA                   | 100%          | Chanticleer Investment Partners, LLC     | North Carolina, USA           | 100%          |
| Octavo LLC   | Oregon, USA                   | 100%          | Dallas Spoon Beverage, LLC               | Texas, USA                    | 100%          |
| Sexto LLC  | Oregon, USA                   | 100%          | <b>Just Fresh</b>                        |                               |               |
| JF Franchising Systems, LLC                          | North Carolina, USA           | 56%           | Dallas Spoon, LLC                        | Texas, USA                    | 100%          |
| JF Restaurants, LLC                                  | North Carolina, USA           | 56%           | Hoot Campbelltown Pty Ltd                | Australia                     | 60%           |
|  |                               |               | Chanticleer Holdings Australia Pty, Ltd. | Australia                     | 100%          |
|  |                               |               | Hoot Australia Pty Ltd                   | Australia                     | 60%           |
|  |                               |               | TMIX Management Australia Pty Ltd.       | Australia                     | 60%           |
|  |                               |               | Hoot Parramatta Pty Ltd                  | Australia                     | 60%           |
|  |                               |               | Hoot Penrith Pty Ltd                     | Australia                     | 60%           |
|  |                               |               | Hoot Gold Coast Pty Ltd                  | Australia                     | 60%           |
|  |                               |               | Hoot Townsville Pty. Ltd                 | Australia                     | 60%           |
|  |                               |               | Hoot Surfers Paradise Pty. Ltd.          | Australia                     | 60%           |
|  |                               |               | MVLE DARLING HARBOUR PTY LTD             | Australia                     | 50%           |
|  |                               |               | MVLE GAMING PTY LTD                      | Australia                     | 100%          |
|  |                               |               | American Roadside Cross Hill, LLC        | North Carolina, USA           | 100%          |

## Restaurant Brands

### Hooters Full Service

Hooters restaurants are casual beach-themed establishments featuring music, sports on large flat screens, and a menu that includes seafood, sandwiches, burgers, salads, and of course, Hooters original chicken wings and the “nearly world famous” Hooters Girls. The menu of each location can vary with the local tastes. Hooters began in 1983 with its first restaurant in Clearwater, Florida. From the original restaurant and licensee Mr. Robert Brooks, Hooters has become a global brand, with 430 Hooters restaurants in over 28 countries.

We own and operate fifteen Hooters full service restaurants in the United States, Australia, South Africa, Hungary and the United Kingdom. We expect to expand our Hooters operations in the following areas: United Kingdom, South Africa, and Australia. We may also expand in the United States and other international markets on a case-by-case basis.

### ***Better Burgers Fast Casual***

We operate and franchise a system-wide total of forty fast casual restaurants specializing the “Better Burger” category of which twenty-seven are company-owned and thirteen are owned and operated by franchisees under franchise agreements.

American Burger Company (“ABC”) is a fast casual dining chain consisting of five locations in North Carolina, South Carolina and New York, known for its diverse menu featuring fresh salads, customized burgers, milk shakes, sandwiches, and beer and wine. BT’s Burger Joint (“BT”) was acquired in July 2015 and consists of four locations in North Carolina. We are rebranding the BT’s locations under the American Burger Company brand to increase consistency and brand recognition in the Carolinas market. With the addition of the BT’s locations, ABC is now the second largest better burger brand in the Charlotte, NC area, just behind Five Guys.

BGR: The Burger Joint (“BGR”) was acquired in March 2015 and consists of ten company-owned locations in the United States and thirteen franchisee-operated locations in the United States and the Middle East.

On September 30, 2015, Little Big Burger (“LBB”) was acquired, adding eight locations in Oregon.

We expect to expand our better burger business through a combination of company stores, franchising and partnerships in the United States. We are also exploring opportunities to expand our better burger business internationally, primarily focusing on those regions where we operate Hooters restaurants to leverage our local infrastructure and management teams across multiple brands.

### ***Just Fresh Fast Casual***

We operate Just Fresh, our healthier eating fast casual concept with seven company owned locations in Charlotte, North Carolina. Just Fresh offers fresh-squeezed juices, gourmet coffee, fresh-baked goods and premium-quality, made-to-order sandwiches, salads and soups. We currently hold a 56% controlling interest in Just Fresh.

We expect to expand our Just Fresh business in North Carolina primarily through the opening of additional company stores in our current market. We are also exploring opportunities to expand our Just Fresh business through franchising in United States and internationally.

### **Restaurant Geographic Locations**

#### ***United States***

We currently operate ABC, BGR, BT and LBB restaurants in the United States as our Better Burger Group. ABC and BT’s are located in North Carolina, South Carolina and New York. BGR operates company restaurants in the mid-Atlantic region of the United States, as well as franchise locations in the US and internationally. LBB operates in the Portland and Eugene, Oregon areas.

We operate Just Fresh restaurants in the Charlotte, North Carolina area.

We operate Hooters restaurants in Tacoma, Washington and Portland, Oregon (“Hooters Pacific NW”). We also operate gaming machines in Portland, Oregon under license from the Oregon Lottery Commission.

### ***South Africa***

We currently own and operate six Hooters locations in South Africa: Durban, Pretoria, Port Elizabeth and Johannesburg (three locations).

### ***Europe***

We currently own 100% of West End Wings, Ltd, the entity that holds the franchise rights and operates the Hooters restaurant in Nottingham, England (“Hooters Nottingham”). We currently own 80% of CRK, the entity that holds the Hooters franchise rights and operates the Hooters restaurant in Budapest, Hungary, and our local partner owns the remaining 20%.

### ***Australia***

We own 80% of the Australia Hooters stores, with five locations in Sydney, Gold Coast and Townsville.

### **Competition**

The restaurant industry is extremely competitive. We compete with other restaurants on the taste, quality and price of our food offerings. Additionally, we compete with other restaurants on service, ambience, location and overall customer experience. We believe that the unique atmosphere of our restaurants and the focus on quality and flavor of our food enable us to differentiate ourselves from our competitors. We believe that we compete primarily with local and regional sports bars and national casual dining and quick casual establishments, and to a lesser extent with quick service restaurants in general. Many of our competitors are well-established national, regional or local chains and many have greater financial and marketing resources than we do. We also compete with other restaurant and retail establishments for site locations and restaurant employees.

### **Proprietary Rights**

We use the “Hooters” mark and certain other service marks and trademarks used in our Hooters restaurants pursuant to our franchise agreements with Hooters of America.

We also have trademarks and trade names associated with our Just Fresh, American Burger, BGR and Little Big Burger businesses. We believe that the trademarks, service marks and other proprietary rights that we use in our restaurants have significant value and are important to our brand-building efforts and the marketing of our restaurant concepts. Although we believe that we have sufficient rights to all of our trademarks and service marks, we may face claims of infringement that could interfere with our ability to market our restaurants and promote our brand. Any such litigation may be costly and divert resources from our business. Moreover, if we are unable to successfully defend against such claims, we may be prevented from using our trademarks or service marks in the future and may be liable for damages.

### **Government Regulation**

The restaurant industry is subject to numerous federal, state and local governmental regulations, including those relating to the preparation and sale of food and alcoholic beverages, sanitation, public health, fire codes, zoning, and building requirements. Each restaurant requires appropriate licenses from regulatory authorities allowing it to sell liquor, beer and wine, and each restaurant requires food service licenses from local health authorities. Our licenses to sell alcoholic beverages may be suspended or revoked at any time for cause, including violation by us or our employees of any law or regulation pertaining to alcoholic beverage control. We are subject to various regulations by foreign governments related to the sale of food and alcoholic beverages and to health, sanitation and fire and safety standards. Compliance with these laws and regulations may lead to increased costs and operational complexity and may increase our exposure to governmental investigations or litigation.

We are also subject to regulations in Oregon where we operate gaming machines. Gaming operations are generally highly regulated and conducted under the permission and oversight of the state or local gaming commission, lottery or other government agencies.



## Corporate Information

Our principal executive offices are located at 7621 Little Avenue, Suite 414, Charlotte, NC 28226. Our web site is [www.chanticleerholdings.com](http://www.chanticleerholdings.com).

## EMPLOYEES

At December 31, 2015, our locations had approximately 745 full-time employees, including 351 in South Africa, 23 in Hungary, 19 in the United Kingdom, 147 in Australia and 205 in the United States. Approximately 25 of our South African employees are represented by a labor union. We have experienced no work stoppage and believe that our employee relationships are good.

## AVAILABLE INFORMATION

We make available free of charge through our website, [www.chanticleerholdings.com](http://www.chanticleerholdings.com), our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements and amendments to those reports and statements filed pursuant to Section 13(a) or 15(d) of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), as soon as reasonably practicable after we file such material with, or furnish it to, the SEC. The public may read and copy any materials we file with or furnish to the Securities and Exchange Commission ("SEC") at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549, on official business days during the hours of 10:00 am to 3:00 pm. The public may also obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Furthermore, the SEC maintains a free website ([www.sec.gov](http://www.sec.gov)) which includes reports, proxy and information statements, and other information regarding us and other issuers that file electronically with the SEC. Our website and the information contained therein or connected thereto are not intended to be incorporated into this Annual Report on Form 10-K. Additionally, we make available free of charge on our internet website: our Code of Ethics; the charter of our Nominating Committee; the charter of our Compensation Committee; and the charter of our Audit Committee.

## ITEM 1A: RISK FACTORS

*Investing in our common stock involves risks. Prospective investors in our common stock should carefully consider, among other things, the following risk factors in connection with the other information and financial statements contained in this Report. We have identified the following factors that could cause actual results to differ materially from those projected in any forward looking statements we may make from time to time.*

*We operate in a continually changing business environment in which new risk factors emerge from time to time. We can neither predict these new risk factors, nor can we assess the impact, if any, of these new risk factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those projected in any forward looking statement. If any of these risks, or combination of risks, actually occurs, our business, financial condition and results of operations could be seriously and materially harmed, and the trading price of our common stock could decline. All forward-looking statements in this document are based on information available to us as of the date hereof, and we assume no obligations to update any such forward-looking statements.*

### Risks Related to Our Company and Industry

*We have not been profitable to date and expect our operating losses to continue for the foreseeable future; we may never be profitable.*

We have incurred operating losses and generated negative cash flows since our inception and have financed our operations principally through equity investments and borrowings. At this time, our ability to generate sufficient revenues to fund operations is uncertain. For the fiscal year ended December 31, 2015, we had net revenue of \$42.4 million and incurred a net loss of \$12.1 million. Our total accumulated deficit through December 31, 2015, was \$33.0 million.

As a result of our brief operating history, future profitability is difficult to predict with certainty. Failure to achieve profitability could materially and adversely affect the value of our Company and our ability to effect additional financings. The success of the business depends on our ability to increase revenues to offset expenses. If our revenues fall short of projections, our business, financial condition and operating results will be materially adversely affected.

***Our financial statements have been prepared assuming a going concern.***

our independent registered public accounting firm has expressed substantial doubt about our ability to continue as a going concern. Our financial statement as of December 31, 2015, were prepared under the assumption that will continue as a going concern for the next twelve months. Our independent registered public accounting firm has issued a report that includes an explanatory paragraph referring to our losses from operations and expressing substantial doubt in our ability to continue as a going concern without additional capital becoming available. Our ability to continue as a going concern is dependent upon our ability to obtain additional financing, obtain further operating efficiencies, reduce expenditures and ultimately, create profitable operations. Such financings may not available or may not be available on reasonable terms. Our financial statements do not include adjustments that result from the outcome of this uncertainty.

***The recent acquisitions, as well as future acquisitions, may have unanticipated consequences that could harm our business and our financial condition.***

Any acquisition that we pursue, whether or not successfully completed, may involve risks, including:

- material adverse effects on our operating results, particularly in the fiscal quarters immediately following the acquisition as the acquired restaurants and bar concepts are integrated into our operations;
- risks associated with entering into markets or conducting operations where we have no or limited prior experience;
- problems retaining key personnel;
- potential impairment of tangible and intangible assets and goodwill acquired in the acquisition;
- potential unknown liabilities;
- difficulties of integration and failure to realize anticipated synergies; and
- disruption of our ongoing business, including diversion of management’s attention from other business concerns.

Future acquisitions of restaurants or other businesses, which may be accomplished through a cash purchase transaction, the issuance of our equity securities or a combination of both, could result in potentially dilutive issuances of our equity securities, the incurrence of debt and contingent liabilities and impairment charges related to goodwill and other intangible assets, any of which could harm our business and financial condition.

***There are risks inherent in expansion of operations, including our ability to generate profits from new restaurants, find suitable sites and develop and construct locations in a timely and cost-effective way.***

We cannot project with certainty the number the number of new restaurants we and our partners will open in accordance with our present plans and within the timeline or the budgets that we currently project. In addition, our franchise agreements with Hooters of America (“HOA”) provide that we must exercise our option to open additional restaurants within each of our territories by a certain date set forth in the development schedule and that each such restaurant must be open by such date. If we fail to timely exercise any option or if we fail to open any additional restaurant by the required restaurant opening date, all of our rights to develop the rest of the option territory will expire automatically and without further notice.

Our failure to effectively develop locations in new territories would adversely affect our ability to execute our business plan by, among other things, reducing our revenues and profits and preventing us from realizing our strategy. Furthermore, we cannot assure you that our new restaurants will generate revenues or profit margins consistent with those currently operated by us.

The number of openings and the performance of new locations will depend on various factors, including:

- the availability of suitable sites for new locations;
- our ability to negotiate acceptable lease or purchase terms for new locations, obtain adequate financing, on favorable terms, required to construct, build-out and operate new locations and meet construction schedules, and hire and train and retain qualified restaurant managers and personnel;
- managing construction and development costs of new restaurants at affordable levels;
- the establishment of brand awareness in new markets; and
- the ability of our Company to manage expansion.

Additionally, competition for suitable restaurant sites in target markets is intense. We have opened and plan to continue opening restaurants in markets where we have little or no operating experience. Restaurants we open in new markets may take longer to reach expected sales and profit levels on a consistent basis and may have higher construction, occupancy or operating costs than restaurants we open in existing markets, thereby affecting our overall profitability.

New markets may have competitive conditions, consumer tastes and discretionary spending patterns that are more difficult to predict or satisfy than our existing markets. We may need to make greater investments than we originally planned in advertising and promotional activity in new markets to build brand awareness. We may find it more difficult in new markets to hire, motivate and keep qualified employees who share our vision, passion and culture. We may also incur higher costs from entering new markets if, for example, we assign regional managers to manage comparatively fewer restaurants than in more developed markets.

We may not be able to successfully develop critical market presence for our brand in new geographical markets, as we may be unable to find and secure attractive locations, build name recognition or attract new customers. Inability to fully implement or failure to successfully execute our plans to enter new markets could have a material adverse effect on our business, financial condition and results of operations.

Not all of these factors are within our control or the control of our partners, and there can be no assurance that we will be able to accelerate our growth or that we will be able to manage the anticipated expansion of our operations effectively.

***We have debt financing arrangements, which could have a material adverse effect on our financial health and our ability to obtain financing in the future, and may impair our ability to react quickly to changes in our business.***

Our exposure to debt financing could limit our ability to satisfy our obligations, limit our ability to operate our business and impair our competitive position. For example, it could:

- increase our vulnerability to adverse economic and industry conditions, including interest rate fluctuations, because a portion of our borrowings are at variable rates of interest;
- require us to dedicate future cash flows to the repayment of debt, reducing the availability of cash to fund working capital, capital expenditures or other general corporate purposes;
- limit our flexibility in planning for, or reacting to, changes in our business and industry; and
- limit our ability to obtain additional debt or equity financing due to applicable financial and restrictive covenants contained in our debt agreements.

We may also incur additional indebtedness in the future, which could materially increase the impact of these risks on our financial condition and results of operations.

***Litigation and unfavorable publicity could negatively affect our results of operations as well as our future business.***

We are subject to potential for litigation and other customer complaints concerning our food safety, service and/or other operational factors. Guests may file formal litigation complaints that we are required to defend, whether or not we believe them to be true. Substantial, complex or extended litigation could have an adverse effect on our results of operations if we incur substantial defense costs and our management is distracted. Employees may also, from time to time, bring lawsuits against us regarding injury, discrimination, wage and hour, and other employment issues. Additionally, potential disputes could subject us to litigation alleging non-compliance with franchise, development, support service, or other agreements. Additionally, we are subject to the risk of litigation by our stockholders as a result of factors including, but not limited to, performance of our stock price.

In certain states we are subject to “dram shop” statutes, which generally allow a person injured by an intoxicated person the right to recover damages from an establishment that wrongfully served alcoholic beverages to the intoxicated person. Some dram shop litigation against restaurant companies has resulted in significant judgments, including punitive damages. We carry liquor liability coverage as part of our existing comprehensive general liability insurance, but we cannot provide assurance that this insurance will be adequate in the event we are found liable in a dram shop case.

In recent years there has been an increase in the use of social media platforms and similar devices that allow individuals’ access to a broad audience of consumers and other interested persons. The availability of information on social media platforms is virtually immediate in its impact. A variety of risks are associated with the use of social media, including the improper disclosure of proprietary information, negative comments about our Company, exposure of personally identifiable information, fraud or outdated information. The inappropriate use of social media platforms by our guests, employees or other individuals could increase our costs, lead to litigation, or result in negative publicity that could damage our reputation. If we are unable to quickly and effectively respond, we may suffer declines in guest traffic, which could materially affect our financial condition and results of operations.

***Food safety and foodborne illness concerns could have an adverse effect on our business.***

We cannot guarantee that our internal controls and training will be fully effective in preventing all food safety issues at our restaurants, including any occurrences of foodborne illnesses such as salmonella, E. coli and hepatitis A. In addition, there is no guarantee that our franchise restaurants will maintain the high levels of internal controls and training we require at our company-operated restaurants.

Furthermore, we and our franchisees rely on third-party vendors, making it difficult to monitor food safety compliance and increasing the risk that foodborne illness would affect multiple locations rather than a single restaurant. Some foodborne illness incidents could be caused by third-party vendors and transporters outside of our control. New illnesses resistant to our current precautions may develop in the future, or diseases with long incubation periods could arise, that could give rise to claims or allegations on a retroactive basis. One or more instances of foodborne illness in any of our restaurants or markets or related to food products we sell could negatively affect our restaurant revenue nationwide if highly publicized on national media outlets or through social media.

This risk exists even if it were later determined that the illness was wrongly attributed to us or one of our restaurants. A number of other restaurant chains have experienced incidents related to foodborne illnesses that have had a material adverse effect on their operations. The occurrence of a similar incident at one or more of our restaurants, or negative publicity or public speculation about an incident, could have a material adverse effect on our business, financial condition and results of operations.

***We operate in the highly competitive restaurant industry. If we are not able to compete effectively, it will have a material adverse effect on our business, financial condition and results of operations.***

We face significant competition from restaurants in the fast casual dining and traditional fast food segments of the restaurant industry. These segments are highly competitive with respect to, among other things, taste, price, food quality and presentation, service, location and the ambience and condition of each restaurant. Our competition includes a variety of locally owned restaurants and national and regional chains offering dine-in, carry-out, delivery and catering services. Many of our competitors have existed longer and have a more established market presence with substantially greater financial, marketing, personnel and other resources than we do. Among our competitors are a number of multi-unit, multi-market, fast casual restaurant concepts, some of which are expanding nationally. As we expand, we will face competition from these restaurant concepts as well as new competitors that strive to compete with our market segments. These competitors may have, among other things, lower operating costs, better locations, better facilities, better management, more effective marketing and more efficient operations. Additionally, we face the risk that new or existing competitors will copy our business model, menu options, presentation or ambience, among other things.

Any inability to successfully compete with the restaurants in our markets and other restaurant segments will place downward pressure on our customer traffic and may prevent us from increasing or sustaining our revenue and profitability. Consumer tastes, nutritional and dietary trends, traffic patterns and the type, number and location of competing restaurants often affect the restaurant business, and our competitors may react more efficiently and effectively to those conditions. Several of our competitors compete by offering menu items that are specifically identified as low in carbohydrates, gluten-free or healthier for consumers. In addition, many of our traditional fast food restaurant competitors offer lower-priced menu options or meal packages, or have loyalty programs. Our sales could decline due to changes in popular tastes, “fad” food regimens, such as low carbohydrate diets, and media attention on new restaurants. If we are unable to continue to compete effectively, our traffic, sales and restaurant contribution could decline which would have a material adverse effect on our business, financial condition and results of operations.

***Our rights to operate and franchise Hooters-branded restaurants are dependent on the Hooters’ franchise agreements.***

Our rights to operate and franchise Hooters-branded restaurants, and our ability to conduct our business are derived principally from the rights granted or to be granted to us by Hooters in our franchise agreements. As a result, our ability to continue operating in our current capacity is dependent on the continuation and renewal of our contractual relationship with Hooters.

In the event Hooters does not grant us franchises to acquire additional locations or terminates our existing franchise agreements, we would be unable to operate and/or expand our Hooters-branded restaurants, identify our business with Hooters or use any of Hooters’ intellectual property. As the Hooters brand and our relationship with Hooters are among our competitive strengths, the failure to grant or the expiration or termination of the franchise agreements would materially and adversely affect our business, results of operations, financial condition and prospects.

***Our business depends on our relationship with Hooters and changes in this relationship may adversely affect our business, results of operations and financial condition.***

Pursuant to the franchise agreements, Hooters has the ability to exercise substantial influence over the conduct of our business. We must comply with Hooters’ high quality standards. We cannot transfer the equity interests of our subsidiaries without Hooters’ consent, and Hooters has the right to control many of the locations’ daily operations.

Notwithstanding the foregoing, Hooters has no obligation to fund our operations. In addition, Hooters does not guarantee any of our financial obligations, including trade payables or outstanding indebtedness, and has no obligation to do so. If the terms of the franchise agreements excessively restrict our ability to operate our business or if we are unable to satisfy our obligations under the franchise agreements, our business, results of operations and financial condition would be materially and adversely affected.

***We do not have full operational control over the businesses where we control less than 100% ownership.***

We are and will be dependent on our partners to maintain quality, service and cleanliness standards, and their failure to do so could materially affect our brands and harm our future growth. We do not presently have formal written agreements in place with any of our partners regarding these types of matters. Although we intend to exercise significant control over partners through written agreements in the future, our partners will continue to have some flexibility in the operations, including the ability to set prices for our products in their restaurants, hire employees and select certain service providers. In addition, it is possible that some partners may not operate their restaurants in accordance with our quality, service and cleanliness, health or product standards. Although we intend to take corrective measures if partners fail to maintain high quality service and cleanliness standards, we may not be able to identify and rectify problems with sufficient speed and, as a result, our image and operating results may be negatively affected.

***A failure by Hooters to protect its intellectual property rights, including its brand image, could harm our results of operations.***

The profitability of our Hooters business depends in part on consumers' perception of the strength of the Hooters brand. Under the terms of our franchise agreements, we are required to assist Hooters with protecting its intellectual property rights in our jurisdictions. Nevertheless, any failure by Hooters to protect its proprietary rights in the world could harm its brand image, which could affect our competitive position and our results of operations.

***Our business could be adversely affected by declines in discretionary spending and may be affected by changes in consumer preferences.***

Our success depends, in part, upon the popularity of our food products. Shifts in consumer preferences away from our restaurants or cuisine could harm our business. Also, our success depends to a significant extent on discretionary consumer spending, which is influenced by general economic conditions and the availability of discretionary income. Accordingly, we may experience declines in sales during economic downturns or during periods of uncertainty. A continuing decline in the amount of discretionary spending could have a material adverse effect on our sales, results of operations, and business and financial condition.

***Increases in costs, including food, labor and energy prices, will adversely affect our results of operations.***

Our profitability is dependent on our ability to anticipate and react to changes in our operating costs, including food, labor, occupancy (including utilities and energy), insurance and supplies costs. Various factors beyond our control, including climatic changes and government regulations, may affect food costs. Specifically, our dependence on frequent, timely deliveries of fresh meat and produce subject us to the risks of possible shortages or interruptions in supply caused by adverse weather or other conditions which could adversely affect the availability and cost of any such items. In the past, we have been able to recover some of our higher operating costs through increased menu prices. There have been, and there may be in the future, delays in implementing such menu price increases, and competitive pressures may limit our ability to recover such cost increases in their entirety.

Our ability to maintain consistent price and quality throughout our restaurants depends in part upon our ability to acquire specified food products and supplies in sufficient quantities from third-party vendors, suppliers and distributors at a reasonable cost. We do not control the businesses of our vendors, suppliers and distributors, and our efforts to specify and monitor the standards under which they perform may not be successful. If any of our vendors or other suppliers are unable to fulfill their obligations to our standards, or if we are unable to find replacement providers in the event of a supply or service disruption, we could encounter supply shortages and incur higher costs to secure adequate supplies, which would have a material adverse effect on our business, financial condition and results of operations.

Furthermore, if our current vendors or other suppliers are unable to support our expansion into new markets, or if we are unable to find vendors to meet our supply specifications or service needs as we expand, we could likewise encounter supply shortages and incur higher costs to secure adequate supplies, which could have a material adverse effect on our business, financial condition and results of operations.

***Changes in employment laws and minimum wage standards may adversely affect our business.***

Labor is a primary component in the cost of operating our restaurants. If we face labor shortages or increased labor costs because of increased competition for employees, higher employee turnover rates, increases in the federal, state or local minimum wage or other employee benefits costs (including costs associated with health insurance coverage), our operating expenses could increase and our growth could be negatively impacted.

In addition, our success depends in part upon our ability to attract, motivate and retain a sufficient number of well-qualified restaurant operators and management personnel, as well as a sufficient number of other qualified employees, including customer service and kitchen staff, to keep pace with our expansion schedule. In addition, restaurants have traditionally experienced relatively high employee turnover rates. Although we have not yet experienced significant problems in recruiting or retaining employees, our ability to recruit and retain such individuals may delay the planned openings of new restaurants or result in higher employee turnover in existing restaurants, which could have a material adverse effect on our business, financial condition and results of operations.

Various federal and state labor laws govern the relationship with our employees and impact operating costs. These laws include employee classification as exempt or non-exempt for overtime and other purposes, minimum wage requirements, unemployment tax rates, workers' compensation rates, immigration status and other wage and benefit requirements. Significant additional government-imposed increases in the following areas could have a material adverse effect on our business, financial condition and results of operations:

- minimum wages;
- mandatory health benefits;
- vacation accruals;
- paid leaves of absence, including paid sick leave; and
- tax reporting.

We could also become subject to fines, penalties and other costs related to claims that we did not fully comply with all recordkeeping obligations of federal and state immigration compliance laws. These factors could have a material adverse effect on our business, financial condition and results of operations.

***We are subject to all of the risks associated with leasing space subject to long-term non-cancelable leases.***

We lease substantially all of the real property and we expect the new restaurants we open in the future will also be leased. We are obligated under non-cancelable leases for our restaurants and our corporate headquarters. Our restaurant leases generally require us to pay a proportionate share of real estate taxes, insurance, common area maintenance charges and other operating costs. Some restaurant leases provide for contingent rental payments based on sales thresholds, although we generally do not expect to pay significant contingent rent on these properties based on the thresholds in those leases. Additional sites that we lease are likely to be subject to similar long-term non-cancelable leases.

If an existing or future restaurant is not profitable, and we decide to close it, we may nonetheless be committed to perform our obligations under the applicable lease including, among other things, paying the base rent for the balance of the lease term. In addition, as each of our leases expires, we may fail to negotiate renewals, either on commercially acceptable terms or at all, which could cause us to pay increased occupancy costs or to close restaurants in desirable locations. These potential increased occupancy costs and closed restaurants could have a material adverse effect on our business, financial condition and results of operations.

***Our business and the growth of our Company are dependent on the skills and expertise of management and key personnel.***

During the upcoming stages of our Company's anticipated growth, we will be entirely dependent upon the management skills and expertise of our management and key personnel, including Michael Pruitt, our current Chairman and Chief Executive Officer. Mr. Pruitt also sits on HOA's board of directors. The loss of services of Mr. Pruitt or other executive officers would dramatically affect our business prospects. Certain of our employees are particularly valuable to us because:

- they have specialized knowledge about our company and operations;
- they have specialized skills that are important to our operations; or
- they would be particularly difficult to replace.

In the event that the services of Mr. Pruitt or any key management personnel ceased to be available to us, our growth prospects or future operating results may be adversely impacted.

***Our food service business, gaming revenues and the restaurant industry are subject to extensive government regulation.***

We are subject to extensive and varied country, federal, state and local government regulation, including regulations relating to public health, gambling, safety and zoning codes. We operate each of our locations in accordance with standards and procedures designed to comply with applicable codes and regulations. However, if we could not obtain or retain food or other licenses, it would adversely affect our operations. Although we have not experienced, and do not anticipate experiencing any significant difficulties, delays or failures in obtaining required licenses, permits or approvals, any such problem could delay or prevent the opening of, or adversely impact the viability of, a particular location or group of restaurants.

***We may be subject to significant foreign currency exchange controls in certain countries in which we operate.***

Certain foreign economies have experienced shortages in foreign currency reserves and their respective governments have adopted restrictions on the ability to transfer funds out of the country and convert local currencies into U.S. dollars. This may increase our costs and limit our ability to convert local currency into U.S. dollars and transfer funds out of certain countries. Any shortages or restrictions may impede our ability to convert these currencies into U.S. dollars and to transfer funds, including for the payment of dividends or interest or principal on our outstanding debt. In the event that any of our subsidiaries are unable to transfer funds to us due to currency restrictions, we are responsible for any resulting shortfall.

***Our foreign operations subject us to risks that could negatively affect our business.***

We expect most of our Hooters restaurants will be operated in foreign countries and territories outside of the U.S. As a result, our business is exposed to risks inherent in foreign operations. These risks, which can vary substantially by market, include political instability, corruption, social and ethnic unrest, changes in economic conditions (including wage and commodity inflation, consumer spending and unemployment levels), the regulatory environment, tax rates and laws and consumer preferences as well as changes in the laws and policies that govern foreign investment in countries where our restaurants are operated.

In addition, our results of operations and the value of our foreign assets are affected by fluctuations in foreign currency exchange rates, which may adversely affect reported earnings. More specifically, an increase in the value of the United States Dollar relative to other currencies, such as the Australian Dollar, the British Pound, the Euro and the South African Rand could have an adverse effect on our reported earnings. There can be no assurance as to the future effect of any such changes on our results of operations, financial condition or cash flows.

***We may not attain our target development goals and aggressive development could cannibalize existing sales.***

Our growth strategy depends in large part on our ability to increase our net restaurant count. The successful development of new units will depend in large part on our ability and the ability of our franchisees to open new restaurants and to operate these restaurants on a profitable basis. We cannot guarantee that we, or our franchisees, will be able to achieve our expansion goals or that new restaurants will be operated profitably. Further, there is no assurance that any new restaurant will produce operating results similar to those of our existing restaurants. Other risks that could impact our ability to increase our net restaurant count include prevailing economic conditions and our, or our franchisees'/partners', ability to obtain suitable restaurant locations, obtain required permits and approvals in a timely manner and hire and train qualified personnel.



Our franchisee operators also frequently depend upon financing from banks and other financial institutions in order to construct and open new restaurants. If it becomes more difficult or expensive for our franchisees/partners to obtain financing to develop new restaurants, our planned growth could slow and our future revenue and cash flows could be adversely impacted.

In addition, the new restaurants could impact the sales of our existing restaurants nearby. It is not our intention to open new restaurants that materially cannibalize the sales of our existing restaurants. However, as with most growing retail and restaurant operations, there can be no assurance that sales cannibalization will not occur or become more significant in the future as we increase our presence in existing markets over time.

***Changing conditions in the global economy and financial markets may materially adversely affect our business, results of operations and ability to raise capital.***

Our business and results of operations may be materially affected by conditions in the financial markets and the economy generally. The demand for our products could be adversely affected in an economic downturn and our revenues may decline under such circumstances. In addition, we may find it difficult, or we may not be able, to access the credit or equity markets, or we may experience higher funding costs in the event of adverse market conditions. Future instability in these markets could limit our ability to access the capital we require to fund and grow our business.

***Changes to accounting rules or regulations may adversely affect the reporting of our results of operations.***

Changes to existing accounting rules or regulations may impact the reporting of our future results of operations or cause the perception that we are more highly leveraged. Other new accounting rules or regulations and varying interpretations of existing accounting rules or regulations have occurred and may occur in the future. For instance, accounting regulatory authorities have indicated that they will require lessees to capitalize operating leases in their financial statements. Such a change would require us to record significant lease obligations on our balance sheet and make other changes to our financial statements. This and other future changes to accounting rules or regulations could have a material adverse effect on the reporting of our business, financial condition and results of operations. In addition, many existing accounting standards require management to make subjective assumptions, such as those required for stock compensation, tax matters, franchise accounting, acquisitions, litigation, and asset impairment calculations. Changes in accounting standards or changes in underlying assumptions, estimates and judgments by our management could significantly change our reported or expected financial performance.

***We may not be able to adequately protect our intellectual property, which could harm the value of our brand and have a material adverse effect on our business, financial condition and results of operations.***

Our intellectual property is material to the conduct of our business. Our ability to implement our business plan successfully depends in part on our ability to further build brand recognition using our trademarks, service marks, trade dress and other proprietary intellectual property, including our name and logos and the unique ambience of our restaurants. While it is our policy to protect and defend vigorously our rights to our intellectual property, we cannot predict whether steps taken by us to protect our intellectual property rights will be adequate to prevent misappropriation of these rights or the use by others of restaurant features based upon, or otherwise similar to, our restaurant concept. It may be difficult for us to prevent others from copying elements of our concept and any litigation to enforce our rights will likely be costly and may not be successful. Although we believe that we have sufficient rights to all of our trademarks and service marks, we may face claims of infringement that could interfere with our ability to market our restaurants and promote our brand. Any such litigation may be costly and could divert resources from our business. Moreover, if we are unable to successfully defend against such claims, we may be prevented from using our trademarks or service marks in the future and may be liable for damages, which in turn could have a material adverse effect on our business, financial condition and results of operations.

In addition, we license certain of our proprietary intellectual property, including our name and logos, to third parties. For example, we grant our franchisees and licensees a right to use certain of our trademarks in connection with their operation of the applicable restaurant. If a franchisee or other licensee fails to maintain the quality of the restaurant operations associated with the licensed trademarks, our rights to, and the value of, our trademarks could potentially be harmed. Negative publicity relating to the franchisee or licensee could also be incorrectly associated with us, which could harm our business. Failure to maintain, control and protect our trademarks and other proprietary intellectual property would likely have a material adverse effect on our business, financial condition and results of operations and on our ability to enter into new franchise agreements.

***We may incur costs resulting from breaches of security of confidential consumer information related to our electronic processing of credit and debit card transactions.***

The majority of our restaurant sales are by credit or debit cards. Other restaurants and retailers have experienced security breaches in which credit and debit card information has been stolen. We may in the future become subject to claims for purportedly fraudulent transactions arising out of the actual or alleged theft of credit or debit card information, and we may also be subject to lawsuits or other proceedings relating to these types of incidents. In addition, most states have enacted legislation requiring notification of security breaches involving personal information, including credit and debit card information. Any such claim or proceeding could cause us to incur significant unplanned expenses, which could have a material adverse effect on our business, financial condition and results of operations. Further, adverse publicity resulting from these allegations may have a material adverse effect on our business and results of operations.

***We rely heavily on information technology, and any material failure, weakness, interruption or breach of security could prevent us from effectively operating our business.***

We rely heavily on information systems, including point-of-sale processing in our restaurants, for management of our supply chain, payment of obligations, collection of cash, credit and debit card transactions and other processes and procedures. Our ability to efficiently and effectively manage our business depends significantly on the reliability and capacity of these systems. Our operations depend upon our ability to protect our computer equipment and systems against damage from physical theft, fire, power loss, telecommunications failure or other catastrophic events, as well as from internal and external security breaches, viruses and other disruptive problems. The failure of these systems to operate effectively, maintenance problems, upgrading or transitioning to new platforms, or a breach in security of these systems could result in delays in customer service and reduce efficiency in our operations. Remediation of such problems could result in significant, unplanned capital investments.

***Adverse weather conditions could affect our sales.***

Adverse weather conditions, such as regional winter storms, floods, severe thunderstorms and hurricanes, could affect our sales at restaurants in locations that experience these weather conditions, which could materially adversely affect our business, financial condition or results of operations.

#### **Risks Related to Our Common Stock**

***Our stock price has experienced price fluctuations and may continue to do so, resulting in a substantial loss in your investment.***

The current market for our common stock has been characterized by volatile prices. As a result, investors in our common stock may experience a decrease in the value of their securities, including decreases unrelated to our operating performance or prospects. The market price of our common stock is likely to be highly unpredictable and subject to wide fluctuations in response to various factors, many of which are beyond our control. These factors include:

- quarterly variations in our operating results and achievement of key business metrics;
- changes in the global economy and in the local economies in which we operate;
- our ability to obtain working capital financing, if necessary;
- the departure of any of our key executive officers and directors;

- changes in the federal, state, and local laws and regulations to which we are subject;
- changes in earnings estimates by securities analysts, if any;
- any differences between reported results and securities analysts' published or unpublished expectations;
- market reaction to any acquisitions, joint ventures or strategic investments announced by us or our competitors;
- future sales of our securities;
- announcements or press releases relating to the casual dining restaurant sector or to our own business or prospects;
- regulatory, legislative, or other developments affecting us or the restaurant industry generally; and
- market conditions specific to casual dining restaurant, the restaurant industry and the stock market generally.

***Our common stock could be further diluted as the result of the issuance of additional shares of common stock, convertible securities, warrants or options.***

In the past, we have issued common stock, convertible securities (such as convertible notes) and warrants in order to raise capital. We have also issued common stock as compensation for services and incentive compensation for our employees and directors. We have shares of common stock reserved for issuance upon the exercise of certain of these securities and may increase the shares reserved for these purposes in the future. Our issuance of additional common stock, convertible securities, options and warrants could affect the rights of our stockholders, could reduce the market price of our common stock or could result in adjustments to exercise prices of outstanding warrants (resulting in these securities becoming exercisable for, as the case may be, a greater number of shares of our common stock), or could obligate us to issue additional shares of common stock to certain of our stockholders.

***Shares eligible for future sale may adversely affect the market.***

From time to time, certain of our stockholders may be eligible to sell all or some of their shares of common stock by means of ordinary brokerage transactions in the open market pursuant to Rule 144 promulgated under the Securities Act, subject to certain limitations. In general, pursuant to Rule 144, stockholders who have been non-affiliates for the preceding three months may sell shares of our common stock freely after six months subject only to the current public information requirement. Affiliates may sell shares of our common stock after six months subject to the Rule 144 volume, manner of sale, current public information and notice requirements. Any substantial sales of our common stock pursuant to Rule 144 may have a material adverse effect on the market price of our common stock.

***While our public warrants are outstanding, it may be more difficult to raise additional equity capital.***

We have warrants that are publicly traded on NASDAQ under the symbol "HOTRW". During the term that the public warrants are outstanding, the holders of the public warrants will be given the opportunity to profit from a rise in the market price of our common stock. We may find it more difficult to raise additional capital while these public warrants are outstanding. At any time during which these public warrants are likely to be exercised, we may be able to obtain additional capital on more favorable terms from other sources. These warrants expire in June 2017.

***We do not expect to pay cash dividends in the foreseeable future and therefore investors should not anticipate cash dividends on their investment.***

Our board of directors does not intend to pay cash dividends in the foreseeable future but instead intends to retain any and all earnings to finance the growth of the business. To date, we have not paid any cash dividends and there can be no assurance that cash dividends will ever be paid on our common stock.

***We may issue additional shares of our common stock, which could depress the market price of our common stock and dilute your ownership.***

Market sales of large amounts of our common stock, or the potential for those sales even if they do not actually occur, may have the effect of depressing the market price of our common stock. In addition, if our future financing needs require us to issue additional shares of common stock or securities convertible into common stock, the amount of common stock available for resale could be increased which could stimulate trading activity and cause the market price of our common stock to drop, even if our business is doing well. Furthermore, the issuance of any additional shares of our common stock, or securities convertible into our common stock could be substantially dilutive to holders of our common stock.

***Director and officer liability is limited.***

As permitted by Delaware law, our bylaws limit the liability of our directors for monetary damages for breach of a director's fiduciary duty except for liability in certain instances. As a result of our bylaw provisions and Delaware law, stockholders may have limited rights to recover against directors for breach of fiduciary duty.

***Failure to establish and maintain effective internal controls in accordance with Section 404 of the Sarbanes-Oxley Act could have a material adverse effect on our business and stock price.***

As a publicly traded company, we are required to comply with the SEC's rules implementing Sections 302 and 404 of the Sarbanes-Oxley Act, which requires management to certify financial and other information in our quarterly and annual reports and provide an annual management report on the effectiveness of controls over financial reporting. We have identified internal control weaknesses and may need to undertake various actions, such as implementing new internal controls, new systems and procedures and hiring additional accounting or internal audit staff, which could increase our operating expenses. In addition, we may identify additional deficiencies in our internal control over financial reporting as part of that process.

In addition, if we are unable to resolve internal control deficiencies in a timely manner, investors could lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected.

***We have received a notification indicating that our share price was not in compliance with NASDAQ's continued listing requirements.***

On February 18, 2016, Chanticleer Holdings received notification from the Listing Qualifications Department of NASDAQ indicating that, for the 30 consecutive business days ended February 17, 2016, the bid price for Chanticleer Holdings' common stock had closed below the \$1.00 per share minimum bid price requirement for continued listing on The NASDAQ Capital Market under NASDAQ Listing Rule 5550(a)(2) ("the Bid Price Rule").

The NASDAQ notice indicated that, in accordance with NASDAQ Marketplace Rule 5810(c)(3)(A), Chanticleer Holdings would be provided 180 calendar days ending on August 16, 2016 to regain compliance. If, at any time before August 16, 2016 the bid price of Chanticleer Holdings' common stock closes at \$1.00 per share or more for a minimum of 10 consecutive business days, August 16, 2016 staff will provide written notification that it has achieved compliance with the Bid Price Rule.

If Chanticleer Holdings fails to regain compliance with the Bid Price Rule before August 16, 2016, but meets all of the other applicable standards for initial listing on the NASDAQ Capital Market with the exception of the minimum bid price, then Chanticleer Holdings may be eligible to have an additional 180 calendar days through February 12, 2017 to regain compliance with the Bid Price Rule. In the event that Chanticleer Holdings fails to regain compliance with the Bid Price Rule, then the directors of Chanticleer Holdings may be required to consider a common stock consolidation which would enable the common stock to continue to be traded on The NASDAQ Capital Market.

## **ITEM 2: PROPERTIES**

The Company, through its subsidiaries, leases the land and buildings for our five restaurants in South Africa, one restaurant in Nottingham, United Kingdom, thirty-five restaurants in the U.S., five restaurants in Australia, and one restaurant in Hungary. The terms for our leases vary from two to twenty years and have options to extend. We lease some of our restaurant facilities under “triple net” leases that require us to pay minimum rent, real estate taxes, maintenance costs and insurance premiums and, in some instances, percentage rent based on sales in excess of specified amounts.

We also lease our corporate office space in Charlotte, North Carolina.

Chanticleer Holdings Inc. owns one commercial real estate property in Port Elizabeth, South Africa.

Our office and restaurant facilities are suitable and adequate for our business as it is presently conducted.

## **ITEM 3: LEGAL PROCEEDINGS**

On March 26, 2013, our South African operations received Notice of Motion filed in the Kwazulu-Natal High Court, Durban, Republic of South Africa, filed against Rolalor (PTY) LTD (“Rolalor”) and Labyrinth Trading 18 (PTY) LTD (“Labyrinth”) by Jennifer Catherine Mary Shaw (“Shaw”). Rolalor and Labyrinth were the original entities formed to operate the Johannesburg and Durban locations, respectively. On September 9, 2011, the assets and the then-disclosed liabilities of these entities were transferred to Tundraspex (PTY) LTD (“Tundraspex”) and Dimaflo (PTY) LTD (“Dimaflo”), respectively. The current entities, Tundraspex and Dimaflo are not parties in the lawsuit. Shaw is requesting that the Respondents, Rolalor and Labyrinth, be wound up in satisfaction of an alleged debt owed in the total amount of R4,082,636 (approximately \$480,000). The two Notices were defended and argued in the High Court of South Africa (Durban) on January 31, 2014. Madam Justice Steryi dismissed the action with costs on May 5, 2014. Ms. Shaw has appealed this decision.

On January 28, 2016, our Just Fresh subsidiary was notified that it had been served with a copyright infringement complaint, Kevin Chelko Photography, Inc. f. JF Restaurants, LLC, Case No. 3:13-CV-60-GCM (W.D. N.C.). The claim was filed in the United States District Court for the Western District of North Carolina Charlotte Division and seeks unspecified damages related to the use of certain photographic assets allegedly in violation of the United States copyright laws. The Company has asserted numerous defenses in answer to the complaint and intends to defend itself fully and vigorously.

Prior to the Company’s acquisition of Little Big Burger, a class action lawsuit was filed in Oregon by certain current and former employees of Little Big Burger asserting that the former owners of Little Big Burger failed to compensate employees for overtime hours and also that an employee had been wrongfully terminated. The plaintiffs and defendants agreed to enter into a settlement agreement pursuant to which the former owners of Little Big Burger will pay a gross settlement of up to \$675,000, inclusive of plaintiffs’ attorney’s fees of \$225,000. This settlement was preliminarily approved by the court on February 2, 2016. The parties are proceeding with distributing the claim forms and notices of settlement to the class members and ultimately will disburse settlement payments to those who opt in.

In connection with our acquisition of Little Big Burger, the sellers agreed that the 1,619,646 shares of the Company’s common stock certain of the sellers received from the Company and an additional \$200,000 in cash would be held in escrow until such time as the litigation was fully resolved. The Company does not expect to have to expend any funds related to the settlement as certain of the Sellers have agreed to retain the obligations and have set aside sufficient funds to cover the settlement. However, as the Company assumed all liabilities of Little Big Burger in the acquisition and would be required to fulfill the settlement if the sellers were unable or otherwise failed to fully fund the settlement, the Company has reflected the \$675,000 settlement amount in accrued liabilities, with an offsetting asset in other current assets, in the accompanying Consolidated Balance Sheets as of December 31, 2015.

From time to time, the Company may be involved in legal proceedings and claims that have arisen in the ordinary course of business. These actions, when ultimately concluded and settled, will not, in the opinion of management, have a material adverse effect upon the financial position, results of operations or cash flows of the company.

## **ITEM 4: MINE SAFETY DISCLOSURES**

Not applicable.

**PART II**

**ITEM 5: MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

Our common stock is listed on the NASDAQ Capital Market under the symbol "HOTR".

The market high and low prices on the NASDAQ for the years ending December 31, 2015 and 2014 are as follows:

| QUARTER ENDED      | HIGH    | LOW     |
|--------------------|---------|---------|
| December 31, 2015  | \$ 1.32 | \$ 0.75 |
| September 30, 2015 | \$ 2.73 | \$ 1.03 |
| June 30, 2015      | \$ 4.18 | \$ 2.17 |
| March 31, 2015     | \$ 3.07 | \$ 1.65 |
| December 31, 2014  | \$ 2.54 | \$ 1.40 |
| September 30, 2014 | \$ 2.84 | \$ 1.85 |
| June 30, 2014      | \$ 3.77 | \$ 1.86 |
| March 31, 2014     | \$ 5.33 | \$ 3.35 |

**Number of Shareholders and Total Outstanding Shares**

As of March 25, 2016, there were 21,337,247 shares issued and outstanding, respectively, held by approximately 196 shareholders of record.

**Dividends on Common Stock**

We have not previously declared a cash dividend on our common stock and we do not anticipate the payment of dividends in the near future.

## Recent Sales of Unregistered Securities

Sales of our common stock during the first three quarters of 2015 were reported in Item 2 of Part II of the Form 10-Q filed for each quarter. Stock transactions in the fourth quarter of 2015 as follows.

In October, 2015, certain holders of the 8% convertible notes issued in January 2015 converted \$100,000 principal into 100,000 shares of the Company's common stock.

During October 2015, the Company issued 54,226 shares of common stock for consulting, acquisition and other services valued at \$47,505. The recorded value for common stock issued for services was based on the closing market prices for the Company's common stock.

The Company believes that the foregoing transactions were exempt from the registration requirements under Rule 506 of Regulation D promulgated under the Securities Act of 1933, as amended (the "1933 Act") or Section 4(2) under the 1933 Act, based on the following facts: in each case, there was no general solicitation, there was a limited number of investors, each of whom was an "accredited investor" (within the meaning of Regulation D under the 1933 Act, as amended) and/or was (either alone or with his/her purchaser representative) sophisticated about business and financial matters, each such investor had the opportunity to ask questions of our management and to review our filings with the Securities and Exchange Commission, and all securities issued were subject to restrictions on transfer, so as to take reasonable steps to assure that the purchasers were not underwriters within the meaning of Section 2(11) under the 1933 Act.

## ITEM 6: SELECTED FINANCIAL DATA

Not applicable.

## ITEM 7: MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*You should read the following discussion of our results of operations and financial condition together with the Selected Financial Data and our audited consolidated financial statements as of and for the year ended December 31, 2015 including the notes thereto, included in this Report. The discussion below contains forward-looking statements and involves numerous risks and uncertainties, including, but not limited to, those described in Item 1A. "Risk Factors". Actual results may differ materially from those contained in any forward-looking statements. Forward-looking statements speak only as of the date they are made. We undertake no obligation to update or revise such statements to reflect new circumstances or unanticipated events as they occur, and you are urged to review and consider disclosures that we make in this and other reports that discuss factors germane to our business.*

### Management's Analysis of Business

We are in the business of owning, operating and franchising fast casual and full service dining concepts in the United States and internationally.

We own and operate fifteen Hooters full service restaurants in the United States, Australia, South Africa, Hungary and the United Kingdom. Hooters restaurants are casual beach-themed establishments featuring music, sports on large flat screens, and a menu that includes seafood, sandwiches, burgers, salads, and of course, Hooters original chicken wings and the "nearly world famous" Hooters Girls.

We own, operate and franchise a system-wide total of forty fast casual restaurants specializing the "Better Burger" category of which twenty-seven are company-owned and thirteen are operated by franchisees under franchise agreements. American Burger Company ("ABC") is a fast casual dining chain consisting of nine locations in New York and the Carolinas, known for its diverse menu featuring, customized burgers, milk shakes, sandwiches, fresh salads and beer and wine. BGR: The Burger Joint ("BGR"), consists of ten company-owned locations in the United States and thirteen franchisee-operated locations in the United States and the Middle East. Little Big Burger ("LBB") consists of eight locations in Oregon.

We also own and operate Just Fresh, our healthier eating fast casual concept with eight company owned locations in Charlotte, North Carolina. Just Fresh offers fresh-squeezed juices, gourmet coffee, fresh-baked goods and premium-quality, made-to-order sandwiches, salads and soups.

As of December 31, 2015, our system-wide store count totaled 62 locations, consisting of 49 company-owned locations and 13 franchisee-operated locations.

#### RESULTS OF OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 2015 COMPARED TO THE YEAR ENDED DECEMBER 31, 2014

Our results of operations are summarized below:

|   | Years Ended December 31, |               |                       |               | % Change      |
|---|--------------------------|---------------|-----------------------|---------------|---------------|
|   | 2015                     |               | 2014                  |               |               |
|   | Amount                   | % of Revenue* | Amount                | % of Revenue* |               |
| Restaurant sales, net                       | \$ 41,010,680            |               | \$ 28,745,258         |               | 42.7%         |
| Gaming income, net                          | 472,752                  |               | 432,688               |               | 9.3%          |
| Management fees - non-affiliate             | 553,953                  |               | 665,488               |               | -16.8%        |
| Franchise income                            | 359,424                  |               | -                     |               |               |
| <b>Total revenue</b>                        | <b>42,396,809</b>        |               | <b>29,843,434</b>     |               | <b>42.1%</b>  |
| <b>Expenses:</b>                            |                          |               |                       |               |               |
| Restaurant cost of sales                    | 14,036,165               | 34.2%         | 9,934,532             | 34.6%         | 41.3%         |
| Restaurant operating expenses               | 24,815,221               | 60.5%         | 17,363,743            | 60.4%         | 42.9%         |
| Restaurant pre-opening and closing expenses | 763,948                  | 1.9%          | 524,739               | 1.8%          | 45.6%         |
| General and administrative                  | 7,415,381                | 17.5%         | 5,976,870             | 20.0%         | 24.1%         |
| Asset impairment charge                     | 4,489,043                | 10.6%         | -                     | 0.0%          | -             |
| Depreciation and amortization               | 2,364,967                | 5.6%          | 1,587,858             | 5.3%          | 48.9%         |
| <b>Total expenses</b>                       | <b>53,884,725</b>        | <b>127.1%</b> | <b>35,387,742</b>     | <b>118.6%</b> | <b>52.3%</b>  |
| <b>Loss from continuing operations</b>      | <b>\$ (11,487,916)</b>   |               | <b>\$ (5,544,308)</b> |               | <b>107.2%</b> |

\* Restaurant cost of sales, operating expenses and pre-opening and closing expense percentages are based on restaurant sales, net. Other percentages are based on total revenue.

#### **Revenue**

Total revenue increased 42.1% to \$42.4 million for the year ended December 31, 2015 from \$29.8 million for the year ended December 31, 2014.



Revenues by concept, revenue type and store count are summarized below for each period:

| Revenue                    | Years Ended December 31, 2015 |                   |                   |                   |                      | % of Total    | Store Count, end of period |           |           |
|----------------------------|-------------------------------|-------------------|-------------------|-------------------|----------------------|---------------|----------------------------|-----------|-----------|
|                            | Restaurant                    | Gaming            | Franchise         | Mgmt Fee          | Total                |               | Company                    | Franchise | Total     |
| Hooters Full Service       | \$ 21,329,220                 | \$ 472,752        | \$ -              | \$ 129,124        | \$ 21,931,096        | 51.7%         | 15                         | -         | 15        |
| Better Burgers Fast Casual | 14,182,670                    | -                 | 359,424           | -                 | 14,542,094           | 34.3%         | 27                         | 13        | 40        |
| Just Fresh Fast Casual     | 5,498,790                     | -                 | -                 | -                 | 5,498,790            | 13.0%         | 7                          | -         | 7         |
| Corporate and Other        | -                             | -                 | -                 | 424,829           | 424,829              | 1.0%          | -                          | -         | -         |
| <b>Total Revenue</b>       | <b>\$ 41,010,680</b>          | <b>\$ 472,752</b> | <b>\$ 359,424</b> | <b>\$ 553,953</b> | <b>\$ 42,396,809</b> | <b>100.0%</b> | <b>49</b>                  | <b>13</b> | <b>62</b> |

| Revenue                    | Years Ended December 31, 2014 |                   |             |                   |                      | % of Total    | Store Count, end of period |           |           |
|----------------------------|-------------------------------|-------------------|-------------|-------------------|----------------------|---------------|----------------------------|-----------|-----------|
|                            | Restaurant                    | Gaming            | Franchise   | Management Fee    | Total                |               | Company                    | Franchise | Total     |
| Hooters Full Service       | \$ 20,675,924                 | \$ 432,688        | \$ -        | \$ 176,098        | \$ 21,284,710        | 71.3%         | 13                         | -         | 13        |
| Better Burgers Fast Casual | 3,230,519                     | -                 | -           | -                 | 3,230,519            | 10.8%         | 6                          | -         | 6         |
| Just Fresh Fast Casual     | 4,838,815                     | -                 | -           | -                 | 4,838,815            | 16.2%         | 7                          | -         | 7         |
| Corporate and Other        | -                             | -                 | -           | 489,390           | 489,390              | 1.7%          | -                          | -         | -         |
| <b>Total Revenue</b>       | <b>\$ 28,745,258</b>          | <b>\$ 432,688</b> | <b>\$ -</b> | <b>\$ 665,488</b> | <b>\$ 29,843,434</b> | <b>100.0%</b> | <b>26</b>                  | <b>-</b>  | <b>26</b> |

Restaurant revenues increased 42.7% to \$41.0 million for the year ended December 31, 2015 from \$28.7 million for the year ended December 31, 2014. Revenue increased as growth in store count and favorable same store sales comparisons were partially offset by the impact of a stronger US dollar on the translation of foreign currency results to US dollars.

Revenue from the Company's Hooter's restaurants increased 3.2% to \$21.3 million for the year ended December 31, 2015 from \$20.7 million for the year ended December 31, 2014. Revenues grew in our US Hooters restaurants, but that growth was partially offset by fluctuations in foreign currency rates on the translation of local currency results to US dollars for financial reporting. Revenue from our Hooters Australia restaurants increased from prior year, however, this increase was mitigated by foreign currency translation combined with the temporary absence of revenue during the July 2015 to October 2015 Administration period.

Revenue from the Company's Better Burger Group increased 339% to \$14.2 million for the year ended December 31, 2015 from \$3.2 million for the year ended December 31, 2014. The growth in our Better Burger Group was due to a combination of growth in store count and increased revenues from our company store locations. Company-owned restaurants grew from six locations at the end of 2014 to twenty-seven locations at the end of the current year. The majority of the growth resulted from the acquisitions of BGR: the Burger Joint, BT's Burger Joint and Little Big Burger. In addition, we opened one company store at BGR following the acquisition.

Revenue from the Company's Just Fresh Group increased 13.6% to \$5.5 million for the year ended December 31, 2015 from \$4.8 million for the year ended December 31, 2014. Revenue growth resulted from increased same store sales and the timing of a new store opening in late 2014.

Gaming revenue was essentially flat, increasing modestly primarily due to timing. Gaming revenue is derived from our Hooters stores in the Pacific Northwest, which accounted for \$0.4 million for the year ended December 31, 2015 and \$0.3 million for the year ended December 31, 2014. We also previously earned gaming revenues from our Australia operations, however, that revenue ceased in connection with the Administration and is not expected to continue in future periods.

Management fee income decreased \$0.1 million. The Company derives management fee income from three sources – serving as general partner for its investment in HOA LLC, as compensation for the Company's CEO serving on the board of HOA LLC, and from managing non-controlled restaurant properties in Australia. In the current year, the Company received a cash distribution totaling \$0.5 million on its 3% equity interest in HOA LLC, of which \$0.3 million is reflected in management fee income and \$0.2 million is reflected in interest and other income. In the prior year period, the Company recognized \$0.7 million in management fees from a combination of the prior year HOA distribution, board fees and from its Australia operations. The Company ceased earning management fee income from Australia in July 2015 in connection with the Australia administration process.

Franchise income was \$0.4 million for the year ended December 31, 2015 compared with zero in the prior year. The Company commenced its franchise operations in March 2015 with the acquisition of BGR.

**Restaurant cost of sales**

Restaurant cost of sales increased 41.3% to \$14.0 million for the year ended December 31, 2015 from \$9.9 million for the year ended December 31, 2014. Restaurant revenues increased 42.7% over the same period.

| Cost of Restaurant Sales   | Years Ended December 31, |                           | 2014                |                           | % Change |
|----------------------------|--------------------------|---------------------------|---------------------|---------------------------|----------|
|                            | 2015                     | % of Restaurant Net Sales | 2014                | % of Restaurant Net Sales |          |
|                            | Amount                   |                           | Amount              |                           |          |
| Hooters Full Service       | \$ 7,319,155             | 34.3%                     | \$ 6,983,485        | 33.8%                     | 4.8%     |
| Better Burgers Fast Casual | 4,770,460                | 33.6%                     | 1,233,271           | 38.2%                     | 286.8%   |
| Just Fresh Fast Casual     | 1,946,550                | 35.4%                     | 1,717,776           | 35.5%                     | 13.3%    |
| Corporate and Other        | -                        | -                         | -                   | -                         | -        |
|                            | <u>\$ 14,036,165</u>     | 34.2%                     | <u>\$ 9,934,532</u> | 34.6%                     | 41.3%    |

As a percentage of restaurant sales, net, restaurant cost of sales decreased to 34.2% for the year ended December 31, 2015 from 34.6% for the year ended December 31, 2014.

Cost of restaurant sales improved significantly for the Better Burger restaurants as the Company continued to focus on driving cost of food, paper and other products lower by leveraging the increasing scale and purchasing volumes of the combined company. Cost of sales for the Better Burger group improved from 38.2% to 33.6% while cost of sales at Just Fresh changed from 35.5% to 35.4%.

Cost of restaurant sales improved as a percent of revenues at the Hooter's restaurants in the United States, South Africa and Europe when compared with the prior year period. Those improvements, however, were more than offset by higher costs in Australia where revenues and costs were temporarily impacted by the Administration process. Food and paper costs for Hooters Australia, and accordingly for the Hooters group as a whole, are expected to improve in future periods as a result of initiatives to lower food and transportation costs and to increase pricing where necessary to offset input cost increases.

**Restaurant operating expenses**

Restaurant operating expenses increased 42.9% to \$24.8 million for the year ended December 31, 2015 from \$17.4 million for the year ended December 31, 2014 due to the increase in the number of store locations and related restaurant business volumes.

Our restaurant operating expenses as well as the percentage of cost of restaurant sales to restaurant revenues for each region of operations is included in the following table:

| Operating Expenses         | Years Ended December 31, |                           |                      |                           | % Change |
|----------------------------|--------------------------|---------------------------|----------------------|---------------------------|----------|
|                            | 2015                     |                           | 2014                 |                           |          |
|                            | Amount                   | % of Restaurant Net Sales | Amount               | % of Restaurant Net Sales |          |
| Hooters Full Service       | \$ 13,567,725            | 63.6%                     | \$ 12,283,416        | 59.4%                     | 10.5%    |
| Better Burgers Fast Casual | 8,272,412                | 58.3%                     | 2,470,691            | 76.5%                     | 234.8%   |
| Just Fresh Fast Casual     | 2,975,084                | 54.1%                     | 2,609,636            | 53.9%                     | 14.0%    |
|                            | <u>\$ 24,815,221</u>     | 60.5%                     | <u>\$ 17,363,743</u> | 60.4%                     | 42.9%    |

As a percent of restaurant revenue, operating expenses were relatively flat at 60.5% of restaurant net sales in the current year compared with 60.4% in the prior year.

Operating expenses improved significantly in our Better Burger Business from 76.5% to 58.3% due to the combination of revenue growth improving overall operating leverage and due to operational initiatives to improve store efficiencies.

Operating expenses for the Just Fresh business were essentially flat as a percent of revenue, while operating expenses increased as a percent of revenue for our Hooters business. The increase in operating expenses in our Hooters business was directly attributable to Hooters Australia where we incurred higher expenses and lower revenues than in historical periods as a result of the Administration process. We expect revenues and operating expenses in Australia, and for the Hooters group as a whole, to improve in future periods.

#### **Restaurant pre-opening and closing expenses**

Restaurant pre-opening and closing expenses totaled \$0.8 million for the year ended December 31, 2015 compared with \$0.5 million for the year ended December 31, 2014. The increased expense was due primarily to the Company's opening of the Townsville Hooters location in Australia, the Port Elizabeth Hooters location in South Africa, and the closing of our ABC location in Columbia, South Carolina.

#### **General and Administrative Expense ("G&A")**

G&A increased 24.1% to \$7.4 million for the year ended December 31, 2015 from \$6.0 million for the year ended December 31, 2014. Significant components of G&A are summarized as follows:

| General and Administrative Expenses     | Years Ended December 31, |                     |          |
|---|--------------------------|---------------------|----------|
|   | 2015                     | 2014                | % Change |
| Professional fees                       | \$ 1,535,976             | \$ 1,088,020        | 41.2%    |
| Salary and benefits                     | 2,685,349                | 1,969,048           | 36.4%    |
| Consulting and acquisition-related fees | 1,651,049                | 1,601,913           | 3.1%     |
| Travel and entertainment                | 353,151                  | 297,906             | 18.5%    |
| Shareholder services and fees           | 85,960                   | 121,733             | -29.4%   |
| Other G&A                               | 1,103,896                | 898,250             | 22.9%    |
| Total G&A Expenses                      | <u>\$ 7,415,381</u>      | <u>\$ 5,976,870</u> | 24.1%    |

As a percentage of total restaurant revenue, G&A decreased to 17.5% for the year ended December 31, 2015 from 20.0% for the year ended December 31, 2014. The improvement in G&A as a percent of revenue is primarily due to the growth in revenues and store locations, allowing us to scale our overhead costs over a larger business. G&A for the current year includes approximately \$1.3 million of legal, banking, consulting and other non-recurring professional fees related to acquisition transactions, capital transactions and Australia administration process. Excluding those non-recurring expenses, G&A was approximately 14.5% of total revenue for the year ended December 31, 2015.

We expect the G&A costs associated with restaurant operations and corporate overhead to continue to decline as a percent of revenues in future periods through a combination of expense rationalization, the absence of non-recurring transaction-related expenses, and increased revenue. For example, during the fourth quarter of 2015, the trend of declining G&A continued, with G&A coming in at 13.9% of quarterly restaurant revenue.

#### **Asset impairment charge**

In connection with the reorganization of our Australian subsidiaries, the Company recognized a non-cash charge of \$4.5 million for the year ended December 31, 2015. The Company did not incur an asset impairment charge in 2014.

#### **Depreciation and amortization**

Depreciation and amortization expense increased 48.9% to \$2.4 million for the year ended December 31, 2015 from \$1.6 million for the year ended December 31, 2014 due to increased depreciable property and equipment and franchise fees associated with acquired and newly opened restaurants.

#### **Other income (expense)**

Other income (expense) consisted of the following:

| <b>Other Income (Expense)</b>                  | <b>Years Ended December 31,</b> |                     |                 |
|--|---------------------------------|---------------------|-----------------|
|  | <b>2015</b>                     | <b>2014</b>         | <b>% Change</b> |
| Interest expense                               | \$ (3,470,451)                  | \$ (2,280,921)      | 52.2%           |
| Change in fair value of derivative liabilities | 868,592                         | 1,227,600           | -29.2%          |
| Loss on extinguishment of debt                 | (315,923)                       | -                   | -               |
| Realized (loss) gains on securities            | (169,369)                       | 101,472             | -100.0%         |
| Equity in losses of investments                | -                               | (40,694)            | -100.0%         |
| Other income                                   | 253,642                         | 334,477             | -74.8%          |
| <b>Total Other Income (Expense)</b>            | <b>\$ (2,833,509)</b>           | <b>\$ (658,066)</b> | <b>330.6%</b>   |

Total other income (expense) increased to \$2.8 million for the year ended December 31, 2015 from \$0.7 million for the year ended December 31, 2014.

Interest expense increased 52.2% to \$3.5 million for the year ended December 31, 2015 from \$2.3 million for the year ended December 31, 2014. The Company increased its debt obligations and related interest expenses in connection with the Company's growth strategy and recent business combinations, which included the assumption of \$5 million in additional long-term debt for the acquisition of the Australia entities. The year ended December 31, 2015 also included an accelerated non-cash amortization of debt discount of approximately \$0.6 million related to early conversion of a \$1.0 million note payable.

The Company recognized changes in the fair value of derivative liabilities totaling \$0.9 million for the year ended December 31, 2015 as compared to a \$1.2 million in 2014. The liability is a non-cash income or expense associated with our convertible debt and is adjusted quarterly based on the change in the fair value of the price of the Company's common stock.

Loss on extinguishment of debt was \$0.3 million for the year ended December 31, 2015. During 2015, several of the Company's convertible notes and one of the Company's term debt instruments were converted by the holders into shares of the Company's common stock. In connection with the conversions, the Company recognized a loss on extinguishment of convertible debt, related accrued interest, penalties and derivative liabilities. The Company did not have any debt conversions or loss on extinguishments in the prior year.

The Company sold a marketable security in 2014, realizing a gain of \$101,472 for the year ended December 31, 2014. The company did not sell any marketable securities in the current year.

Other income was \$0.1 million for the year ended December 31, 2015 compared to income of \$0.3 million for the prior year period. In the current year, other income includes a realized loss on the sale of the Company's Beacher's investment of \$0.2 million, accounting for the majority of the change from the prior year period.

#### **NET GAIN (LOSS) FROM DISCONTINUED OPERATIONS**

Net gain (loss) from discontinued operations was a gain of \$0.1 million for the year ended December 31, 2015 as compared to a loss of \$0.9 million in 2014. The Company discontinued the operations of its Spoon business in December 2014.

#### **LIQUIDITY, CAPITAL RESOURCES AND GOING CONCERN**

As of December 31, 2015, our cash balance was \$1.5 million and improved by \$1.3 million as compared with December 31, 2014. The level of additional cash needed to fund operations and our ability to conduct business for the next twelve months will be influenced primarily by the following factors:

- the pace of growth in our restaurant businesses and related investments in opening new stores;
- the level of investment in acquisition of new restaurant businesses and entering new markets;
- our ability to manage our operating expenses and maintain gross margins as we grow;
- our ability to access the capital and debt markets including our ability to refinance or extend maturities of current obligations.;
- popularity of and demand for our fast casual dining concepts; and
- general economic conditions and changes in consumer discretionary income.

We have typically funded our operating costs, acquisition activities, working capital investments and capital expenditures with proceeds from the issuances of our common stock and other financing arrangements, including convertible debt, lines of credit, notes payable and capital leases.

Our operating plans for the next twelve months contemplate moderate organic growth, opening 6-10 new stores within our current markets and restaurant concepts. We have demonstrated the ability to raise capital to fund our growth initiatives, including but not limited to the following:

- During the first quarter of 2015, we completed a rights offering raising net proceeds of approximately \$7.1 million and issued \$2.2 million in convertible debt to fund the acquisition of BGR: The Burger Joint and for general corporate purposes.

- During the second quarter of 2015, we completed an equity transaction raising net proceeds of approximately \$1.9 million to complete the acquisition of BT's Burger Joints and for general corporate purposes.
- During the third quarter of 2015, we completed a rights offering raising net proceeds of approximately \$6.0 million to fund the acquisition of Little Big Burger, investments in Australia and general corporate purposes.
- In early 2016, we entered into a letter of intent directly with a US investor to fund the opening of up to 10 Little Big Burger restaurants in the Seattle, Washington area. We are actively pursuing sites and anticipate opening our first store under that arrangement by the end of 2016.

As we execute our growth plans throughout 2016, we intend to carefully monitor the impact of growth on our working capital needs and cash balances relative to the availability of cost-effective debt and equity financing. We have a demonstrated track record of being able to raise capital and close deals over the past 18 months. We have several non-equity capital financing transactions currently in process, which we expect to further improve the Company's financial position however, until such transactions are fully executed, we cannot provide assurance as to the certainty of completion or the precise amounts, if any, that will be received by the Company.:

In the event that such capital is not available, we may then have to scale back or freeze our organic growth plans, reduce general and administrative expenses, and/or curtail future acquisition plans to manage our liquidity and capital resources. We may also not be able to refinance or otherwise extend or repay our current obligations. In addition, our business is subject to additional risks and uncertainties, including, but not limited to, those described in Item 1A. "Risk Factors".

## RECENT ACCOUNTING PRONOUNCEMENTS

In February 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2016-02 “Leases”, which supersedes ASC 840 “Leases” and creates a new topic, ASC 842 “Leases”. This update requires lessees to recognize a lease liability and a lease asset for all leases, including operating leases, with a term greater than 12 months on its balance sheet. The update also expands the required quantitative and qualitative disclosures surrounding leases. This update is effective for fiscal years beginning after December 15, 2018 and interim periods within those fiscal years, with earlier adoption permitted. This update will be applied using a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The Company is currently evaluating the effect of this update on its consolidated financial statements.

In November 2015, the FASB issued ASU No. 2015-17, “Income Taxes” which requires that deferred tax liabilities and assets be classified as noncurrent in a classified balance sheet. Prior to the issuance of the standard, deferred tax liabilities and assets were required to be separately classified into a current amount and a noncurrent amount in the balance sheet. The new accounting guidance represents a change in accounting principle and the standard is required to be adopted in annual periods beginning after December 15, 2016. The application of this guidance affects classification only, and is not expected to have a material effect on the Company’s consolidated financial position or results of operations.

In July 2015, the FASB issued ASU No. 2015-11, Inventory (Topic 330): Simplifying the Measurement of Inventory, which requires entities to measure inventory at the lower of cost and net realizable value (“NRV”). ASU 2015-11 defines NRV as the estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal and transportation. The ASU will not apply to inventories that are measured by using either the last-in, first-out method or the retail inventory method. The guidance in ASU 2015-11 is effective prospectively for fiscal years beginning after December 15, 2016, and interim periods therein. Early adoption is permitted. Upon transition, entities must disclose the nature of and reason for the accounting change. The adoption of ASU 2015-11 is not expected to have a material impact on our consolidated financial position or results of operations.

In February 2015, the FASB issued ASU No. 2015-02, “Consolidation: Amendments to the Consolidation Analysis.” This update improves targeted areas of the consolidation guidance and reduces the number of consolidation models. This update is effective for annual and interim periods in fiscal years beginning after December 15, 2015, with early adoption permitted. The adoption of ASU 2015-02 is not expected to have a material impact on our consolidated financial position or results of operations.

In August 2014, the FASB issued ASU No. 2014-15, Presentation of Financial Statements – Going Concern (Subtopic 205-40): Disclosure of Uncertainties About an Entity’s Ability to Continue as a Going Concern. The standard is intended to define management’s responsibility to decide whether there is substantial doubt about an organization’s ability to continue as a going concern and to provide related footnote disclosures. The standard requires management to decide whether there are conditions or events that raise substantial doubt about the entity’s ability to continue as a going concern within one year after the date that the financial statements are issued. The standard provides guidance to an organization’s management, with principles and definitions that are intended to reduce diversity in the timing and content of disclosures that are commonly provided by organizations in their footnotes. The standard becomes effective in annual periods ending after December 15, 2016, with early application permitted. The adoption of this pronouncement is not expected to have a material impact on the consolidated financial statements. Management’s evaluations regarding the Company’s ability to continue as a going concern have been disclosed in Note 1 of the accompanying consolidated financial statements.

In November 2014, the FASB issued ASU No. 2014-17, “Business Combinations (Topic 805): Pushdown Accounting” (“ASU 2014-17”). ASU 2014-17 provides with an option to apply pushdown accounting in its separate financial statements upon occurrence of an event in which an acquirer obtains control of the acquired entity. The acquired entity may elect the option to apply pushdown accounting in the reporting period in which the change-in-control event occurs. If pushdown accounting is not applied in the reporting period in which the change-in-control event occurs, an acquired entity will have the option to elect to apply pushdown accounting in a subsequent reporting period as a change in accounting principle in accordance with ASC Topic 250, “Accounting Changes and Error Corrections”. If pushdown accounting is applied to an individual change-in-control event, that election is irrevocable. ASU 2014-17 also requires an acquired entity that elects the option to apply pushdown accounting in its separate financial statements to disclose information in the current reporting period that enables users of financial statements to evaluate the effect of pushdown accounting. The Company has adopted the amendments in ASU 2014-17, effective November 18, 2014, as the amendments in the update are effective upon issuance. The adoption did not have an impact on the Company’s Consolidated Financial Statements.

There are several other new accounting pronouncements issued by FASB, which are not yet effective. Each of these pronouncements has been or will be adopted, as applicable, by the Company. At December 31, 2015, none of these pronouncements are expected to have a material effect on the financial position, results of operations or cash flows of the Company.

## CRITICAL ACCOUNTING POLICIES

The preparation of consolidated financial statements requires management to use judgment and estimates. The level of uncertainty in estimates and assumptions increases with the length of time until the underlying transactions are completed. Significant estimates include the valuation of the investments in portfolio companies, deferred tax asset valuation allowances, valuing options and warrants, intangible asset valuations and useful lives, depreciation and uncollectible accounts and reserves. Actual results could differ from those estimates. The accounting policies that are most critical in the preparation of our consolidated financial statements are those that are both important to the presentation of our financial condition and results of operations and require significant judgment and estimates on the part of management. The methods, estimates and judgments we use in applying this accounting policy has a significant impact on the results we report in our financial statements. Our critical accounting policies are reviewed periodically with the Audit Committee of the Board of Directors.

### *Investments*

We determine fair value to be the amount for which an investment could be exchanged in an orderly disposition over a reasonable period of time between willing parties other than in a forced or liquidation sale. Our evaluation process is intended to provide a consistent basis for determining the fair value of our available-for-sale investments. In summary, for individual securities classified as available-for-sale securities, an enterprise shall determine whether a decline in fair value below the amortized cost basis is other than temporary. If the decline in fair value is judged to be other than temporary, the individual security shall be written down to fair value as a new cost basis and the amount of the write-down shall be included in earnings (accounted for as a realized loss). The new cost basis shall not be changed for subsequent recoveries in fair value. Subsequent increases in the fair value of available-for-sale securities shall be included in other comprehensive income and subsequent decreases in fair value, if not an other-than-temporary impairment, also shall be included in other comprehensive income.

The first step in the analysis is to determine if the security is impaired. All of our available-for-sale securities were listed and we use the closing market price and other factors to determine the amount of impairment if any. The second step, if there is an impairment, is to determine if the impairment is other than temporary. To determine if a decline in the value of an equity security is other than temporary and that a write-down of the carrying value is required, we considered the following:

- The length of time and the extent to which the market value has been less than the cost;
- The financial condition and near-term prospects of the issuer, including any specific events which may influence the operations of the issuer such as changes in technology that may impair the earnings potential of the investment or the discontinuance of a segment of the business that may affect the future earnings potential; or
- The intent and ability of the holder to retain its investment in the issuer for a period of time sufficient to allow for any anticipated recovery in market value.

Unless evidence exists to support a realizable value equal to or greater than the carrying value of the investment in equity securities classified as available-for-sale, a write-down to fair value accounted for as a realized loss should be recorded. Such loss should be recognized in the determination of net income of the period in which it occurs and the written down value of the investment in the issuer becomes the new cost basis of the investment.



Investments in which the Company has the ability to exercise significant influence and that, in general, are at least 20 percent owned are stated at cost plus equity in undistributed net earnings (loss), less distributions received. The Company also has equity investments in which it owns less than 20%, which are stated at cost. An impairment loss would be recorded whenever a decline in the value of an equity investment or investment carried at cost is below its carrying amount and is determined to be other than temporary. In judging "other than temporary," the Company considers the length of time and extent to which the fair value of the investment has been less than the carrying amount of the investment, the near-term and long-term operating and financial prospects of the investee, and the Company's long-term intent of retaining the investment in the investee.

#### *Leases*

Restaurant Operations lease certain properties under operating leases. Many of these lease agreements contain rent holidays, rent escalation clauses, and/or contingent rent provisions. Rent expense is recognized on a straight-line basis over the expected lease term, including cancelable option periods when failure to exercise such options would result in an economic penalty. We use a time period for straight-line rent expense calculation that equals or exceeds the time period used for depreciation. In addition, the rent commencement date of the lease term is the earlier of the date when they become legally obligated for the rent payments or the date when they take access to the grounds for build out. Accounting for leases involves significant management judgment.

#### *Intangible Assets*

##### **Goodwill**

Generally accepted accounting principles in the United States require the Company to perform a goodwill impairment test annually and more frequently when negative conditions or a triggering event arise. In September 2011, the FASB issued amended guidance that simplified how entities test goodwill for impairment. After an assessment of certain qualitative factors, if it is determined to be more likely than not that the fair value of a reporting unit is less than its carrying amount, entities must perform the quantitative analysis of the goodwill impairment test. Otherwise, the quantitative test(s) become optional. As allowed under the amended guidance, the Company chose not to assess the qualitative factors of its reporting units and, instead, performed the quantitative tests.

##### **Trade Name/Trademark**

The fair value of trade name/trademarks are estimated and compared to the carrying value. The Company estimates the fair value of trademarks using the relief-from-royalty method, which requires assumptions related to projected sales from its annual long-range plan; assumed royalty rates that could be payable if the Company did not own the trademarks; and a discount rate. The Company recognizes an impairment loss when the estimated fair value of the trade name/trademarks is less than its carrying value. The Company finalized the purchase price allocation for ABC and Just Fresh during its fourth quarter of 2013, the Company excluded the trade name/trademark related to ABC and JF from its annual impairment test, however, the Company did perform a qualitative assessment of the ABC and JF's trade name/ trademark in accordance with ASC Topic 350, Intangibles - Goodwill and Other, and no indicators of impairment were identified. However, if in the future there are declines in the Company's market capitalization (reflected in our stock price) as well as in the market capitalization of other companies in the restaurant industry, declines in sales at our restaurants, and significant adverse changes in the operating environment for the restaurant industry may result in future impairment. The Company's trade name/trademarks have been determined to have a definite-lived life and is being amortized on a straight-line basis over estimated useful lives of 10 years. The amortization expense of these definite-lived intangibles is included in depreciation and amortization in the Company's consolidated statement of operations.

##### **Franchise Cost**

Intangible assets are recorded for the initial franchise fees for our restaurants. The Company amortizes these amounts over a 20-year period, which is the life of the franchise agreement.

## COMMITMENTS AND CONTINGENCIES

The Company, through its subsidiaries, leases the land and buildings for our five restaurants in South Africa, one restaurant in Nottingham, United Kingdom, thirty-five restaurants in the U.S., four restaurants in Australia, and one restaurant in Hungary. The terms for our restaurant leases vary from two to twenty years and have options to extend. We lease some of our restaurant facilities under “triple net” leases that require us to pay minimum rent, real estate taxes, maintenance costs and insurance premiums and, in some instances, percentage rent based on sales in excess of specified amounts.

We also lease our corporate office space in Charlotte, North Carolina

### TABULAR DISCLOSURE OF CONTRACTUAL OBLIGATIONS

The following table presents a summary of our contractual operating lease obligations, long-term debt and other contractual commitments as of December 31, 2015:

| <b>Contractual Obligations</b> | <b>Total</b>         | <b>Less than 1<br/>year</b> | <b>1-3 years</b>    | <b>3-5 years</b>    | <b>More than 5<br/>years</b> |
|--------------------------------|----------------------|-----------------------------|---------------------|---------------------|------------------------------|
| Long-Term Debt Obligations     | \$ 6,481,643         | \$ 5,383,002                | \$ 910,234          | \$ 75,285           | \$ 113,122                   |
| Convertible Debt Obligations   | 2,810,276            | 2,516,659                   | -                   | -                   | -                            |
| Operating Lease Obligations    | 27,516,096           | 4,426,175                   | 7,918,198           | 6,338,998           | 8,832,725                    |
| Capital Lease Obligations      | 55,272               | 39,303                      | 15,969              | -                   | -                            |
| Purchase Obligations           | -                    | -                           | -                   | -                   | -                            |
| Total                          | <u>\$ 36,863,287</u> | <u>\$ 12,658,756</u>        | <u>\$ 8,844,401</u> | <u>\$ 6,414,283</u> | <u>\$ 8,945,847</u>          |

### ITEM 7A: QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable.

**ITEM 8: FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

CHANTICLEER HOLDINGS, INC. AND SUBSIDIARIES  
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Audit Committee of the  
Board of Directors and Shareholders  
of Chanticleer Holdings, Inc.

We have audited the accompanying consolidated balance sheets of Chanticleer Holdings, Inc. and Subsidiaries (the "Company") as of December 31, 2015 and the related consolidated statements of operations and comprehensive loss, stockholders' equity and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Chanticleer Holdings, Inc. and Subsidiaries, as of December 31, 2015 and the results of their operations and their cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company incurred net losses during the year ended December 31, 2015 of approximately \$14.5 million and the Company has working capital deficit in excess of \$12 million as of December 31, 2015. These conditions raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are described in Note 1. The consolidated financial statements do not include any adjustments with respect to the possible future effects on the recoverability and classification of assets or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

*/s/ Cherry Bekaert LLP*  
Charlotte, North Carolina  
March 30, 2016

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Audit Committee of the  
Board of Directors and Shareholders  
of Chanticleer Holdings, Inc.

We have audited the accompanying consolidated balance sheet of Chanticleer Holdings, Inc. and Subsidiaries (the "Company") as of December 31, 2014, and the related consolidated statements of operations and comprehensive loss, stockholders' equity and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Chanticleer Holdings, Inc. and Subsidiaries, as of December 31, 2014 and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

*/s/ Marcum llp*

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Marcum LLP  
New York, NY  
April 14, 2015

**Chanticleer Holdings, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**

| <b>ASSETS</b>  | <b>December 31, 2015</b> | <b>December, 31, 2014</b> |
|--|--------------------------|---------------------------|
| Current assets:  |                          |                           |
| Cash   | \$ 1,527,886             | \$ 245,828                |
| Accounts and other receivables   | 882,263                  | 313,509                   |
| Inventories  | 726,624                  | 532,803                   |
| Due from related parties   | 45,615                   | 46,015                    |
| Prepaid expenses and other current assets  | 636,188                  | 330,745                   |
| <b>TOTAL CURRENT ASSETS</b>  | <b>3,818,576</b>         | <b>1,468,900</b>          |
| Property and equipment, net  | 16,641,232               | 13,315,409                |
| Goodwill   | 12,702,139               | 15,617,308                |
| Intangible assets, net   | 7,282,074                | 3,396,503                 |
| Investments at fair value  | 31,322                   | 35,362                    |
| Other investments  | 1,050,000                | 1,550,000                 |
| Deposits and other assets  | 679,863                  | 408,492                   |
| <b>TOTAL ASSETS</b>  | <b>\$ 42,205,206</b>     | <b>\$ 35,791,974</b>      |
| <b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>  |                          |                           |
| Current liabilities:   |                          |                           |
| Accounts payable and accrued expenses  | \$ 5,505,265             | \$ 5,580,131              |
| Current maturities of long-term debt and notes payable   | 5,383,002                | 1,813,647                 |
| Current maturities of convertible notes payable, net of debt discount of \$914,724 and \$63,730, respectively                        | 2,810,276                | 436,270                   |
| Current maturities of capital leases payable   | 39,303                   | 42,032                    |
| Due to related parties   | 403,742                  | 1,299,083                 |
| Deferred rent  | 683,793                  | 118,986                   |
| Derivative liabilities   | 1,231,608                | 1,945,200                 |
| Liabilities of discontinued operations   | 124,043                  | 177,393                   |
| <b>TOTAL CURRENT LIABILITIES</b>   | <b>16,181,082</b>        | <b>11,412,742</b>         |
| Long-term debt, less current maturities, net of debt discount of \$171,868 and \$343,733, respectively                               | 1,098,641                | 5,009,283                 |
| Convertible notes payable, net of debt discount of \$10 and \$1,872,587, respectively  | -                        | 1,477,413                 |
| Capital leases payable, less current maturities  | 15,969                   | 36,628                    |
| Deferred rent  | 1,798,660                | 2,196,523                 |
| Deferred tax liabilities   | 1,353,771                | 686,884                   |
| <b>TOTAL LIABILITIES</b>   | <b>20,448,073</b>        | <b>20,819,473</b>         |
| Commitments and contingencies (Note 17)  |                          |                           |
| Stockholders' equity:  |                          |                           |
| Preferred stock: no par value; authorized 5,000,000 shares; none issued and outstanding  | -                        | -                         |
| Common stock: \$0.0001 par value; authorized 45,000,000 shares; issued and outstanding 21,337,247 and 7,249,442 shares, respectively | 2,134                    | 725                       |
| Additional paid in capital   | 55,365,597               | 32,601,400                |
| Accumulated other comprehensive loss   | (987,695)                | (1,657,908)               |
| Non-controlling interest   | 389,810                  | 4,904,471                 |
| Accumulated deficit  | (33,012,713)             | (20,876,187)              |
| <b>TOTAL STOCKHOLDERS' EQUITY</b>  | <b>21,757,133</b>        | <b>14,972,501</b>         |
| <b>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</b>  | <b>\$ 42,205,206</b>     | <b>\$ 35,791,974</b>      |

See accompanying notes to consolidated financial statements

**Chanticleer Holdings, Inc. and Subsidiaries**  
**Consolidated Statements of Operations and Comprehensive Loss**

|  | Years Ended            |                       |
|--|------------------------|-----------------------|
|  | December 31, 2015      | December 31, 2014     |
| <b>Revenue:</b>  |                        |                       |
| Restaurant sales, net  | \$ 41,010,680          | \$ 28,745,258         |
| Gaming income, net   | 472,752                | 432,688               |
| Management fee income - non-affiliates   | 553,953                | 665,488               |
| Franchise income   | 359,424                | -                     |
| <b>Total revenue</b>   | <b>42,396,809</b>      | <b>29,843,434</b>     |
| <b>Expenses:</b>   |                        |                       |
| Restaurant cost of sales   | 14,036,165             | 9,934,532             |
| Restaurant operating expenses  | 24,815,221             | 17,363,743            |
| Restaurant pre-opening and closing expenses  | 763,948                | 524,739               |
| General and administrative expenses  | 7,415,381              | 5,976,870             |
| Asset impairment charge  | 4,489,043              | -                     |
| Depreciation and amortization  | 2,364,967              | 1,587,858             |
| <b>Total expenses</b>  | <b>53,884,725</b>      | <b>35,387,742</b>     |
| <b>Loss from continuing operations</b>   | <b>(11,487,916)</b>    | <b>(5,544,308)</b>    |
| <b>Other (expense) income</b>  |                        |                       |
| Interest expense   | (3,470,451)            | (2,280,921)           |
| Change in fair value of derivative liabilities   | 868,592                | 1,227,600             |
| Loss on extinguishment of debt   | (315,923)              | -                     |
| Realized (loss) gains on securities  | (169,369)              | 101,472               |
| Equity in losses of investments  | -                      | (40,694)              |
| Other income (expense)   | 253,642                | 334,477               |
| <b>Total other (expense) income</b>  | <b>(2,833,509)</b>     | <b>(658,066)</b>      |
| <b>Loss from continuing operations before income taxes</b>   | <b>(14,321,425)</b>    | <b>(6,202,374)</b>    |
| <b>Income tax benefit (expense)</b>  | <b>(187,568)</b>       | <b>476,501</b>        |
| <b>Loss from continuing operations</b>   | <b>(14,508,993)</b>    | <b>(5,725,873)</b>    |
| <b>Gain (loss) from discontinued operations, net of taxes</b>                                      | <b>53,350</b>          | <b>(920,960)</b>      |
| <b>Consolidated net loss</b>   | <b>(14,455,643)</b>    | <b>(6,646,833)</b>    |
| Less: Net loss attributable to non-controlling interest  | 2,319,117              | 243,462               |
| <b>Net loss attributable to Chanticleer Holdings, Inc.</b>   | <b>\$ (12,136,526)</b> | <b>\$ (6,403,371)</b> |
| <b>Net loss attributable to Chanticleer Holdings, Inc.:</b>  |                        |                       |
| <b>Loss from continuing operations</b>   | <b>\$ (12,189,876)</b> | <b>\$ (5,482,411)</b> |
| <b>Gain (loss) from discontinued operations</b>  | <b>53,350</b>          | <b>(920,960)</b>      |
| <b>Net loss attributable to Chanticleer Holdings, Inc.</b>   | <b>\$ (12,136,526)</b> | <b>\$ (6,403,371)</b> |
| <b>Other comprehensive loss:</b>   |                        |                       |
| Unrealized gain (loss) on available-for-sale securities (none applies to non-controlling interest) | \$ (4,039)             | \$ (223,746)          |
| Foreign currency translation (loss) gain   | (963,528)              | (1,345,793)           |
| Total other comprehensive loss   | (967,567)              | (1,569,539)           |
| <b>Comprehensive loss</b>  | <b>\$ (13,104,093)</b> | <b>\$ (7,972,910)</b> |
| <b>Net loss attributable to Chanticleer Holdings, Inc. per common share, basic and diluted:</b>    |                        |                       |
| <b>Continuing operations attributable to common stockholders, basic and diluted</b>                | <b>\$ (0.86)</b>       | <b>\$ (0.87)</b>      |
| <b>Discontinued operations attributable to common stockholders, basic and diluted</b>              | <b>\$ 0.00</b>         | <b>\$ (0.15)</b>      |
| Weighted average shares outstanding, basic and diluted   | 14,245,437             | 6,332,843             |

See accompanying notes to consolidated financial statements

**Chanticleer Holdings, Inc. and Subsidiaries**  
**Consolidated Statements of Stockholders' Equity**

|   | Common Stock<br>Shares | Common Stock<br>Amount | Additional<br>Paid-in<br>Capital | Accumulated<br>Other<br>Comprehensive<br>Loss | Non-<br>Controlling<br>Interest | Accumulated<br>Deficit | Total                |
|---|------------------------|------------------------|----------------------------------|---|---------------------------------|------------------------|----------------------|
| <b>Balance, January 1, 2014</b>                     | 5,387,897              | \$ 539                 | \$ 25,404,994                    | \$ (88,368)                                   | \$ 394,645                      | \$ (14,472,816)        | \$ 11,238,994        |
| Common stock and warrants issued for:               |                        |                        |                                  |   |                                 |                        |                      |
| Cash proceeds, net                                  | 469,101                | 47                     | 857,155                          | -   | -                               | -                      | 857,202              |
| Business combinations                               | 1,021,900              | 102                    | 5,401,639                        | -   | 4,753,288                       | -                      | 10,155,029           |
| Interest  | 155,307                | 16                     | 161,798                          | -   | -                               | -                      | 161,814              |
| Consulting services                                 | 225,465                | 23                     | 711,868                          | -   | -                               | -                      | 711,891              |
| Warrant exercise                                    | 174,772                | 17                     | 349,527                          | -   | -                               | -                      | 349,544              |
| Warrants issued in connection with convertible debt | -                      | -                      | 70,969                           | -   | -                               | -                      | 70,969               |
| Repurchase of shares and warrants                   | (185,000)              | (19)                   | (446,050)                        | -   | -                               | -                      | (446,069)            |
| Amortization of warrants                            | -                      | -                      | 89,500                           | -   | -                               | -                      | 89,500               |
| Foreign currency translation                        | -                      | -                      | -                                | (1,345,794)                                   | -                               | -                      | (1,345,794)          |
| Available-for-sale securities                       | -                      | -                      | -                                | (223,746)                                     | -                               | -                      | (223,746)            |
| Net loss  | -                      | -                      | -                                | -   | (243,462)                       | (6,403,371)            | (6,646,833)          |
| <b>Balance, December 31, 2014</b>                   | <b>7,249,442</b>       | <b>\$ 725</b>          | <b>\$ 32,601,400</b>             | <b>\$ (1,657,908)</b>                         | <b>\$ 4,904,471</b>             | <b>\$ (20,876,187)</b> | <b>\$ 14,972,501</b> |
| Common stock and warrants issued for:               |                        |                        |                                  |   |                                 |                        |                      |
| Cash proceeds, net                                  | 9,508,659              | 951                    | 14,920,952                       | -   | -                               | -                      | 14,921,903           |
| Business combinations                               | 2,985,600              | 299                    | 4,062,018                        | -   | -                               | -                      | 4,062,317            |
| Consulting services                                 | 104,000                | 11                     | 279,351                          | -   | -                               | -                      | 279,362              |
| Convertible debt                                    | 1,389,546              | 139                    | 2,658,395                        | -   | -                               | -                      | 2,658,533            |
| Settlement of long-term debt                        | 100,000                | 10                     | 194,990                          | -   | -                               | -                      | 195,000              |
| Warrants issued in connection with convertible debt | -                      | -                      | 1,002,688                        | -   | -                               | -                      | 1,002,688            |
| Adjustment related to discontinued operations       | -                      | -                      | (376,572)                        | -   | -                               | -                      | (376,572)            |
| Amortization of warrants                            | -                      | -                      | 22,375                           | -   | -                               | -                      | 22,375               |
| Foreign currency translation                        | -                      | -                      | -                                | (963,528)                                     | -                               | -                      | (963,528)            |
| Available-for-sale securities                       | -                      | -                      | -                                | (4,039)                                       | -                               | -                      | (4,039)              |
| Reclassifications related to Australia transactions | -                      | -                      | -                                | 1,637,780                                     | (2,543,653)                     | -                      | (905,873)            |
| Non-Controlling interest contribution               | -                      | -                      | -                                | -   | 348,109                         | -                      | 348,109              |
| Net loss  | -                      | -                      | -                                | -   | (2,319,117)                     | (12,136,526)           | (14,455,643)         |
| <b>Balance, December 31, 2015</b>                   | <b>21,337,247</b>      | <b>\$ 2,134</b>        | <b>\$ 55,365,597</b>             | <b>\$ (987,695)</b>                           | <b>\$ 389,810</b>               | <b>\$ (33,012,713)</b> | <b>\$ 21,757,133</b> |

See accompanying notes to consolidated financial statements.



**Chanticleer Holdings, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**

|  | Years Ended         |                    |
|--|---------------------|--------------------|
|  | December 31, 2015   | December 31, 2014  |
| <b>Cash flows from operating activities:</b>                                     |                     |                    |
| Net loss   | \$ (14,455,643)     | \$ (6,646,833)     |
| Net (income) loss from discontinued operations                                   | (53,350)            | 920,960            |
| Net loss from continuing operations  | <u>(14,508,993)</u> | <u>(5,725,873)</u> |
| Adjustments to reconcile net loss to net cash used in operating activities:      |                     |                    |
| Depreciation and amortization  | 2,364,967           | 1,587,858          |
| Equity in losses of investments  | -                   | 40,694             |
| Asset impairment charge - Australia  | 4,489,043           | -                  |
| Loss on extinguishment of debt   | 315,923             | -                  |
| Loss on disposal of property and equipment                                       | 514,571             | -                  |
| Loss (gain) on sales of investments  | 169,639             | (101,472)          |
| Common stock issued for services   | 279,362             | 711,891            |
| Amortization of debt discount  | 2,379,951           | 1,400,392          |
| Amortization of warrants   | 22,375              | 89,500             |
| Common stock and warrants issued for interest                                    | -                   | 161,814            |
| Warrants issued in connection with convertible debt                              | -                   | 70,969             |
| Change in assets and liabilities:  |                     |                    |
| Accounts and other receivables   | (758,095)           | (49,553)           |
| Prepaid and other assets   | 221,683             | 120,456            |
| Inventory  | (130,607)           | 485,499            |
| Accounts payable and accrued liabilities   | 1,166,376           | (368,475)          |
| Change in amounts payable to non-controlling interest                            | (895,341)           | 1,427,183          |
| Derivative liabilities   | (868,592)           | (200,800)          |
| Deferred Rent  | (220,113)           | -                  |
| Deferred income taxes  | 94,527              | (653,828)          |
| Net cash (used in) provided by operating activities from continuing operations   | <u>(5,363,324)</u>  | <u>(1,003,745)</u> |
| Net cash (used in) provided by operating activities from discontinued operations | <u>(4,500)</u>      | <u>(23,195)</u>    |
| Net cash (used in) provided by operating activities                              | <u>(5,367,824)</u>  | <u>(1,026,940)</u> |
| <b>Cash flows from investing activities:</b>                                     |                     |                    |
| Purchase of property and equipment   | (1,798,221)         | (1,970,173)        |
| Cash paid for acquisitions, net of cash acquired                                 | (9,022,791)         | (322,473)          |
| Proceeds from sale of investments  | 330,361             | 121,222            |
| Net cash used in investing activities from continuing operations                 | <u>(10,490,651)</u> | <u>(2,171,424)</u> |
| <b>Cash flows from financing activities:</b>                                     |                     |                    |
| Proceeds from sale of common stock and warrants                                  | 14,921,903          | 1,206,746          |
| Loan proceeds  | 663,074             | 2,072,951          |
| Loan repayments  | (891,529)           | (202,456)          |
| Proceeds from convertible debt   | 2,150,000           | -                  |
| Capital lease payments   | (52,807)            | (47,602)           |
| Contribution of non-controlling interest   | 348,109             | -                  |
| Net cash provided by financing activities from continuing operations             | <u>17,138,750</u>   | <u>3,029,639</u>   |
| Effect of exchange rate changes on cash  | 1,783               | (28,141)           |
| <b>Net increase (decrease) in cash</b>   | <u>1,282,058</u>    | <u>(196,866)</u>   |
| <b>Cash, beginning of period</b>   | <u>245,828</u>      | <u>442,694</u>     |
| <b>Cash, end of period</b>   | <u>\$ 1,527,886</u> | <u>\$ 245,828</u>  |

See accompanying notes to consolidated financial statements

**Chanticleer Holdings, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows, continued**

|  | Years Ended       |                   |
|--|-------------------|-------------------|
|  | December 31, 2015 | December 31, 2014 |
| <b>Supplemental cash flow information:</b>   |                   |                   |
| Cash paid for interest and income taxes:   |                   |                   |
| Interest   | \$ 1,068,383      | \$ 320,260        |
| Income taxes   | 79,228            | 45,517            |
| <b>Non-cash investing and financing activities:</b>  |                   |                   |
| Purchase of equipment using capital leases   | \$ 50,087         | \$ -              |
| Issuance of stock in connection with business combinations                                     | 4,062,317         | 5,401,639         |
| Debt assumed in connection with business combinations  |                   | 5,000,000         |
| Debt discount for fair value of warrants and conversion feature issued in connection with debt | 1,781,588         | 1,026,800         |
| Repurchase of shares and warrants in connection with discontinued operation                    | -                 | 446,069           |
| Convertible debt settled through issuance of common stock                                      | 2,275,000         | -                 |
| Long-term debt settled through issuance of common stock  | 100,000           | -                 |
| <b>Purchases of businesses:</b>  |                   |                   |
| Current assets excluding cash  | \$ 1,148,334      | \$ 636,894        |
| Property and equipment   | 5,387,283         | 7,945,152         |
| Goodwill   | 4,579,666         | 11,394,009        |
| Trade name/trademarks/franchise fees   | 4,300,000         | 559,304           |
| Deposits and other assets  | -                 | 136,025           |
| Liabilities assumed  | (2,330,175)       | (4,165,235)       |
| Non-controlling interest   | -                 | (4,753,288)       |
| Chanticleer equity   | -                 | (1,028,749)       |
| Common stock issued  | (4,062,317)       | (5,401,639)       |
| Assumption of debt   | -                 | (5,000,000)       |
| Cash acquired  | 253,638           | 27,527            |
| Cash paid for acquisitions   | \$ 9,276,429      | \$ 350,000        |

See accompanying notes to consolidated financial statements

**Chanticleer Holdings, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**

**1. NATURE OF BUSINESS**

**ORGANIZATION**

Chanticleer Holdings, Inc. (the “Company”) is in the business of owning, operating and franchising fast casual dining concepts domestically and internationally. The Company was organized October 21, 1999, under its original name, Tulvine Systems, Inc., under the laws of the State of Delaware. On April 25, 2005, Tulvine Systems, Inc. formed a wholly owned subsidiary, Chanticleer Holdings, Inc., and on May 2, 2005, Tulvine Systems, Inc. merged with, and changed its name to, Chanticleer Holdings, Inc.

The consolidated financial statements include the accounts of Chanticleer Holdings, Inc. and its subsidiaries presented below (collectively referred to as the “Company”):

| Name                              | Jurisdiction of<br>Incorporation | Percent<br>Owned | Name                                     | Jurisdiction of<br>Incorporation | Percent<br>Owned |
|-----------------------------------|----------------------------------|------------------|--|----------------------------------|------------------|
| <b>CHANTICLEER HOLDINGS, INC.</b> |                                  |                  |  |                                  |                  |
| <b>Delaware, USA</b>              |                                  |                  |  |                                  |                  |
| <b>Burger Business</b>            |                                  |                  | <b>Pacific Northwest Hooters</b>         |                                  |                  |
| American Roadside Burgers, Inc.   | Delaware, USA                    | 100%             | Oregon Owl’s Nest, LLC                   | Oregon, USA                      | 100%             |
| <i>ARB Stores</i>                 |                                  |                  | Jantzen Beach Wings, LLC                 | Oregon, USA                      | 100%             |
| American Roadside McBee, LLC      | North Carolina, USA              | 100%             | Tacoma Wings, LLC                        | Washington, USA                  | 100%             |
| American Burger Morehead, LLC     | North Carolina, USA              | 100%             |  |                                  |                  |
| American Roadside Morrison, LLC   | North Carolina, USA              | 100%             | <b>South African Hooters</b>             |                                  |                  |
| American Burger Ally, LLC         | North Carolina, USA              | 100%             | Hooters On The Buzz (Pty) Ltd            | South Africa                     | 95%              |
| BGR Acquisition, LLC              | North Carolina, USA              | 100%             | Chanticleer South Africa (Pty) Ltd.      | South Africa                     | 100%             |
| BGR Franchising, LLC              | Virginia, USA                    | 100%             | Hooters Emperors Palace (Pty.) Ltd.      | South Africa                     | 88%              |
| BGR Operations, LLC               | Virginia, USA                    | 100%             | Hooters PE (Pty) Ltd                     | South Africa                     | 100%             |
| BGR Old Town, LLC                 | Maryland, USA                    | 100%             | Hooters Ruimsig (Pty) Ltd.               | South Africa                     | 100%             |
| BGR Dupont, LLC                   | Virginia, USA                    | 100%             | Hooters Umhlanga (Pty.) Ltd.             | South Africa                     | 90%              |
| BGR Arlington, LLC                | Virginia, USA                    | 100%             | Hooters SA (Pty) Ltd                     | South Africa                     | 78%              |
| BGR Old Keene Mill, LLC           | Virginia, USA                    | 100%             | Hooters Willows Crossing (Pty) Ltd       | South Africa                     | 100%             |
| BGR Potomac, LLC                  | Maryland, USA                    | 100%             |  |                                  |                  |
| BGR Cascades, LLC                 | Virginia, USA                    | 100%             | <b>Australian Hooters</b>                |                                  |                  |
| BGR Washingtonian, LLC            | Maryland, USA                    | 100%             | HOTR AUSTRALIA PTY LTD                   | Australia                        | 80%              |
|                                   |                                  |                  | HOTR CAMPBELLTOWN PTY LTD                | Australia                        | 80%              |
| BGR Tysons, LLC                   | Virginia, USA                    | 100%             | HOTR GOLD COAST PTY LTD                  | Australia                        | 80%              |
| BGR Springfield Mall, LLC         | Virginia, USA                    | 100%             | HOTR PARRAMATTA PTY LTD                  | Australia                        | 80%              |
| Capitol Burger, LLC               | Maryland, USA                    | 100%             | HOTR PENRITH PTY LTD                     | Australia                        | 80%              |
| BT Burger Acquisition, LLC        | North Carolina, USA              | 100%             | HOTR TOWNSVILLE PTY LTD                  | Australia                        | 80%              |
| BT’s Burgerjoint Biltmore, LLC    | North Carolina, USA              | 100%             |  |                                  |                  |
| BT’s Burgerjoint Promenade, LLC   | North Carolina, USA              | 100%             |  |                                  |                  |
| BT’s Burgerjoint Sun Valley, LLC  | North Carolina, USA              | 100%             | <b>European Hooters</b>                  |                                  |                  |
| BT’s Burgerjoint Rivergate LLC    | North Carolina, USA              | 100%             | Chanticleer Holdings Limited             | Jersey                           | 100%             |
| LBB Acquisition, LLC              | North Carolina, USA              | 100%             | West End Wings LTD                       | United Kingdom                   | 100%             |
| Cuarto LLC                        | Oregon, USA                      | 100%             | Crown Restaurants Kft.                   | Hungary                          | 80%              |
| Segundo LLC                       | Oregon, USA                      | 100%             |  |                                  |                  |
| Noveno LLC                        | Oregon, USA                      | 100%             | <b>Inactive Entities</b>                 |                                  |                  |
| Primero LLC                       | Oregon, USA                      | 100%             | Hooters Brazil                           | Brazil                           | 100%             |
| Septimo LLC                       | Oregon, USA                      | 100%             | DineOut SA Ltd.                          | England                          | 89%              |
| Quinto LLC                        | Oregon, USA                      | 100%             | Avenel Financial Services, LLC           | Nevada, USA                      | 100%             |
| Octavo LLC                        | Oregon, USA                      | 100%             | Avenel Ventures, LLC                     | Nevada, USA                      | 100%             |
| Sexto LLC                         | Oregon, USA                      | 100%             | Chanticleer Advisors, LLC                | Nevada, USA                      | 100%             |
|                                   |                                  |                  | Chanticleer Investment Partners, LLC     | North Carolina, USA              | 100%             |
|                                   |                                  |                  | Dallas Spoon Beverage, LLC               | Texas, USA                       | 100%             |
| <b>Just Fresh</b>                 |                                  |                  | Dallas Spoon, LLC                        | Texas, USA                       | 100%             |
| JF Franchising Systems, LLC       | North Carolina, USA              | 56%              | Hoot Campbelltown Pty Ltd                | Australia                        | 60%              |
| JF Restaurants, LLC               | North Carolina, USA              | 56%              | Chanticleer Holdings Australia Pty, Ltd. | Australia                        | 100%             |
|                                   |                                  |                  | Hoot Australia Pty Ltd                   | Australia                        | 60%              |
|                                   |                                  |                  | TMIX Management Australia Pty Ltd.       | Australia                        | 60%              |
|                                   |                                  |                  | Hoot Parramatta Pty Ltd                  | Australia                        | 60%              |
|                                   |                                  |                  | Hoot Penrith Pty Ltd                     | Australia                        | 60%              |
|                                   |                                  |                  | Hoot Gold Coast Pty Ltd                  | Australia                        | 60%              |
|                                   |                                  |                  | Hoot Townsville Pty. Ltd                 | Australia                        | 60%              |
|                                   |                                  |                  | Hoot Surfers Paradise Pty. Ltd.          | Australia                        | 60%              |
|                                   |                                  |                  | MVLE DARLING HARBOUR PTY LTD             | Australia                        | 50%              |
|                                   |                                  |                  | MVLE GAMING PTY LTD                      | Australia                        | 100%             |
|                                   |                                  |                  | American Roadside Cross Hill, LLC        | North Carolina, USA              | 100%             |

All significant inter-company balances and transactions have been eliminated in consolidation.

The Company operates on a calendar year-end. The accounts of two subsidiaries, Just Fresh and Hooters Nottingham (“WEW”), are consolidated based on either a 52- or 53-week period ending on the Sunday closest to each December 31. No events occurred related to the difference between the Company’s reporting calendar year end and the Company’s two subsidiaries year ends that materially affected the company’s financial position, results of operations, or cash flows.

**NET GAIN (LOSS) FROM DISCONTINUED OPERATIONS**

Net gain (loss) from discontinued operations was a gain of \$0.1 million for the year ended December 31, 2015 as compared to a loss of \$0.9 million in 2014. The Company discontinued the operations of its Spoon business in December 2014.

**LIQUIDITY, CAPITAL RESOURCES AND GOING CONCERN**

As of December 31, 2015, our cash balance was \$1.5 million and improved by \$1.3 million as compared with December 31, 2014. The level of additional cash needed to fund operations and our ability to conduct business for the next twelve months will be influenced primarily by the following factors:

- the pace of growth in our restaurant businesses and related investments in opening new stores;
- the level of investment in acquisition of new restaurant businesses and entering new markets;
- our ability to manage our operating expenses and maintain gross margins as we grow;
- our ability to access the capital and debt markets including our ability to refinance or extend maturities of current obligations.;
- popularity of and demand for our fast casual dining concepts; and
- general economic conditions and changes in consumer discretionary income.

We have typically funded our operating costs, acquisition activities, working capital investments and capital expenditures with proceeds from the issuances of our common stock and other financing arrangements, including convertible debt, lines of credit, notes payable and capital leases.

Our operating plans for the next twelve months contemplate moderate organic growth, opening 6-10 new stores within our current markets and restaurant concepts. We have demonstrated the ability to raise capital to fund our growth initiatives, including but not limited to the following:

- During the first quarter of 2015, we completed a rights offering raising net proceeds of approximately \$7.1 million and issued \$2.2 million in convertible debt to fund the acquisition of BGR: The Burger Joint and for general corporate purposes.

- During the second quarter of 2015, we completed an equity transaction raising net proceeds of approximately \$1.9 million to complete the acquisition of BT's Burger Joints and for general corporate purposes.
- During the third quarter of 2015, we completed a rights offering raising net proceeds of approximately \$6.0 million to fund the acquisition of Little Big Burger, investments in Australia and general corporate purposes.
- In early 2016, we entered into a letter of intent directly with a US investor to fund the opening of up to 10 Little Big Burger restaurants in the Seattle, Washington area. We are actively pursuing sites and anticipate opening our first store under that arrangement by the end of 2016.

As we execute our growth plans throughout 2016, we intend to carefully monitor the impact of growth on our working capital needs and cash balances relative to the availability of cost-effective debt and equity financing. We have a demonstrated track record of being able to raise capital and close deals over the past 18 months. We have several non-equity capital financing transactions currently in process, which we expect to further improve the Company's financial position however, until such transactions are fully executed, we cannot provide assurance as to the certainty of completion or the precise amounts, if any, that will be received by the Company.

In the event that such capital is not available, we may then have to scale back or freeze our organic growth plans, reduce general and administrative expenses, and/or curtail future acquisition plans to manage our liquidity and capital resources. We may also not be able to refinance or otherwise extend or repay our current obligations. In addition, our business is subject to additional risks and uncertainties, including, but not limited to, those described in Item 1A. "Risk Factors".

## **2. SIGNIFICANT ACCOUNTING POLICIES**

### **USE OF ESTIMATES**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Significant estimates include the valuation of the investments in portfolio companies, deferred tax asset valuation allowances, valuing options and warrants using the Binomial Lattice and Black Scholes models, intangible asset valuations and useful lives, depreciation and uncollectible accounts and reserves. Actual results could differ from those estimates.

### **REVENUE RECOGNITION**

Revenue is recognized when all of the following criteria have been satisfied:

- Persuasive evidence of an arrangement exists;
- Delivery has occurred or services have been rendered;
- The seller's price to the buyer is fixed or determinable; and
- Collectability is reasonably assured.

### *Restaurant Net Sales and Food and Beverage Costs*

The Company records revenue from restaurant sales at the time of sale, net of discounts, coupons, employee meals, and complimentary meals and gift cards. Sales, value added tax (“VAT”) and goods and services tax (“GST”) collected from customers and remitted to governmental authorities are presented on a net basis within sales in our consolidated statements of operations. Restaurant cost of sales primarily includes the cost of food, beverages, and merchandise and disposable paper and plastic goods used in preparing and selling our menu items, and exclude depreciation and amortization. Vendor allowances received in connection with the purchase of a vendor’s products are recognized as a reduction of the related food and beverage costs as earned.

### *Management Fee Income*

The Company receives revenue from management fees from certain non-affiliated companies, including from managing its investment in Hooters of America.

### *Gaming Income*

The Company receives revenue from operating a gaming facility adjacent to its Hooters restaurant in Jantzen Beach, Oregon. The Company also previously received gaming revenue from gaming machines located in Sydney, Australia. Revenue from gaming is recognized as earned from gaming activities, net of taxes and other government fees.

### *Franchise Income*

The Company accounts for initial franchisee fees in accordance with FASB ASC 952, Franchisors. The Company grants franchises to operators in exchange for initial franchise license fees and continuing royalty payments. Franchise license fees are deferred when received and recognized as revenue when the Company has performed substantially all initial services required by the franchise or license agreement, which is generally upon the opening of a store. Continuing fees, which are based upon a percentage of franchisee revenues, are recognized on the accrual basis as those sales occur.

## **BUSINESS COMBINATIONS**

For business combinations, the assets acquired, the liabilities assumed, and any non-controlling interest are recognized at the acquisition date, measured at their fair values as of that date. In a business combination achieved in stages, the identifiable assets and liabilities, as well as the non-controlling interest in the acquiree, are recognized at the full amounts of their fair values. In a bargain purchase in which the total acquisition-date fair value of the identifiable net assets acquired exceeds the fair value of the consideration transferred plus any non-controlling interest in the acquiree, that excess would be recognized in earnings as a gain attributable to the Company.

## **LONG-LIVED ASSETS**

The Company accounts for long-lived assets in accordance with Accounting Standards Codification (“ASC”) 360, “Accounting for the Impairment or Disposal of Long-Lived Assets” (“ASC 360”), which requires that long-lived assets be evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable or the useful life has changed. Some of the events or changes in circumstances that would trigger an impairment test include, but are not limited to;

- significant under-performance relative to expected and/or historical results (negative comparable sales growth or operating cash flows for two consecutive years);
- significant negative industry or economic trends;
- knowledge of transactions involving the sale of similar property at amounts below the company’s carrying value; or
- the company’s expectation to dispose of long-lived assets before the end of their estimated useful lives, even though the assets do not meet the criteria to be classified as “held for sale”.

Long-lived assets are grouped for recognition and measurement of impairment at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets. The impairment test for long-lived assets requires us to assess the recoverability of our long-lived assets by comparing their net carrying value to the sum of undiscounted estimated future cash flows directly associated with and arising from the company's use and eventual disposition of the assets. If the net carrying value of a group of long-lived assets exceeds the sum of related undiscounted estimated future cash flows, the Company would be required to record an impairment charge equal to the excess, if any, of net carrying value over fair value.

When assessing the recoverability of our long-lived assets, which include property and equipment and finite-lived intangible assets, the company makes assumptions regarding estimated future cash flows and other factors. Some of these assumptions involve a high degree of judgment and also bear a significant impact on the assessment conclusions. Included among these assumptions are estimating undiscounted future cash flows, including the projection of comparable sales, operating expenses, capital requirements for maintaining property and equipment and residual value of asset groups. The Company formulates estimates from historical experience and assumptions of future performance, based on business plans and forecasts, recent economic and business trends, and competitive conditions. In the event that our estimates or related assumptions change in the future, the company may be required to record an impairment charge.

The Company evaluates the remaining useful lives of long-lived assets and identifiable intangible assets whenever events or circumstances indicate that a revision to the remaining period of amortization is warranted. Such events or circumstances may include (but are not limited to): the effects of obsolescence, demand, competition, and/or other economic factors including the stability of the industry in which the Company operates, known technological advances, legislative actions, or changes in the regulatory environment. If the estimated remaining useful lives change, the remaining carrying amount of the long-lived assets and identifiable intangible assets would be amortized prospectively over that revised remaining useful life.

#### **RESTAURANT PRE-OPENING AND CLOSING EXPENSES**

Restaurant pre-opening and closing expenses are non-capital expenditures, and are expensed as incurred. Restaurant pre-opening expenses consist of the costs of hiring and training the initial hourly work force for each new restaurant, travel, the cost of food and supplies used in training, grand opening promotional costs, the cost of the initial stocking of operating supplies and other direct costs related to the opening of a restaurant, including rent during the construction and in-restaurant training period. Restaurant closing expenses consists of the costs related to the closing of a restaurant location and include write-off of property and equipment, lease termination costs and other costs directly related to the closure. Pre-opening and closing expenses are expensed as incurred.

#### **LIQUOR LICENSES**

The costs of obtaining non-transferable liquor licenses that are directly issued by local government agencies for nominal fees are expensed as incurred. The costs of purchasing transferable liquor licenses through open markets in jurisdictions with a limited number of authorized liquor licenses are capitalized as indefinite-lived intangible assets and included in other assets. Liquor licenses are reviewed for impairment annually or when events or changes in circumstances indicate that the carrying amount may not be recoverable. Annual liquor license renewal fees are expensed over the renewal term.

#### **ACCOUNTS AND OTHER RECEIVABLES**

The Company monitors its exposure for credit losses on its receivable balances and the credit worthiness of its receivables on an ongoing basis and records related allowances for doubtful accounts. Allowances are estimated based upon specific customer and other balances, where a risk of default has been identified, and also include a provision for non-customer specific defaults based upon historical experience. The majority of the Company's accounts are from customer credit card transactions with minimal historical credit risk. As of December 31, 2015 and 2014, the Company has not recorded an allowance for doubtful accounts. If circumstances related to specific customers change, estimates of the recoverability of receivables could also change.

## **INVENTORIES**

Inventories are recorded at the lower of cost (first-in, first-out method) or market, and consist primarily of restaurant food items, supplies, beverages and merchandise.

## **LEASES**

The Company leases certain property under operating leases. The Company also finances certain property using capital leases, with the asset and obligation recorded at an amount equal to the present value of the minimum lease payments during the lease term.

Many of these lease agreements contain rent holidays, rent escalation clauses and/or contingent rent provisions. Rent expense is recognized on a straight-line basis over the expected lease term, including cancelable option periods when failure to exercise such options would result in an economic penalty. The Company also may receive tenant improvement allowances in connection with its leases, which are capitalized as leasehold improvements with a corresponding liability recorded in the deferred rent liability line in the consolidated balance sheet. The tenant improvement allowance liability is amortized on a straight-line basis over the lease term. The rent commencement date of the lease term is the earlier of the date when the Company becomes legally obligated for the rent payments or the date when the Company takes access to the property or the grounds for build out. Certain leases contain percentage rent provisions where additional rent may become due if the location exceeds certain sales thresholds. The Company recognizes expense related to percentage rent obligations at such time as it becomes probable that the percent rent threshold will be met.

## **MARKETABLE EQUITY SECURITIES**

### **Available-for-sale securities**

The Company's investments in marketable equity securities, which are classified as available-for-sale, are carried at fair value. Investments available for current operations are classified in the consolidated balance sheets as current assets; investments held for long-term purposes are classified as non-current assets. Unrealized gains and losses, net of tax, are reported in other comprehensive income as a separate component of stockholders' equity. Gains and losses are reported in the consolidated statements of operations when realized, determined based on the disposition of specifically identified investments, using a first-in, first-out method.

Investments identified by the Company as being potentially impaired are subject to further analysis to determine if the impairment is other than temporary. Other than temporary declines in market value from original costs are charged to investment and other income, net, in the period in which the loss occurs. In determining whether investment holdings are other than temporarily impaired, the Company considers the nature, cause, severity and duration of the impairment.

## **OTHER INVESTMENTS**

Investments in which the Company has the ability to exercise significant influence and that, in general, are at least 20 percent owned are stated at cost plus equity in undistributed net earnings (loss), less distributions received. The Company also has equity investments in which it owns less than 20%, which are stated at cost. An impairment loss would be recorded whenever a decline in the value of an equity investment or cost investment is below its carrying amount and is determined to be other than temporary. In judging "other than temporary," the Company considers the length of time and extent to which the fair value of the investment has been less than the carrying amount of the investment, the near-term and long-term operating and financial prospects of the investee, and the Company's long-term intent of retaining the investment in the investee.



## FAIR VALUE MEASUREMENTS

For financial assets and liabilities measured at fair value on a recurring basis, fair value is the price we would receive to sell an asset or pay to transfer a liability in an orderly transaction with a market participant at the measurement date. In the absence of active markets for the identical assets or liabilities, such measurements involve developing assumptions based on market observable data and, in the absence of such data, internal information that is consistent with what market participants would use in a hypothetical transaction that occurs at the measurement date.

Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect our market assumptions. Preference is given to observable inputs. These two types of inputs create the following fair value hierarchy:

- Level 1 Quoted prices for identical instruments in active markets.
- Level 2 Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations whose inputs are observable or whose significant value drivers are observable.
- Level 3 Significant inputs to the valuation model are unobservable.

We maintain policies and procedures to value instruments using the best and most relevant data available. Our investment committee reviews and approves all investment valuations.

Our available-for-sale equity securities are all valued using Level 1 inputs or Level 2 inputs.

## FAIR VALUE OF FINANCIAL INSTRUMENTS

The Company is required to disclose fair value information about financial instruments when it is practicable to estimate that value. The carrying amounts of the Company's cash, accounts receivable, other receivables, accounts payable, accrued expenses, other current liabilities, convertible notes payable and notes payable approximate their estimated fair value due to the short-term maturities of these financial instruments and because related interest rates offered to the Company approximate current rates.

## PROPERTY AND EQUIPMENT

Property and equipment are stated at cost, less accumulated depreciation. Depreciation and amortization, which includes amortization of assets held under capital leases, are recorded generally using the straight-line method over the estimated useful lives of the respective assets or, if shorter, the term of the lease for certain assets held under a capital lease. Leasehold improvements are amortized over the lesser of the expected lease term, or the estimated useful lives of the related assets using the straight-line method.

The estimated useful lives used to compute depreciation and amortization are as follow:

|                                      |            |
|--------------------------------------|------------|
| Leasehold improvements               | 5-15 years |
| Restaurant furnishings and equipment | 3-10 years |
| Furniture and fixtures               | 3-10 years |
| Office and computer equipment        | 3-7 years  |

The carrying amount of all long-lived assets is evaluated periodically to determine if adjustment to the depreciation and amortization period or the unamortized balance is warranted. Based upon its most recent analysis, the Company believes that no impairment of property and equipment exists at December 31, 2015 and 2014.

Maintenance and repairs are charged to operations when incurred. Betterments and renewals are capitalized. When property and equipment are sold or otherwise disposed of, the asset account and related accumulated depreciation account are relieved, and any gain or loss is included in operations.

## **GOODWILL**

The Company reviews goodwill for impairment annually or more frequently if indicators of impairment exist. Goodwill is not subject to amortization and has been assigned to reporting units for purposes of impairment testing. The reporting units are our restaurant brands and/or geographic area.

A significant amount of judgment is involved in determining if an indicator of impairment has occurred. Such indicators may include, among others: a significant decline in the Company's expected future cash flows; a sustained, significant decline in our stock price and market capitalization; a significant adverse change in legal factors or in the business climate; unanticipated competition; the testing for recoverability of a significant asset group within a reporting unit; and slower growth rates. Any adverse change in these factors could have a significant impact on the recoverability of these assets and could have a material impact on the Company's consolidated financial statements.

The goodwill impairment test involves a two-step process. The first step is a comparison of each reporting unit's fair value to its carrying value. The Company estimates fair value using the best information available, including market information and discounted cash flow projections (also referred to as the income approach). The income approach uses a reporting unit's projection of estimated operating results and cash flows that is discounted using a weighted-average cost of capital that reflects current market conditions. The projection uses management's best estimates of economic and market conditions over the projected period including growth rates in sales, costs and number of units, estimates of future expected changes in operating margins and cash expenditures. Other significant estimates and assumptions include terminal value growth rates, future estimates of capital expenditures and changes in future working capital requirements. The Company validates its estimates of fair value under the income approach by comparing the values to fair value estimates using a market approach. A market approach estimates fair value by applying cash flow and sales multiples to the reporting unit's operating performance. The multiples are derived from comparable publicly traded companies with similar operating and investment characteristics of the reporting units.

If the fair value of the reporting unit is higher than its carrying value, goodwill is deemed not to be impaired, and no further testing is required. If the carrying value of the reporting unit is higher than its fair value, there is an indication that impairment may exist and the second step must be performed to measure the amount of impairment loss. The amount of impairment is determined by comparing the implied fair value of reporting unit goodwill to the carrying value of the goodwill in the same manner as if the reporting unit was being acquired in a business combination. Specifically, fair value is allocated to all of the assets and liabilities of the reporting unit, including any unrecognized intangible assets, in a hypothetical analysis that would calculate the implied fair value of goodwill. If the implied fair value of goodwill is less than the recorded goodwill, the Company would record an impairment loss for the difference.

## **INTANGIBLE ASSETS**

### ***Trade Name/Trademark***

The fair value of trade name/trademarks are estimated and compared to the carrying value. The Company estimates the fair value of trademarks using the relief-from-royalty method, which requires assumptions related to projected sales from its annual long-range plan; assumed royalty rates that could be payable if the Company did not own the trademarks; and a discount rate. Certain of the Company's trade name/trademarks have been determined to have a definite-lived life and are being amortized on a straight-line basis over estimated useful lives of 10 years. The amortization expense of these definite-lived intangibles is included in depreciation and amortization in the Company's consolidated statement of operations. Certain of the Company's trade name/trademarks have been classified as indefinite-lived intangible assets and are not amortized, but instead are reviewed for impairment at least annually or more frequently if indicators of impairment exist.

### **Franchise Cost**

Intangible assets are recorded for the initial franchise fees for our Hooter's restaurants. The Company amortizes these amounts over a 20-year period, which is the life of the franchise agreement.

### **IMPAIRMENT OF LONG-LIVED ASSETS**

The Company reviews the recoverability of all long-lived assets, including the related useful lives, whenever events or changes in circumstances indicate that the carrying amount of a long-lived asset might not be recoverable. If required, the Company compares the estimated fair value determined by either the undiscounted future net cash flows or appraised value to the related asset's carrying value to determine whether there has been an impairment. If an asset is considered impaired, the asset is written down to fair value in the period in which the impairment becomes known. The Company recognized impairment charges during the years ended December 31, 2015 and December 31, 2014 related to the Company's Discontinued Operations (See Note 5 "Discontinued Operations") and the Australia Administration ( See Note 19 "Australia Administration Transactions and Asset Impairment").

### **DERIVATIVE LIABILITIES**

In connection with the issuance of a secured convertible promissory note, the terms of the convertible note included an embedded conversion feature; which provided for the settlement of the convertible promissory note into shares of common stock at a rate, which was determined to be variable. The Company determined that the conversion feature was an embedded derivative instrument pursuant to ASC 815 "Derivatives and Hedging".

The accounting treatment of derivative financial instruments requires that the Company record the conversion option and related warrants at their fair values as of the inception date of the agreements and at fair value as of each subsequent balance sheet date. Any change in fair value was recorded as a change in the fair value of derivative liabilities in the statement of operations. The Company reassesses the classification at each balance sheet date. If the classification changes as a result of events during the period, the contract is reclassified as of the date of the event that caused the reclassification.

The fair value of an embedded conversion option that is convertible into a variable amount of shares are deemed to be a "down-round protection" and therefore, do not meet the scope exception for treatment as a derivative under ASC 815. Since, "down-round protection" is not an input into the calculation of the fair value of the conversion option and cannot be considered "indexed to the Company's own stock" which is a requirement for the scope exception as outlined under ASC 815. The Company determined the fair value of the Binomial Lattice Model and the Black-Scholes Model to be materially the same. The Company's outstanding warrants did not contain any down round protection.

The Black-Scholes option valuation model is used to estimate the fair value of the warrants or options granted. The model includes subjective input assumptions that can materially affect the fair value estimates. The model was developed for use in estimating the fair value of traded options or warrants. The expected volatility is estimated based on the most recent historical period of time equal to the weighted average life of the warrants or options granted.

### **ACQUIRED ASSETS AND ASSUMED LIABILITIES**

Pursuant to ASC No. 805-10-25, if the initial accounting for a business combination is incomplete by the end of the reporting period in which the combination occurs, but during the allowed measurement period not to exceed one year from the acquisition date, the company retrospectively adjusts the provisional amounts recognized at the acquisition date by means of adjusting the amount recognized for goodwill.

## INCOME TAXES

Deferred income taxes are provided on the liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carryforwards and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax basis. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of changes in tax laws and rates on the date of enactment. The Company has provided a valuation allowance for the full amount of the deferred tax assets.

As of December 31, 2015 and 2014 the Company had no accrued interest or penalties relating to any income tax obligations. The Company currently has no federal or state examinations in progress, nor has it had any federal or state tax examinations since its inception. The last three years of the Company's tax years are subject to federal and state tax examination.

## STOCK-BASED COMPENSATION

The compensation cost relating to share-based payment transactions (including the cost of all employee stock options) is required to be recognized in the financial statements. That cost is measured based on the estimated fair value of the equity or liability instruments issued. A wide range of share-based compensation arrangements including share options, restricted share plans, performance-based awards, share appreciation rights and employee share purchase plans are included. The Company's financial statements would include an expense for all share-based compensation arrangements granted on or after January 1, 2006 and for any such arrangements that are modified, cancelled or repurchased after that date based on the grant-date estimated fair value.

As of December 31, 2015 and 2014, there were no options outstanding. See Note 14 regarding outstanding warrants.

## LOSS PER COMMON SHARE

The Company is required to report both basic earnings per share, which is based on the weighted-average number of shares outstanding and diluted earnings per share, which is based on the weighted-average number of common shares outstanding plus all diluted shares outstanding.

The following table summarizes the number of common shares potentially issuable upon the exercise of certain warrants, convertible notes payable and convertible interest as of December 31, 2015 and 2014, which have been excluded from the calculation of diluted net loss per common share since the effect would be antidilutive.

|                           | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|---------------------------|--------------------------|--------------------------|
| Warrants                  | 9,506,304                | 8,715,804                |
| Convertible notes payable | 3,757,188                | 2,626,900                |
| Convertible interest      | 123,526                  | 42,306                   |
| Total                     | <u>13,387,018</u>        | <u>11,385,010</u>        |

## ADVERTISING

Advertising costs are expensed as incurred. Advertising expenses which are included in restaurant operating expenses in the accompanying consolidated statement of operations, totaled \$0.7 million and \$0.4 million for the years ended December 31, 2015 and 2014, respectively. Advertising expense primarily includes local advertising.

## **AMORTIZATION OF DEBT DISCOUNT**

The Company has issued various debt with warrants and conversion features for which total proceeds were allocated to individual instruments based on the relative fair value of the each instrument at the time of issuance. The value of the debt was recorded as discount on debt and amortized over the term of the respective debt. For the year ended December 31, 2015 and 2014 amortization of debt discount was \$2.4 million and \$1.4 million, respectively.

## **FOREIGN CURRENCY TRANSLATION**

Assets and liabilities denominated in local currency are translated to U.S. dollars using the exchange rates as in effect at the balance sheet date. Results of operations are translated using average exchange rates prevailing throughout the period. Adjustments resulting from the process of translating foreign currency financial statements from functional currency into U.S. dollars are included in accumulated other comprehensive loss within stockholders' equity. Foreign currency transaction gains and losses are included in current earnings. The Company has determined that local currency is the functional currency for each of its foreign operations. Foreign currency transaction gains and losses are included in current earnings.

## **COMPREHENSIVE INCOME (LOSS)**

Standards for reporting and displaying comprehensive income (loss) and its components (revenues, expenses, gains and losses) in a full set of general-purpose financial statements requires that all items that are required to be recognized under accounting standards as components of comprehensive income (loss) be reported in a financial statement that is displayed with the same prominence as other financial statements. We are required to (a) classify items of other comprehensive income (loss) by their nature in financial statements, and (b) display the accumulated balance of other comprehensive income (loss) separately in the equity section of the balance sheet for all periods presented. Other comprehensive income (loss) items include foreign currency translation adjustments, and the unrealized gains and losses on our marketable securities classified as held for sale.

## **CONCENTRATION OF CREDIT RISK**

The Company maintains its cash with major financial institutions. Cash held in U.S. bank institutions is currently insured by the Federal Deposit Insurance Corporation ("FDIC") up to \$250,000 at each institution. No similar insurance or guarantee exists for cash held in Australia, South Africa, Hungary or United Kingdom bank accounts. There were approximately \$0.4 million and \$0.1 million aggregate uninsured cash balances at December 31, 2015 and 2014, respectively.

## **RECLASSIFICATIONS**

Certain reclassifications have been made in the financial statements at December 31, 2014 and for the period then ended to conform to the December 31, 2015 presentation. The reclassifications had no effect on net loss.

## **RECENT ACCOUNTING PRONOUNCEMENTS**

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2016-02 "Leases", which supersedes ASC 840 "Leases" and creates a new topic, ASC 842 "Leases". This update requires lessees to recognize a lease liability and a lease asset for all leases, including operating leases, with a term greater than 12 months on its balance sheet. The update also expands the required quantitative and qualitative disclosures surrounding leases. This update is effective for fiscal years beginning after December 15, 2018 and interim periods within those fiscal years, with earlier adoption permitted. This update will be applied using a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The Company is currently evaluating the effect of this update on its consolidated financial statements.

In November 2015, the FASB issued ASU No. 2015-17, "Income Taxes" which requires that deferred tax liabilities and assets be classified as noncurrent in a classified balance sheet. Prior to the issuance of the standard, deferred tax liabilities and assets were required to be separately classified into a current amount and a noncurrent amount in the balance sheet. The new accounting guidance represents a change in accounting principle and the standard is required to be adopted in annual periods beginning after December 15, 2016. The application of this guidance affects classification only, and is not expected to have a material effect on the Company's consolidated financial position or results of operations.

In July 2015, the FASB issued ASU No. 2015-11, Inventory (Topic 330): Simplifying the Measurement of Inventory, which requires entities to measure inventory at the lower of cost and net realizable value ("NRV"). ASU 2015-11 defines NRV as the estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal and transportation. The ASU will not apply to inventories that are measured by using either the last-in, first-out method or the retail inventory method. The guidance in ASU 2015-11 is effective prospectively for fiscal years beginning after December 15, 2016, and interim periods therein. Early adoption is permitted. Upon transition, entities must disclose the nature of and reason for the accounting change. The adoption of ASU 2015-11 is not expected to have a material impact on our consolidated financial position or results of operations.

In February 2015, the FASB issued ASU No. 2015-02, "Consolidation: Amendments to the Consolidation Analysis." This update improves targeted areas of the consolidation guidance and reduces the number of consolidation models. This update is effective for annual and interim periods in fiscal years beginning after December 15, 2015, with early adoption permitted. The adoption of ASU 2015-02 is not expected to have a material impact on our consolidated financial position or results of operations.

In August 2014, the FASB issued ASU No. 2014-15, Presentation of Financial Statements – Going Concern (Subtopic 205-40): Disclosure of Uncertainties About an Entity's Ability to Continue as a Going Concern. The standard is intended to define management's responsibility to decide whether there is substantial doubt about an organization's ability to continue as a going concern and to provide related footnote disclosures. The standard requires management to decide whether there are conditions or events that raise substantial doubt about the entity's ability to continue as a going concern within one year after the date that the financial statements are issued. The standard provides guidance to an organization's management, with principles and definitions that are intended to reduce diversity in the timing and content of disclosures that are commonly provided by organizations in their footnotes. The standard becomes effective in annual periods ending after December 15, 2016, with early application permitted. The adoption of this pronouncement is not expected to have a material impact on the consolidated financial statements. Management's evaluations regarding the Company's ability to continue as a going concern have been disclosed in Note 1 of the accompanying consolidated financial statements.

In November 2014, the FASB issued ASU No. 2014-17, "Business Combinations (Topic 805): Pushdown Accounting" ("ASU 2014-17"). ASU 2014-17 provides with an option to apply pushdown accounting in its separate financial statements upon occurrence of an event in which an acquirer obtains control of the acquired entity. The acquired entity may elect the option to apply pushdown accounting in the reporting period in which the change-in-control event occurs. If pushdown accounting is not applied in the reporting period in which the change-in-control event occurs, an acquired entity will have the option to elect to apply pushdown accounting in a subsequent reporting period as a change in accounting principle in accordance with ASC Topic 250, "Accounting Changes and Error Corrections". If pushdown accounting is applied to an individual change-in-control event, that election is irrevocable. ASU 2014-17 also requires an acquired entity that elects the option to apply pushdown accounting in its separate financial statements to disclose information in the current reporting period that enables users of financial statements to evaluate the effect of pushdown accounting. The Company has adopted the amendments in ASU 2014-17, effective November 18, 2014, as the amendments in the update are effective upon issuance. The adoption did not have an impact on the Company's Consolidated Financial Statements.

There are several other new accounting pronouncements issued by FASB, which are not yet effective. Each of these pronouncements has been or will be adopted, as applicable, by the Company. At December 31, 2015, none of these pronouncements are expected to have a material effect on the financial position, results of operations or cash flows of the Company.

### 3. ACQUISITIONS

The Company's acquisitions were accounted for using the purchase method of accounting in accordance with ASC 805 "Business Combinations" and, accordingly, the condensed consolidated statements of operations include the results of these operations from the dates of acquisition. The assets acquired and the liabilities assumed were recorded at estimated fair values based on information currently available and based on certain assumptions as to future operations.

In connection with the acquisition of the restaurants, the Company analyzed each acquisition to determine the purchase price allocation in consideration of all identifiable intangibles. Based on our evaluation, there were no marketing related assets, customer related intangibles or contract based arrangements for which the purchase price would be required to be allocated. For marketing related assets, the Company did not acquire any trademarks or trade names (for Hooters acquisitions) or enter into any non-compete agreements. The Company is however required to pay royalties based on future sales. For acquisitions other than Hooters restaurants, the value of any trademark/tradename, was calculated using a relief of royalty method considering future franchise opportunities, and the value was determined to be de minimus. With respect to customer related intangibles, the Company did not acquire any customer lists or enter into any customer contractual arrangements nor did the Company enter into any licensing or royalty arrangements requiring a further allocation of the purchase price. The premium paid for the businesses represents the economic value that is not captured by other assets such as the reputation of the businesses, the value of its human capital, its future growth potential and its professional management. The acquisition of these businesses will help the Company expand its domestic operations and presence.

During the years ended December 31, 2015 and 2014, the Company acquired several businesses to complement and expand its Hooters full service and its Better Burger fast casual restaurant businesses. In connection with these acquisitions, the Company acquired strategic opportunities to expand its scale and presence in the geographic markets where it operates, to expand into new markets, and to strengthen the Company's full service and fast casual restaurant businesses.

#### 2015 Acquisitions

During the year ended December 31, 2015, the Company acquired three businesses to complement and expand its current operations in the Better Burger fast casual restaurant category. In connection with these acquisitions, the Company acquired strategic opportunities to expand its scale and presence in the Better Burger category.

##### **Acquisition of BGR: The Burger Joint**

The Company completed the acquisition of BGR: The Burger Joint effective March 15, 2015. The Company allocated the purchase price as of the date of acquisition based on appraisals and estimated the fair value of the acquired assets and assumed liabilities. In consideration of the purchased assets, the Company paid a purchase price consisting of \$4,000,000 in cash, 500,000 shares of the Company's common stock valued at \$1.0 million, and a contractual working capital adjustment of \$276,429. The fair value of the shares was the closing stock market price on, the date the deal acquisition was consummated. No warrants were issued in connection with the acquisition.

##### **Acquisition of BT's Burger Joint**

On July 1, 2015, the Company completed the acquisition with BT's Burgerjoint Management, LLC, a limited liability company organized under the laws of North Carolina ("BT's"), including the ownership interests of four operating restaurant subsidiaries engaged in the fast casual hamburger restaurant business under the name "BT's Burger Joint." In consideration of the purchased assets, the Company paid a purchase price consisting of \$1.4 million in cash and 424,080 shares of the Company's common stock valued at \$1.0 million. The fair value of the shares was the closing stock market price on, the date the deal acquisition was consummated. No warrants were issued in connection with the acquisition.

## Acquisition of Little Big Burger

On September 30, 2015, the Company completed the acquisition of various entities operating eight Little Big Burger restaurants in Oregon. In consideration of the purchased assets, the Company paid a purchase price consisting of \$3,600,000 in cash and 1,874,063 shares of the Company's common stock valued at \$2.1 million. The fair value of the shares was the closing stock market price on, the date the deal acquisition was consummated. No warrants were issued in connection with the acquisition.

## 2014 Acquisitions

### Tacoma Wings, Jantzen Beach Wings and Oregon Owl's Nest ("Hooters Pacific NW")

On January 31, 2014, pursuant to an Agreement and Plan of Merger executed on December 31, 2013, the Company completed the acquisition of all of the outstanding shares of each of Tacoma Wings, LLC, Jantzen Beach Wings, LLC and Oregon Owl's Nest, LLC, which owned and operated the Hooters restaurant locations in Tacoma, Washington and Portland, Oregon, respectively. These entities were purchased for a total purchase price of 680,272 Company units, with each unit consisting of one share of the Company's common stock and one five-year warrant to purchase a share of the Company's common stock. Half of the warrants are exercisable at \$5.50 and half of the warrants are exercisable at \$7.00. As part of this transaction, the Hooters Sellers were granted registration rights with respect to the Company's common stock issued and underlying the warrants, and franchise rights and leasehold rights to the locations were transferred to the Company.

### Dallas Spoon and Dallas Spoon Beverage ("Spoon")

Also on January 31, 2014, pursuant to an Agreement and Plan of Merger executed on January 14, 2014, the Company completed the acquisition of all of the outstanding shares of Dallas Spoon, LLC and Dallas Spoon Beverage, LLC from Express Restaurant Holdings, LLC and Express Restaurant Holdings Beverage, LLC. The purchase price of 195,000 Company units was paid to Express Working Capital, LLC ("EWC"); the units consist of one share of the Company's common stock and one five-year warrant to purchase a share of the Company's common stock. Half of the warrants are exercisable at \$5.50 and half of the warrants are exercisable at \$7.00. As part of this transaction, EWC was granted registration rights with respect to the Company's common stock issued and underlying the warrants, and all leaseholds and other rights were transferred to the Company. (See Note 5 "Discontinued Operations")

For the acquisitions of Hooters Pacific NW and Spoon, the fair value of the shares was the closing stock market price on January 31, 2014, the date the deal acquisition was consummated. The fair value of the warrants issued was determined using the Black-Scholes model. The model includes subjective input assumptions that can materially affect the fair value estimates. The expected stock price volatility for the Company's warrants was determined by the historical volatilities for industry peers and used an average of those volatilities. The risk free interest rate was obtained from U.S. Treasury rates for the applicable periods. The contractual terms of the agreement does not provide for and the Company does not expect to declare dividends in the near future. The assumptions were as follows:

| <b><u>Acquisitions of Hooters Pacific NW and Spoon:</u></b> |         |
|---|---------|
| <b>Assumptions:</b>   |         |
| Risk-free interest rate                                     | 0.79%   |
| Expected life   | 5 years |
| Expected volatility   | 89.1%   |
| Dividends   | 0%      |



### **Campbelltown, Penrith, Parramatta, Surfers Paradise, and Townsville (“Hooters Australia”)**

On April 1, 2014, the Company completed the step acquisition of Hooters Australia, increasing the Company’s ownership percentage from 49% to 60% in the Campbelltown, Surfers Paradise and Townsville Australia entities. On July 1, 2014, the Company acquired 60% of the two other Hooters restaurants in Australia, in Penrith and Parramatta, as well as a 60% interest in the related Australian management company. These entities owned, operated and managed Australian Hooters restaurants and gaming operations. The purchase price was the assumption of \$5 million in debt and the issuance of 250,000 five-year warrants at an exercise price to be determined at the next public offering or the end of twelve calendar months. The warrant prices were determined and set at \$1.71 per share during 2015, at which time the value of the warrants was reclassified from derivative liabilities to stockholders equity as the conditions previously giving rise to liability treatment were eliminated at the time the strike price became fixed and determinable. Also as part of the transaction, the Company receive the rights to 100% of all gaming revenue until the debt is repaid, and thereafter the Company will receive 60% of such revenue for the remainder of the lifetime of the gaming machines. (See Note 19 “Australia Administration Transactions and Asset Impairment”)

The fair value of the warrants issued was determined using the Black-Scholes model. The model includes subjective input assumptions that can materially affect the fair value estimates. The expected stock price volatility for the Company’s warrants was determined by the historical volatilities for industry peers and used an average of those volatilities. The risk free interest rate was obtained from U.S. Treasury rates for the applicable periods. The contractual terms of the agreement does not provide for and the Company does not expect to declare dividends in the near future. The assumptions were as follows:

| <b><u>Acquisitions of Hooters Australia:</u></b> |         |
|--|---------|
| <b>Assumptions:</b>                              |         |
| Risk-free interest rate                          | 1.62%   |
| Expected life                                    | 5 years |
| Expected volatility                              | 109.1%  |
| Dividends  | 0%      |

### **The Burger Company**

On September 9, 2014, the Company purchased 100% of the net assets of The Burger Company located in Charlotte, North Carolina, a similar concept to our ABC restaurants, for a purchase price of \$550,000, which consisted of \$250,000 in cash and \$300,000 in the Company’s common stock.

In connection with each of the acquisitions described above, the Company determined the purchase price allocation in consideration of all identifiable intangibles. Based on our evaluation, there were no marketing related assets, customer related intangibles or contract based arrangements for which the purchase price would be required to be allocated. The value of acquired trademark/tradename was calculated using a relief of royalty method considering future franchise opportunities. With respect to customer related intangibles, the Company did not acquire any customer lists or enter into any customer contractual arrangements nor did the Company enter into any licensing or royalty arrangements requiring a further allocation of the purchase price.

The premium paid for the businesses represents the economic value that is not captured by other assets such as the reputation of the businesses, the value of its human capital, its future growth potential and its professional management. The acquisition of these businesses will help the Company expand its domestic operations and presence in the Better Burger category of the Fast Casual dining market.

## Summary of 2014 and 2015 Acquisitions

The acquisitions were accounted for using the purchase method of accounting in accordance with ASC 805 "Business Combinations" and, accordingly, the condensed consolidated statements of operations include the results of these operations from the dates of acquisition. The assets acquired and the liabilities assumed were recorded at estimated fair values based on information currently available and based on certain assumptions as to future operations as follows:

|  | 2015 Acquisitions   |                     |                     |                      |
|--|---------------------|---------------------|---------------------|----------------------|
|  | BGR:                |                     |                     | Total                |
|  | The Burger Joint    | BT's Burger Joint   | Little Big Burger   |                      |
| Consideration paid:                                    |                     |                     |                     |                      |
| Common stock   | \$ 1,000,000        | \$ 1,000,848        | \$ 2,061,469        | \$ 4,062,317         |
| Cash   | 4,276,429           | 1,400,000           | 3,600,000           | 9,276,429            |
| Total consideration paid                               | <u>\$ 5,276,429</u> | <u>\$ 2,400,848</u> | <u>\$ 5,661,469</u> | <u>\$ 13,338,746</u> |
| Cash acquired  | 11,000              | 8,000               | 234,638             | 253,638              |
| Property and equipment                                 | 2,164,023           | 1,511,270           | 1,711,990           | 5,387,283            |
| Goodwill   | 663,037             | 978,350             | 2,938,279           | 4,579,666            |
| Trademark/trade name/franchise fee                     | 2,750,000           | -                   | 1,550,000           | 4,300,000            |
| Inventory, deposits and other assets                   | 296,104             | 103,451             | 73,780              | 473,334              |
| Amounts held in escrow to satisfy acquired liabilities | -                   | -                   | 675,000             | 675,000              |
| Total assets acquired, less cash                       | 5,884,164           | 2,601,071           | 7,183,686           | 15,668,921           |
| Liabilities assumed                                    | (607,735)           | (200,223)           | (949,857)           | (1,757,815)          |
| Deferred tax liabilities                               | -                   | -                   | (572,360)           | (572,360)            |
| Total consideration paid                               | <u>\$ 5,276,429</u> | <u>\$ 2,400,848</u> | <u>\$ 5,661,469</u> | <u>\$ 13,338,746</u> |

|                                    | 2014 Acquisitions   |                     |                   |                     |                   | Total                |
|------------------------------------|---------------------|---------------------|-------------------|---------------------|-------------------|----------------------|
|                                    | Hooters Pacific NW  | Spoon               | Hooters Australia |                     | The Burger Co.    |                      |
|                                    |                     |                     | April 1, 2014     | July 1, 2014        |                   |                      |
| Consideration paid:                |                     |                     |                   |                     |                   |                      |
| Common stock                       | \$ 2,891,156        | \$ 828,750          | \$ -              | \$ -                | \$ 300,000        | \$ 4,019,906         |
| Warrants                           | 978,000             | 280,400             | -                 | 123,333             | -                 | 1,381,733            |
| Assumption of debt                 | -                   | -                   | -                 | 5,000,000           | -                 | 5,000,000            |
| Cash                               | -                   | -                   | 100,000           | -                   | 250,000           | 350,000              |
| Total consideration paid           | <u>3,869,156</u>    | <u>1,109,150</u>    | <u>100,000</u>    | <u>5,123,333</u>    | <u>550,000</u>    | <u>10,751,639</u>    |
| Cash acquired                      | \$ 2,274            | \$ 21,636           | \$ 3,617          | \$ -                | \$ -              | \$ 27,527            |
| Current assets, excluding cash     | 112,078             | 89,817              | 377,296           | 47,777              | 9,926             | 636,894              |
| Property and equipment             | 2,731,031           | 391,462             | 2,934,307         | 1,603,557           | 284,795           | 7,945,152            |
| Goodwill                           | 1,951,909           | 698,583             | -                 | 8,487,138           | 256,379           | 11,394,009           |
| Trademark/trade name/franchise fee | 60,937              | -                   | 277,867           | 220,500             | -                 | 559,304              |
| Deposits and other assets          | 20,275              | 5,193               | 90,371            | 20,186              | -                 | 136,025              |
| Total assets acquired, less cash   | 4,878,504           | 1,206,691           | 3,683,458         | 10,379,158          | 551,100           | 20,698,911           |
| Liabilities assumed                | (1,009,348)         | (97,541)            | (1,560,710)       | (1,496,536)         | (1,100)           | (4,165,235)          |
| Non-controlling interest           | -                   | -                   | (993,999)         | (3,759,289)         | -                 | (4,753,288)          |
| Chanticleer equity                 | -                   | -                   | (1,028,749)       | -                   | -                 | (1,028,749)          |
| Total consideration paid           | <u>\$ 3,869,156</u> | <u>\$ 1,109,150</u> | <u>\$ 100,000</u> | <u>\$ 5,123,333</u> | <u>\$ 550,000</u> | <u>\$ 10,751,639</u> |

Unaudited pro forma results of operations for the years ended December 31, 2015 and 2014 as if the Company had acquired majority ownership of the operation on January 1 of each year is as follows. The pro forma results include estimates and assumptions which management believes are reasonable. However, pro forma results are not necessarily indicative of the results that would have occurred if the business combination had been in effect on the dates indicated, or which may result in the future.

|  | Years Ended December 31, |                |
|--|--------------------------|----------------|
|  | 2015                     | 2014           |
| Total revenues   | \$ 51,194,287            | \$ 53,738,800  |
| Loss from continuing operations                        | (16,039,046)             | (5,147,010)    |
| Gain (loss) from discontinued operations               | 53,350                   | (920,960)      |
| Loss attributable to non-controlling interest          | 2,319,117                | 263,307        |
| Net loss   | \$ (13,666,579)          | \$ (5,804,663) |
| Net loss per share, basic and diluted                  | \$ (0.96)                | \$ (0.92)      |
| Weighted average shares outstanding, basic and diluted | 14,245,437               | 6,332,843      |

The following table includes information from the Company's 2015 acquisitions, the results of which are included in the accompanying Consolidated Statements of Operations and Comprehensive Loss for the year ended December 31, 2015:

|                         | 2015 Acquisitions        |                   |                   |              |
|-------------------------|--------------------------|-------------------|-------------------|--------------|
|                         | BGR: The Burger<br>Joint | BT's Burger Joint | Little Big Burger | Total        |
|                         | Revenues                 | \$ 7,028,700      | \$ 1,845,400      | \$ 1,346,400 |
| Cost of sales           | 2,254,100                | 550,600           | 483,100           | 3,287,800    |
| Other expenses          | 4,994,400                | 1,136,600         | 648,700           | 6,779,700    |
| Operating income (loss) | \$ (219,800)             | \$ 158,200        | \$ 214,600        | \$ 153,000   |

The following table includes information from the Company's 2014 acquisitions, the results of which are included in the accompanying Consolidated Statements of Operations and Comprehensive Loss for the year ended December 31, 2014:

|                         | 2014 Acquisitions     |              |                   |                |              |
|-------------------------|-----------------------|--------------|-------------------|----------------|--------------|
|                         | Hooters Pacific<br>NW | Spoon        | Hooters Australia | The Burger Co. | Total        |
|                         | Revenues              | \$ 4,382,492 | \$ 1,207,688      | \$ 5,613,381   | \$ 81,539    |
| Cost of sales           | 1,239,726             | 529,974      | 1,564,198         | 33,305         | 3,367,203    |
| Other expenses          | 3,340,963             | 915,661      | 4,330,224         | 30,847         | 8,617,695    |
| Operating income (loss) | \$ (198,197)          | \$ (237,947) | \$ (281,041)      | \$ 17,387      | \$ (699,798) |

*Income from operations of unconsolidated affiliates*

On April 1, 2014, the Company increased its ownership in the Australian Hooters entities, Hoot Campbelltown Pty. Ltd., Hoot Surfers Paradise Pty. Ltd. and Hoot Townsville Pty. Ltd., from 49% to 60%. On July 1, 2014, we purchased 60% of Hoot Parramatta Pty Ltd, Hoot Australia Pty Ltd, Hoot Penrith Pty Ltd, and TMIX Management Australia Pty Ltd.

Prior to April 1, 2014, the Company accounted for its 49% ownership using the equity method of accounting and our share of earnings and losses was recorded in equity in losses from investments in our Consolidated Statements of Operations and Comprehensive Loss.

#### 4. INVESTMENTS

Investments at fair value consist of the following at December 31, 2015 and 2014.

|                              | Cost              | Unrecognized<br>Holding<br>Gains (Losses) | Fair<br>Value    | Realized<br>Holding<br>Loss | Gain<br>on<br>Sale |
|------------------------------|-------------------|---|------------------|-----------------------------|--------------------|
| <b>December 31, 2015</b>     |                   |   |                  |                             |                    |
| Appalachian Mountain Brewery | \$ 1,500          | \$ 16,046                                 | \$ 17,546        | \$ -                        | \$ -               |
| KSIX Media Holdings, Inc.    | 261,831           | (248,055)                                 | 13,776           | -                           | -                  |
|                              | <u>\$ 263,331</u> | <u>\$ (232,009)</u>                       | <u>\$ 31,322</u> | <u>\$ -</u>                 | <u>\$ -</u>        |
| <b>December 31, 2014</b>     |                   |   |                  |                             |                    |
| Appalachian Mountain Brewery | \$ 1,500          | \$ 23,300                                 | \$ 24,800        | \$ -                        | \$ 46,292          |
| KSIX Media Holdings, Inc.    | 261,831           | (251,269)                                 | 10,562           | -                           | -                  |
|                              | <u>\$ 263,331</u> | <u>\$ (227,969)</u>                       | <u>\$ 35,362</u> | <u>\$ -</u>                 | <u>\$ 46,292</u>   |

|  | 2015             | 2014             |
|--|------------------|------------------|
| Available-for-sale investments at fair value | \$ 31,322        | \$ 35,362        |
| Total  | <u>\$ 31,322</u> | <u>\$ 35,362</u> |

#### Available-for-sale securities

Activity in our available-for-sale securities may be summarized as follows:

|                 | 2015             | 2014             |
|-----------------|------------------|------------------|
| Cost            | \$ 263,331       | \$ 263,331       |
| Unrealized loss | (232,009)        | (227,969)        |
| Total           | <u>\$ 31,322</u> | <u>\$ 35,362</u> |

Our available-for-sale securities consist of the following:

**Appalachian Mountain Brewery (“AMB”), formerly North Carolina Natural Energy, Inc. (“NCNE”)** – AMB is a successor to NCNE and its common stock is currently traded on the OTC market under the ticker HOPS. AMB began trading under this symbol on January 7, 2014; previously it was traded under ticker NCNE on the OTC stock market. As of December 31, 2015 and 2014, the Company held 6,200 shares of AMB with a closing price of \$2.83 and \$4.01 per share. AMB makes craft beer with plans to expand its distribution network. AMB expects to have a food service line in addition to its beer products. NCNE was a successor to Remodel Auction Incorporated whose business was discontinued. The Company originally received 100,000,000 shares of NCNE (less than 1% on a fully diluted basis) for management services during 2011, valued at \$1,500.

We recognized a realized gain of \$46,492 in 2014 in connection with the sale of a portion of our investment in Appalachian Mountain Brewery.

**KSIX Media Holdings, Inc. (“KSIX”), formerly North American Energy Resources, Inc.** -During the quarter ended June 30, 2009, the Company exchanged its oil & gas property investments for 700,000 shares of North American Energy Resources, Inc. (“NAEY”) which were valued at \$126,000 based on the closing price of NAEY on the OTC market on the date of the trade. NAEY is currently traded on the OTC market under the symbol NAEYD. During the first quarter of 2010, the Company received an additional 150,000 shares of NAEY in exchange for management services. The shares were initially valued at \$10,500, based on the trading price at the time. During June 2011, the Company’s CEO contributed 1,790,440 shares of NAEY to the Company which was valued at \$125,331 based on the trading price at the time. Mr. Pruitt did not receive additional compensation as a result of the transfer.

During 2015, NAEY authorized and approved a reverse stock split of one for twenty-three (1:23) of the Corporation’s total issued and outstanding shares of common stock and subsequently entered into a merger agreement to acquire KSIX. Later in 2015, NAEY changed its name to KSIX and its shares are currently traded on the OTC market under the symbol KSIX. KSIX shares have traded on the OTC market at prices ranging from \$0.05 to \$0.75 per share over the past 52 weeks.

At December 31, 2015 and 2014 shares of KSIX closed at \$0.12 and \$0.09 per share, respectively, and the Company recognized an unrealized loss of \$248,055 as of December 31, 2015 and \$251,269 as of December 31, 2014.

**Investments accounted for using the cost method**

Investments at cost consist of the following at December 31, 2015 and 2014:

|  | <u>2015</u>         | <u>2014</u>         |
|--|---------------------|---------------------|
| Chanticleer Investors, LLC                         | \$ 800,000          | \$ 800,000          |
| Beacher’s Madhouse                                 | -                   | 500,000             |
| Edison Nation LLC (FKA Bouncing Brain Productions) | 250,000             | 250,000             |
|  | <u>\$ 1,050,000</u> | <u>\$ 1,550,000</u> |

A summary of the activity in investments accounted for using the cost method follows.

|                             | <u>2015</u>         | <u>2014</u>         |
|-----------------------------|---------------------|---------------------|
| <b>Investments at cost:</b> |                     |                     |
| Balance, beginning of year  | \$ 1,550,000        | \$ 1,550,000        |
| Impairment                  | -                   | -                   |
| New investments             | -                   | -                   |
| Sales                       | (500,000)           | -                   |
| Total                       | <u>\$ 1,050,000</u> | <u>\$ 1,550,000</u> |

**Chanticleer Investors LLC** -On January 24, 2011, Investors LLC and its three partners combined to form HOA Holdings, LLC (“HOA LLC”) and completed the acquisition of HOA and Texas Wings, Inc. (“TW”). Together HOA LLC has created an operating company with 161 company-owned locations across sixteen states, or nearly half of all domestic Hooters restaurants and over one-third of the locations worldwide.

Investors, LLC had a note receivable in the amount of \$5,000,000 from HOA that was repaid at closing. Investors LLC then invested \$3,550,000 in HOA LLC (approximately 3.1%) (\$500,000 of which was the Company’s share). One of the investors in Investors LLC that owned a \$1,750,000 share is a direct investor in HOA LLC and will now carry its ownership in HOA LLC directly. In July 2012, the Company acquired an additional interest of \$300,000, at cost, from one of the partners for cash, which increased our ownership to approximately 22% of Investors LLC as of December 31, 2013.

In November 2015, the Company received a cash distribution totaling \$543,130 on its 3% equity interest in HOA LLC, of which \$324,054 is reflected in management fee income and \$219,076 is reflected in other income in the accompanying Consolidated Statements of Operations. In August 2014, the Company received a cash distribution totaling \$830,421 on its 3% equity interest in HOA LLC, of which \$392,842 is reflected in management fee income and \$437,579 is reflected in other income in the accompanying Consolidated Statements of Operations.

Based on the current status of this investment, the Company does not consider the investment to be impaired.

**Beacher's Madhouse** – The Company acquired a 5% minority interest for \$500,000 in Beacher's, a variety show and nightclub experience. Beacher's opened in late 2013 at an 8,500 square-foot performance theater located in the MGM Grand Hotel & Casino located on the strip in Las Vegas. The Company sold this investment in 2015 for cash proceeds of \$330,361, and recognized a realized loss of \$169,639.

**EE Investors, LLC** -On January 26, 2006, we acquired an investment in EE Investors, LLC with cash in the amount of \$250,000. We acquired 1,205 units (3.378%) in EE Investors, LLC, whose sole asset is 40% of Edison Nation, LLC (formerly Bouncing Brain Productions, LLC). Edison Nation was formed to provide equity capital for new inventions and help bring them to market. The initial business plan included developing the products and working with manufacturers and marketing organizations to sell the products. This has evolved into a less hands-on program, which involves selling products with patents to other larger companies and retaining royalties. Edison Nation has now reached cash flow break-even, and in addition has been retained by a number of companies for which they do product searches to supplement its business. Based on the current status of this investment, the Company does not consider the investment to be impaired.

#### Investments accounted for using the equity method

Effective April 1, 2014, the Company increased its ownership stake in Hooters restaurant in Campbelltown, Australia from 49% to 60%. In addition, the Company increased its ownership stake to 60% in the two new stores recently completed or under construction in Surfers Paradise (which opened on July 4, 2014), Australia and Townsville, Australia, which we expect to open in 2015. Prior to April 1, 2014, the Company accounted for its 49% ownership using the equity method of accounting. Subsequent to April 1, 2014, the accounts of the Australia entities are consolidated in the Company's consolidated financial statements.

Also on July 1, 2014, the Company acquired 60% of the two other Hooters restaurants in Australia, in Penrith and Parramatta, suburbs of Sydney, as well as 60% interest in the related Australian management company. These entities own, operate, and manage Australian Hooters restaurants and gaming operations. The purchase price was the assumption of \$5 million in debt. Also as part of the transaction, the Company will receive 100% of all gaming revenue until the debt is repaid, and thereafter the Company will receive 60% of such revenue for the remainder of the lifetime of the gaming machines. (See Note 19 "Australia Administration Transactions and Asset Impairment").

Activity in investments accounted for using the equity method is summarized as follows:

|                                 | <u>2014</u> |
|---------------------------------|-------------|
| Balance, beginning of year      | \$ 941,963  |
| Equity in loss                  | (40,694)    |
| New investments                 | 100,000     |
| Reclassification of investments | (1,001,269) |
| Balance, end of year            | <u>\$ -</u> |

## 5. DISCONTINUED OPERATIONS

On December 31, 2014, management concluded it was in the best interest of the Company to exit the acquired Spoon restaurant in Dallas, Texas. The Company executed an agreement to sell the assets of Spoon Bar & Kitchen back to the original owner. In connection with this transaction, the Company reacquired 185,000 Stock Units that had been issued at acquisition in exchange for the asset transferred pursuant to the Asset Purchase Agreement. The stock was valued at \$446,050 and the net assets were valued at \$1,109,062, resulting in a loss of \$683,012.

The results of operations and related non-recurring costs associated with Spoon have been presented as discontinued operations. Additionally, the assets and liabilities of the discontinued operations have been segregated in the accompanying consolidated balance sheets.

The operating results from the discontinued operations for the years ended December 31, 2015 and 2014 consisted of the following:

|  | <u>2015</u>      | <u>2014</u>         |
|--|------------------|---------------------|
| Total revenue                                | \$ -             | \$ 1,207,688        |
| Total operating income (expenses)            | 53,350           | (1,445,636)         |
| Non-cash charge on disposal of Spoon         | -                | (683,012)           |
| Net gain (loss) from discontinued operations | <u>\$ 53,350</u> | <u>\$ (920,960)</u> |

As of December 31, 2015 and 2014, liabilities from discontinued operations totaled \$124,043 and \$177,393, respectively. The Company is continuing to monitor vendor and other claims related to resolution of the discontinued operations. The Company did not retain any assets or ongoing operating activities related to the discontinued operation.

## 6. PROPERTY AND EQUIPMENT

Property and equipment consists of the following at December 31, 2015 and 2014:

|   | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|---|--------------------------|--------------------------|
| Leasehold improvements                    | \$ 11,988,993            | \$ 9,940,517             |
| Restaurant furniture and equipment        | 10,622,806               | 7,827,925                |
| Construction in progress                  | -                        | 727,934                  |
| Office and computer equipment             | 10,643                   | 51,746                   |
| Land and buildings                        | 708,020                  | 437,223                  |
| Office furniture and fixtures             | 104,450                  | 60,302                   |
|   | <u>23,434,912</u>        | <u>19,045,647</u>        |
| Accumulated depreciation and amortization | <u>(6,793,680)</u>       | <u>(5,730,238)</u>       |
|   | <u>\$ 16,641,232</u>     | <u>\$ 13,315,409</u>     |

Restaurant furnishings and equipment includes assets under capital leases from our South African restaurants \$196,100 and \$179,320, net book value of \$53,497 and \$59,261 as of December 31, 2015 and December 31, 2014, respectively. Depreciation and amortization expense \$53,424 and \$74,204 for capital lease assets for the year ended December 31, 2015 and 2014, respectively.

## 7. INTANGIBLE ASSETS, NET

### GOODWILL

Goodwill is summarized by location as follows:

|                         | December 31, 2015    | December 31, 2014    |
|-------------------------|----------------------|----------------------|
| American Burger Company | \$ 2,806,990         | \$ 2,806,990         |
| BGR: The Burger Joint   | 663,037              | -                    |
| Little Big Burger       | 2,938,279            | -                    |
| BT's Burger Joint       | 978,350              | -                    |
| Just Fresh              | 425,151              | 425,151              |
| Hooters South Africa    | 206,503              | 273,737              |
| Hooters Australia       | -                    | 7,291,329            |
| West End Wings UK       | 2,733,001            | 2,868,192            |
| Hooters Pacific NW      | 1,950,828            | 1,951,909            |
| Total                   | <u>\$ 12,702,139</u> | <u>\$ 15,617,308</u> |

The changes in the carrying amount of goodwill are summarized as follows:

|  | Years Ended          |                      |
|--|----------------------|----------------------|
|  | December 31, 2015    | December 31, 2014    |
| Beginning Balance                        | \$ 15,617,308        | \$ 6,496,756         |
| Acquisitions                             | 4,579,666            | 11,394,009           |
| Divestures                               | -                    | (698,583)            |
| Impairment                               | (6,803,537)          | -                    |
| Adjustments                              | (1,081)              | (169,000)            |
| Foreign currency translation (loss) gain | (690,217)            | (1,405,874)          |
| Ending Balance                           | <u>\$ 12,702,139</u> | <u>\$ 15,617,308</u> |

An evaluation was completed effective December 31, 2015 at which time the Company determined that no impairment (other than impairment related to the Australia operations which was reflected as of September 30, 2015 and discussed further in Note 19. Australia Administration Transactions And Asset Impairment) was necessary for any of the Company's goodwill balances.

### OTHER INTANGIBLE ASSETS

Franchise and trademark/tradename intangible assets consist of the following at December 31, 2015 and December 31, 2014.



| Intangible assets             | Estimated Useful Life | December 31, 2015   | December 31, 2014   |
|-------------------------------|-----------------------|---------------------|---------------------|
| <b>Trademark, Tradenames:</b> |                       |                     |                     |
| Just Fresh                    | 10 years              | \$ 1,010,000        | \$ 1,010,000        |
| American Roadside Burger      | 10 years              | 1,786,930           | 1,783,954           |
| BGR: The Burger Joint         | Indefinite            | 1,430,000           | -                   |
| Little Big Burger             | Indefinite            | 1,550,000           | -                   |
|                               |                       | <u>5,776,930</u>    | <u>2,793,954</u>    |
| <b>Franchise fees:</b>        |                       |                     |                     |
| South Africa                  | 20 years              | 286,732             | 290,986             |
| Europe                        | 20 years              | 57,566              | 106,506             |
| Australia                     | 20 years              | 353,775             | 383,529             |
| Hooters Pacific NW            | 20 years              | 90,000              | 90,000              |
| BGR: The Burger Joint         | Indefinite            | 1,320,000           | -                   |
| Chanticleer Holdings *        | 20 years              | 135,000             | 135,000             |
|                               |                       | <u>2,243,073</u>    | <u>1,006,021</u>    |
| Total Intangibles at cost     |                       | <u>8,020,003</u>    | <u>3,799,975</u>    |
| Accumulated amortization      |                       | <u>(737,928)</u>    | <u>(403,472)</u>    |
| Intangible assets, net        |                       | <u>\$ 7,282,074</u> | <u>\$ 3,396,503</u> |

\* Amortization of the Chanticleer Holdings franchise cost (related to Brazil franchise rights) will begin with the opening of a restaurant pursuant to that franchise right.

Amortization for franchise costs and trade name/trademarks are as follows:

| December 31, | Franchise fees    | Trademark / Tradenames | Total               |
|--------------|-------------------|------------------------|---------------------|
| 2016         | \$ 61,590         | \$ 279,693             | \$ 341,283          |
| 2017         | 61,590            | 279,693                | 341,283             |
| 2018         | 61,590            | 279,693                | 341,283             |
| 2019         | 61,590            | 279,693                | 341,283             |
| 2020         | 61,590            | 279,693                | 341,283             |
| Thereafter   | 307,195           | 968,464                | 1,275,659           |
| Total        | <u>\$ 615,145</u> | <u>\$ 2,366,929</u>    | <u>\$ 2,982,074</u> |

## 8. LONG-TERM DEBT AND NOTES PAYABLE

Long-term debt and notes payable are summarized as follows.

|  |     | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|--|-----|--------------------------|--------------------------|
| Note Payable, due January 2017, net of discount of \$171,868 and \$343,733, respectively | (a) | \$ 4,828,132             | \$ 4,656,267             |
| Note Payable, due June 2019  | (b) | -                        | 500,000                  |
| Note Payable, due January 2017   | (c) | 942,918                  | -                        |
| Note Payable, due October 2018   | (d) | 132,596                  | 176,731                  |
| Mortgage Note, South Africa, due July 2024   | (e) | 208,131                  | 294,362                  |
| Bank overdraft facilities, South Africa, annual renewal                                  | (f) | 180,377                  | 151,868                  |
| Equipment financing arrangements, South Africa   | (g) | 189,489                  | 343,702                  |
| Bank line of Credit, expired in 2015   | (h) | -                        | 500,000                  |
| Loans, paid in full in 2015  | (i) | -                        | 200,000                  |
| <b>Total long-term debt</b>  |     | <b>\$ 6,481,643</b>      | <b>\$ 6,822,930</b>      |
| <b>Current portion of long-term debt</b>   |     | <b>5,383,002</b>         | <b>1,813,647</b>         |
| <b>Long-term debt, less current portion</b>  |     | <b>\$ 1,098,641</b>      | <b>\$ 5,009,283</b>      |

(a) On July 1, 2014, the Company completed the acquisition of a sixty percent (60%) ownership interest in Hoot Parramatta Pty Ltd, Hoot Australia Pty Ltd, Hoot Penrith Pty Ltd, and TMIX Management Australia Pty Ltd (collectively, the "Australian Entities") in exchange for the assumption of a five million dollar (\$5,000,000) note bearing interest at 12% annually and issuing two hundred fifty thousand (250,000) warrants to purchase shares of our common stock.

(b) During February 2014, the Company entered into a \$500,000 note with Paragon Commercial Bank ("Paragon") due June 10, 2019. The note bears interest at a 5.0% annual rate, with principal and interest payable monthly. This note was paid in full in 2015 using proceeds from a new note with Paragon (refer to item (c) below).

(c) and (h) On April 11, 2013, the Company and entered into a credit agreement with Paragon which provided for a \$500,000 revolving credit facility. The original credit agreement (h) expired on May 10, 2015 and was subsequently converted to a new \$1 million term note (c) payable in monthly installments of \$8,500 with a \$399,078 balloon payment due at maturity, bearing interest at 5.0%; collateralized by substantially all of the Company's assets and guaranteed by an officer of the Company.

(d) Note with Paragon, due on October 10, 2018, bearing interest at a 5% annual rate, with principal and interest monthly payments of \$11,532. Borrowings under the Note Payable are secured by a lien on all of the Company's assets. Obligations under the Credit Agreement are guaranteed by an officer of the Company.

(e) In April 2014, our South African subsidiary entered into a mortgage note with a South African bank for the purchase of the building in Port Elizabeth for our Hooters location. The 10-year note is for \$330,220 with an annual interest rate of 2.6% above the South African prime rate (prime currently 9.25%). Monthly principal and interest payments of approximately \$4,600 commenced in August, 2014. The mortgage note is personally guaranteed by our CEO and South African COO and secured by the assets of the Port Elizabeth building.

(f) The Company's South African subsidiary has local bank financing in the form of term and overdraft facilities, which are payable on demand and renew annually.

(g) The Company's South African subsidiary has three local equipment financing arrangements in the form of term loans. These arrangements call for 1) monthly payments of 45 thousand Rand, including interest at South African Prime +1.0%, maturing on June 14, 2016, 2) monthly payments of 44 thousand Rand, including interest South African Prime +3.0%, maturing on November 15, 2019 and 3) monthly payments of 34 thousand Rand, including interest at South African Prime + 3.0% maturing on December 1, 2018.

(i) On December 23, 2013, the Company entered into a loan agreement with an outside company for \$150,000. During 2014, made payments totaling \$50,000 and repaid the loan in full during 2015. On June 20, 2014, the Company entered into a loan agreement with an outside company for \$100,000. During 2015, the Company issued 100,000 shares of its common stock to repay the loan, accrued interest and penalties in full. The Company recognized a loss on extinguishment of debt of \$45,000 representing the difference between the fair value of the shares issued and the carrying value of the outstanding debt and accrued interest.

## 9. CONVERTIBLE NOTES PAYABLE

|   |     | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|---|-----|--------------------------|--------------------------|
| 6% Convertible notes payable issued in August 2013  | (a) | \$ 3,000,000             | \$ 3,000,000             |
| Discounts on above convertible note                 |     | (583,341)                | (1,583,333)              |
| 15% Convertible notes payable issued in March 2014  | (b) | -                        | 500,000                  |
| Discounts on above convertible note                 |     | -                        | (63,730)                 |
| 8% Convertible notes payable issued in Nov/Dec 2014 | (c) | 100,000                  | 350,000                  |
| Discounts on above convertible note                 |     | -                        | (289,254)                |
| 8% Convertible notes payable issued in January 2015 | (d) | 150,000                  | -                        |
| Discounts on above convertible note                 |     | (93,231)                 | -                        |
| 8% Convertible notes payable issued in January 2015 | (e) | 475,000                  | -                        |
| Discounts on above convertible note                 |     | (238,152)                | -                        |
|   |     | <u>2,810,276</u>         | <u>1,913,683</u>         |
| Current portion of convertible notes payable        |     | (2,810,276)              | (436,270)                |
| Convertible notes payable, less current portion     |     | <u>\$ -</u>              | <u>\$ 1,477,413</u>      |

(a) On August 2, 2013, the Company entered into an agreement with seven individual accredited investors, whereby the Company issued separate 6% Secured Subordinate Convertible Notes for a total of \$3,000,000 in a private offering and is collateralized by the assets of the Hooters Nottingham restaurant. The funding from the private offering was used exclusively for the acquisition of the Nottingham, England Hooters restaurant location. The Notes have the following principal terms:

- the principal amount of the Note shall be repaid within 36 months of the issuance date at a non-compounded 6% interest rate per annum;
- the Note holders shall receive 10%, pro rata, of the net profit of the Nottingham, England Hooters restaurant, paid quarterly for the life of the location, and 10% of the net proceeds should the location be sold;
- the consortium of investors received a total of 300,000 three-year warrants, exercisable at \$3.00 per share;

- the Note holder may convert his or her Note into shares of the Company's common stock (at 90% of the average closing price ten days prior to conversion, unless a public offering is pending at the time of the conversion notice, which would result in the conversion price being the same price as the offering). The conversion price is subject to a floor of \$1.00 per share;
- the Note holder has the right to redeem the Note for a period of sixty days following the eighteen-month anniversary of the issuance of the Note, unless a capital raise is conducted within eighteen months after the issuance of the Note. In connection with the issuance of the Note, the Company also issued warrants for the purchase of 300,000 shares of the Company's common stock at an exercise price of \$3.00 per share through August 2, 2016.

The fair value of the embedded conversion feature and the warrants was \$2,265,600 and \$884,600, respectively, for an aggregate total of \$3,150,200, which exceeded the face value of the note. Consequently, upon issuance of the Note, a debt discount of \$3,000,000 was recorded and \$150,200, representing the fair value of the conversion feature and the warrants in excess of the debt discount, was immediately charged to interest expense. The debt discount is being amortized over the earlier of (i) the term of the debt or (ii) conversion of the debt, using the straight-line method which approximates the interest method. The amortization of debt discount is included as a component of interest expense in the condensed consolidated statements of operations and comprehensive loss.

The conversion price of the note is the 90% average price for the last 10 days of trading activity. As of the inception date of the note the shares issuable under the terms of the note were 804,764 shares or an effective conversion price of approximately \$3.73 per share. The fair value of the shares as of August 2, 2013 using the Black-Scholes option pricing model was approximately \$2.82 per share. The expected stock price volatility for the Company's stock options was determined by the historical volatilities of comparable companies. Risk free interest rates were obtained from U.S. Treasury rates for the applicable periods.

(b) In March 2014, the Company entered into an agreement whereby the Company issued a convertible promissory note for a total of \$500,000. The note accrued monthly interest of 1.25% until the date the note was converted. In connection with the issuance of the March 2014 convertible promissory note, the Company also issued to the investors warrants to purchase up to 30% of the number of shares of common stock issued upon conversion of the 2014 note, exercisable at \$5.25 per share for a period of up to 5 years from the note's original issuance date. In January 2015, the holder converted the \$500,000 of principal plus accrued interest into 373,333 shares of the Company's common stock. In connection with the conversion, the Company recognized a loss on extinguishment of convertible debt, related accrued interest, penalties and derivative liabilities totaling \$36,374.

(c) During November and December 2014, the Company entered into agreements whereby the Company issued 3-year convertible notes in the amounts of \$250,000 and \$100,000, respectively. The notes accrue annualized interest of 8% until the date the notes are converted. The note is convertible into the Company's common stock (at 85% of lowest three (3) trading prices for the common stock during the ten (10) trading day period ending on the last complete Trading Day prior to the Conversion Date. The Company also issued 5 year warrants of 62,500 and 25,000, respectively, with an exercise price of \$2.50 per share. In March 2015, the debt holder converted \$250,000 principal plus accrued interest into 168,713 shares of the Company's common stock. In connection with the conversion, the Company recognized a loss on extinguishment of convertible debt, related accrued interest, penalties and derivative liabilities totaling \$88,724.

(d) In January 2015, the Company issued a convertible promissory note for a total of \$150,000. The note accrues interest at 8% per annum until the date the notes are converted. The notes are convertible into the Company's common stock at 85% of the average of the lowest three closing trading prices over ten days prior the conversion date. The conversion price is subject to a floor of \$1.00 per share and a ceiling of \$2.00. If not converted, the note matures three years from the issuance date. The Company also issued warrants to purchase 37,500 shares of common stock, exercisable at \$2.50 per share for a period of up to 5 years from the note's original issuance date. The fair value of the embedded conversion feature and the warrants is \$108,600 and \$30,314, respectively. The resulting debt discount is being amortized over the earlier of (i) the term of the debt or (ii) conversion of the debt, using the straight-line method which approximates the interest method. The amortization of debt discount is included as a component of interest expense in the condensed consolidated statements of operations and comprehensive loss. The embedded conversion feature is accounted for as a derivative liability in the accompanying condensed consolidated balance sheet, with its carrying value marked to market at each balance sheet date.

(c) In January 2015, the Company issued convertible promissory notes for \$1,000,000. The notes accrue interest at 8% per annum until the date the notes are converted. The notes are convertible into the Company's common stock at 85% of the average of the lowest three closing trading prices over ten days prior the conversion date. The conversion price is subject to a floor of \$1.00 per share and a ceiling of \$2.00. If not converted, the notes mature three years from the issuance date. The holder could demand payment in full after one year from the issuance date. The Company also issued warrants to purchase 250,000 shares of common stock, exercisable at \$2.50 per share for a period of up to 5 years from the note's original issuance date. The fair value of the embedded conversion feature and the warrants is \$670,300 and \$202,358, respectively. The resulting debt discount is being amortized over the earlier of (i) the term of the debt or (ii) conversion of the debt, using the straight-line method which approximates the interest method. The amortization of debt discount is included as a component of interest expense in the condensed consolidated statements of operations and comprehensive loss. The embedded conversion feature is accounted for as a derivative liability in the accompanying condensed consolidated balance sheet, with its carrying value marked to market at each balance sheet date. \$525,000 of the \$1,000,000 note has been converted into common stock during 2015. In connection with the conversions, the Company recognized a loss on extinguishment of convertible debt, related accrued interest, penalties and derivative liabilities totaling \$145,833 during 2015.

In addition, in March 2015, the Company issued a convertible promissory note for \$1,000,000, which was subsequently converted to common stock in June 2015. The note accrued interest at 9% per annum until the date the note was converted. The note was convertible into the Company's common stock at \$2.00 per share. If not converted, the note matured two years from the issuance date. The Company also issued warrants to purchase 320,000 shares of common stock, exercisable at \$2.50 per share for a period of up to 5 years from the note's original issuance date. The fair value of the embedded conversion feature and the warrants on the date of issuance was \$455,008 and \$315,008, respectively. The resulting debt discount was being amortized over the earlier of (i) the term of the debt or (ii) conversion of the debt, using the straight-line method which approximates the interest method. The amortization of debt discount is included as a component of interest expense in the condensed consolidated statements of operations and comprehensive loss. The embedded conversion feature is accounted for as a component of additional paid-in capital in the accompanying condensed consolidated balance sheet. During June 2015, this \$1,000,000 million note was converted into 500,000 shares of common stock at the \$2.00 per share contractual conversion price. On the date of conversion, \$643,371 of unamortized debt discount was accelerated and recognized as interest expense in the accompanying condensed consolidated statement of operations and comprehensive loss.

The Company accounted for the issuance of the convertible promissory notes and the warrants attached to the notes in accordance with ASC 815 "Derivatives and Hedging". Accordingly, the warrants and the embedded conversion option of certain convertible notes are recorded as derivative liabilities at their fair market value and are marked to market through earnings at the end of each reporting period. The debt discount is charged back to interest expense ratably over the term of the convertible note. The convertible notes were classified as current liabilities on the accompanying consolidated Balance Sheet as of December 31, 2015 due to certain technical defaults pursuant to the Convertible note agreements.

The fair value of the embedded conversion feature and the warrants were estimated using the Black-Scholes option-pricing model. The model includes subjective input assumptions that can materially affect the fair value estimates. The expected stock price volatility was determined by the historical volatilities for industry peers and used an average of those volatilities. The risk free interest rate was obtained from U.S. Treasury rates for the applicable periods. The contractual terms of the agreement does not provide for and the Company does not expect to declare dividends in the near future. Key assumptions used to apply this pricing model as of the date of issuance, December 31, 2014 and December 31, 2015 are presented in the table below:

|                            | 6% Note Issued<br>on<br>August 2, 2013 | 15% Note Issued<br>on<br>March 19, 2014 | 8% Note Issued<br>on<br>November 19,<br>2014 | 8% Note Issued<br>on<br>December 16,<br>2014 | 8% Notes Issued<br>on<br>January 5, 2015 | 8% Notes Issued<br>on<br>January 5, 2015 |
|----------------------------|--|---|--|--|--|--|
| Common stock closing price | \$ 4.15                                | \$ 3.87                                 | \$ 1.70                                      | \$ 1.53                                      | \$ 1.75                                  | \$ 1.75                                  |
| Conversion per share price | \$ 3.73                                | \$ 3.29                                 | \$ 1.45                                      | \$ 1.30                                      | \$ 1.33                                  | \$ 1.33                                  |
| Conversion shares          | 804,764                                | 151,999                                 | 172,672                                      | 77,061                                       | 112,402                                  | 749,344                                  |
| Expected life (in years)   | 3.0                                    | 1.0                                     | 3.0  | 3.0  | 3.0                                      | 3.0                                      |
| Expected volatility        | 110%                                   | 62%                                     | 74%  | 74%  | 73%                                      | 73%                                      |
| Call option value          | \$ 2.82                                | \$ 1.19                                 | \$ 0.90                                      | \$ 0.81                                      | \$ 0.97                                  | \$ 0.97                                  |
| Risk-free interest rate    | 0.59%                                  | 0.15%                                   | 1.10%  | 1.10%  | 0.90%                                    | 0.90%                                    |
| Dividends                  | 0.00%                                  | 0.00%                                   | 0.00%  | 0.00%  | 0.00%                                    | 0.00%                                    |

|                            | December 31, 2014 | December 31, 2014 | December 31, 2014 | December 31, 2014 | December 31, 2014 | December 31, 2014 |
|----------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Common stock closing price | \$ 1.73           | \$ 1.73           | \$ 1.73           | \$ 1.73           | NA                | NA                |
| Conversion per share price | \$ 1.49           | \$ 1.47           | \$ 1.26           | \$ 1.26           | NA                | NA                |
| Conversion shares          | 2,008,032         | 340,020           | 199,177           | 77,061            | NA                | NA                |
| Expected life (in years)   | 1.6               | 0.2               | 2.9               | 3.0               | NA                | NA                |
| Expected volatility        | 64%               | 66%               | 74%               | 74%               | NA                | NA                |
| Call option value          | \$ 0.64           | \$ 0.35           | \$ 0.77           | \$ 0.78           | NA                | NA                |
| Risk-free interest rate    | 0.67%             | 0.40%             | 1.10%             | 1.10%             | NA                | NA                |
| Dividends                  | 0.00%             | 0.00%             | 0.00%             | 0.00%             | NA                | NA                |

|                            | December 31, 2015 | December 31, 2015 | December 31, 2015 | December 31, 2015 | December 31, 2015 | December 31, 2015 |
|----------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Common stock closing price | \$ 1.00           | NA                | NA                | \$ 1.00           | \$ 1.00           | \$ 1.00           |
| Conversion per share price | \$ 1.00           | NA                | NA                | \$ 0.76           | \$ 1.00           | \$ 1.00           |
| Conversion shares          | 3,000,000         | NA                | NA                | 132,188           | 150,000           | 475,000           |
| Expected life (in years)   | 0.6               | NA                | NA                | 2.0               | 2.0               | 2.0               |
| Expected volatility        | 85%               | NA                | NA                | 75%               | 75%               | 75%               |
| Call option value          | \$ 0.26           | NA                | NA                | \$ 0.49           | \$ 0.41           | \$ 0.41           |
| Risk-free interest rate    | 0.65%             | NA                | NA                | 0.98%             | 0.98%             | 0.98%             |
| Dividends                  | 0.00%             | NA                | NA                | 0.00%             | 0.00%             | 0.00%             |

#### 10. CAPITAL LEASES PAYABLE

Capital leases payable at December 31, 2015 and 2014 is associated with the South African operations and consists of the following:

|   | December 31, 2015 | December 31, 2014 |
|---|-------------------|-------------------|
| Capital lease payable, bearing interest at 10%, through August 2017     | \$ 5,231          | \$ 10,502         |
| Capital lease payable, bearing interest at 11.5%, through December 2017 | 26,869            | -                 |
| Capital lease payable, bearing interest at 11.5%, through July 2016     | 7,786             | 26,489            |
| Capital lease payable, bearing interest at 11.5%, through November 2016 | 15,386            | 40,336            |
| Capital lease payable, bearing interest at 10%, through March 2015      | -                 | 1,333             |
| Total capital leases payable  | 55,272            | 78,660            |
| Current maturities  | 39,303            | 42,032            |
| Capital leases payable, less current maturities                         | \$ 15,969         | \$ 36,628         |

The current capital leases cover point of sale and other equipment for five of the South African restaurants. Annual requirements for capital lease obligations are as follows:

| December 31,                                | Amount    |
|---|-----------|
| 2016  | \$ 43,385 |
| 2017  | 17,508    |
| Total minimum lease payments                | 60,893    |
| Less: amount representing interest          | 5,621     |
| Present Value of Net Minimum Lease Payments | \$ 55,272 |

#### 11. ACCOUNTS PAYABLE AND ACCRUED EXPENSES

Accounts payable and accrued expenses are summarized as follows:

|  | December 31, 2015   | December 31, 2014   |
|--|---------------------|---------------------|
| Accounts payable                         | \$ 4,086,566        | \$ 3,382,818        |
| Accrued taxes (VAT, GST, Sales, Payroll) | 1,010,584           | 1,604,829           |
| Accrued income taxes                     | 27,709              | 92,618              |
| Accrued interest                         | 380,406             | 499,866             |
|  | <u>\$ 5,505,265</u> | <u>\$ 5,580,131</u> |

#### 12. INCOME TAXES

The breakout of the loss from continuing operations before income taxes between domestic and foreign operations is below:

|   | 2015                 | 2014                |
|---|----------------------|---------------------|
| Loss from continuing operations before income taxes |                      |                     |
| United States                                       | \$ 12,702,520        | \$ 5,442,499        |
| Foreign   | 1,618,905            | 759,875             |
|   | <u>\$ 14,321,425</u> | <u>\$ 6,202,374</u> |

The Income Tax (benefit) provision consists of the following:

|                               |                   |                     |
|-------------------------------|-------------------|---------------------|
| Foreign                       |                   |                     |
| Current                       | \$ 93,037         | \$ 55,486           |
| Deferred                      | 103,461           | (267,960)           |
| U.S. Federal                  |                   |                     |
| Current                       | -                 | 318                 |
| Deferred                      | (4,502,404)       | (1,266,980)         |
| State & Local                 |                   |                     |
| Current                       | -                 | -                   |
| Deferred                      | (529,695)         | (149,056)           |
| Change in Valuation Allowance | 5,023,169         | 1,151,691           |
|                               | <u>\$ 187,568</u> | <u>\$ (476,501)</u> |

The (benefit) provision for income tax using statutory U.S. federal tax rate is reconciled to the company's effective tax rate as follows:

|   | 2015              | 2014                |
|---|-------------------|---------------------|
| Computed "expected" income tax benefit          | \$ (4,869,285)    | \$ (2,093,584)      |
| State income taxes, net of federal benefit      | (572,857)         | (205,177)           |
| Foreign rate differential                       | 143,646           | 45,883              |
| Australia loss                                  | (1,821,463)       | -                   |
| Prior year true-ups other deferred tax balances | 323,485           | 106,236             |
| Travel, entertainment, and other                | 82,956            | 91,045              |
| Capital loss expiration                         | 333,837           | -                   |
| Convertible Debt Issuances and conversions      | 482,018           | -                   |
| Foreign Tax Expense                             | 93,037            | -                   |
| Fixed asset DTL true-up                         | 27,384            | 305,796             |
| Noncontrolling interest                         | 881,264           | -                   |
| Other   | 60,376            | 121,609             |
| Change in valuation allowance                   | 5,023,169         | 1,151,691           |
| Total   | <u>\$ 187,568</u> | <u>\$ (476,501)</u> |

The Company has significant permanent book tax differences related to derivative liabilities with a convertible debt feature.

Deferred income taxes reflect the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting and the amounts used for tax purposes. Major components of deferred tax assets at December 31, 2015 and 2014 were:

|                                       | 2015                  | 2014                |
|---------------------------------------|-----------------------|---------------------|
| Net operating loss carryovers         | \$ 11,846,236         | \$ 6,773,713        |
| Capital loss carryforwards            | 154,700               | 488,500             |
| Section 1231 loss carryovers          | 15,080                | -                   |
| Charitable contribution carryforwards | 16,815                | -                   |
| Derivative liability                  | 468,011               | 372,931             |
| Unremitted foreign earnings           | 190,552               | -                   |
| Restaurant startup costs              | 137,893               | -                   |
| Accrued Expenses                      | 36,182                | -                   |
| Australian equity investment          | -                     | (26,417)            |
| Deferred occupancy liabilities        | 290,500               | 388,114             |
| Total deferred Tax Assets             | <u>13,155,969</u>     | <u>7,996,841</u>    |
| Property and equipment                | (978,585)             | (469,986)           |
| Convertible debt                      | (811,177)             | (372,931)           |
| Investments                           | (90,200)              | (84,384)            |
| Intangibles                           | (1,068,534)           | (957,229)           |
| Goodwill                              | 785,987               | (47,492)            |
| Total deferred tax liabilities        | <u>(2,162,509)</u>    | <u>(1,932,022)</u>  |
| Net deferred tax assets               | 10,993,460            | 6,064,819           |
| Valuation Allowance                   | (12,347,231)          | (6,751,703)         |
|                                       | <u>\$ (1,353,771)</u> | <u>\$ (686,884)</u> |

As of December 31, 2015 and 2014, the company has U.S. federal and state net operating loss carryovers of approximately \$29,635,000 and \$15,660,000 respectively, which will expire at various dates beginning in 2031 through 2036, if not utilized. As of December 31, 2015 and 2014 the company has foreign net operating loss carryovers of \$2,284,000 (\$701,000 for Hungary, \$1,175,000 for South Africa, respectively, and \$408,000 for Australia) and \$1,790,000 (\$588,000 for Hungary, \$281,000 and \$921,000 for South Africa) respectively. Depending on the jurisdiction, some of these net operating loss carryovers will begin to expire within 5 years, while other net operating losses can be carried forward indefinitely as long as the company is trading. The company has a capital loss carryforward of \$407,000 which expires between 2016 and 2017 if not utilized. In accordance with Section 382 of the internal revenue code, deductibility of the company's U.S. net operating loss carryovers may be subject to an annual limitation in the event of a change of control as defined under the Section 382 regulations. Quarterly ownership changes for the past 3 years were analyzed and it was determined that there was no change of control as of December 31, 2015.



In assessing the realization of deferred tax assets, Management considers whether it is more likely than not that some portion or all of the deferred tax assets will be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income and tax planning strategies in making this assessment. After consideration of all of the information available, Management believes that significant uncertainty exists with respect to future realization of the deferred tax assets and has therefore established a full valuation allowance. For the year ended December 31, 2015 and December 31, 2014 the change in valuation allowance was approximately \$5,023,169 and \$1,151,691, respectively.

The company evaluated the provisions of ASC 740 related to the accounting for uncertainty in income taxes recognized in their financial statements. ASC 740 prescribes a comprehensive model for how a company should recognize, present, and disclose uncertain positions that the company has taken or expects to take in its return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. Differences between two positions taken or expected to be taken in a tax return and the benefit recognized and measured pursuant to the interpretation are referred to as “unrecognized benefits”. A liability is recognized for an unrecognized tax benefit because it represents an enterprise’s potential future obligation to the taxing-authority for a tax position that was not recognized as a result of applying the provisions of ASC 740.

The company’s uncertain tax positions for December 31, 2015 and 2014 are as follows:

|   | Unrecognized<br>Tax Benefit | Interest and<br>Penalties | Total       |
|---|-----------------------------|---------------------------|-------------|
| Balance at December 31, 2014                    | \$ 419,301                  | \$ -                      | \$ 419,301  |
| Increases related to prior year tax positions   | -                           | -                         | -           |
| Decreases related to prior year tax positions   | (419,301)                   | -                         | (419,301)   |
| Increases related to current year tax positions | -                           | -                         | -           |
| Settlements during the period                   | -                           | -                         | -           |
| Lapse of statute of limitations                 | -                           | -                         | -           |
| Balance at December 31, 2015                    | <u>\$ -</u>                 | <u>\$ -</u>               | <u>\$ -</u> |

Interest related to uncertain tax positions are required to be calculated, if applicable, and would be classified as “interest expense” in the two statements of operations. Penalties would be recognized as a component of “general and administrative expenses”. As of December 31, 2015 and 2014 no interest or penalties were required to be reported.

No provision was made for U.S. or foreign taxes on approximately \$1,100,000 of undistributed earnings of the Company as such earnings are considered to be permanently reinvested. Such earnings have been, and will continue to be, reinvested, but could become subject to additional tax if they were remitted as dividends, loaned to the Company, or if the Company should sell its interests in the foreign entities. It is not practicable to determine the amount of additional tax, if any, that might be payable on the undistributed earnings or on any book- tax basis differences. Earnings from the U.K. subsidiary are no longer considered to be permanently reinvested. Therefore, for deferred tax purposes only, \$501,000 has been deemed to be repatriated to the parent company as a dividend. This deemed dividend is fully offset by the company’s net operating losses, so there is no deferred tax expense on the deemed repatriation. The resulting reduction in net operating losses has been considered in deferred tax expense.

### 13. STOCKHOLDERS' EQUITY

On February 3, 2014, the Company amended its certificate of incorporation to increase the number of its authorized shares of common stock from 20,000,000 shares to 45,000,000 shares.

The Company's shareholders have approved the Chanticleer Holdings, Inc. 2014 Stock Incentive Plan (the "2014 Plan"), authorizing the issuance of options, stock appreciation rights, restricted stock awards and units, performance shares and units, phantom stock and other stock-based and dividend equivalent awards. Pursuant to the approved 2014 Plan, 4,000,000 shares remained available for future grant as of December 31, 2015.

#### 2015 Transactions:

In January 2015, a convertible debt holder converted \$500,000 principal plus accrued interest into 373,333 shares of the Company's common stock. In addition, another convertible debt holder converted \$250,000 principal plus accrued interest into 168,713 shares of the Company's common stock. In March 2015, the Company issued 100,000 shares of its common stock to repay \$100,000 of long term debt and related accrued interest and penalties. (See Note 9 – Long Term Debt and Notes Payable and Note 10 – Convertible Notes Payable).

On March 16, 2015, the Company completed a rights offering, receiving subscriptions (including both basic and oversubscriptions) for 3,899,742 shares of its common stock for net proceeds of \$7,062,325.

Effective March 15, 2015, the Company closed the purchase of BGR Holdings, LLC. In consideration of the purchased assets, the Company issued 500,000 shares of the Company's common stock as a component of the total purchase price (See Note 3- Acquisitions).

In June 2015, a convertible debt holder converted \$1,000,000 principal into 500,000 shares of the Company's common stock.

On July 1, 2015, the Company closed the acquisition of BT's. In consideration for the purchased assets, the Company issued 424,080 shares of the Company's common stock as a component of the total purchase price (See Note 3 - Acquisitions).

On June 19, 2015, the Company entered into an agreement with an institutional investor and accredited investors for a registered direct placement of 860,000 shares of common stock at \$2.50 per share. The agreement also provides an overallotment right for the investor(s) to purchase up to 860,000 additional shares of common stock at \$2.50 per share during the 75 days following the initial closing.

On September 22, 2015, the Company completed a rights offering, receiving subscriptions (including both basic and oversubscriptions) for 4,894,692 shares of its common stock for net proceeds of \$6.0 million.

On September 30, 2015, the Company closed the acquisition of Little Big Burger. In consideration for the purchased assets, the Company issued 1,874,063 shares of the Company's common stock as a component of the total purchase price (See Note 3 - Acquisitions).

In separate transactions occurring from July through October, 2015, holders of the 8% convertible notes issued in January 2015 converted an aggregate of \$525,000 principal into 389,176 shares of the Company's common stock.

During 2015, the Company issued 104,000 shares of common stock and warrants for consulting, acquisition and other services valued at an aggregate of \$279,362. The recorded value for common stock issued for services was based on the closing market prices for the Company's common stock. The recorded value of warrants issued for services valued utilizing the Black-Scholes model.

#### 2014 Transactions:

During December 2014, the Company issued the following common stock shares and warrants:

11,101 shares of the Company's common stock at \$2.00 and 3,330 common stock warrants at an exercise price of \$3.50 for \$22,202;

20,750 shares of the Company's common stock at \$2.00 and 6,225 common stock warrants at an exercise price of \$3.50 for payment of accounts payable for consulting services totaling \$41,500;

54,837 shares of the Company's common stock for payment of accounts payable for consulting services totaling \$108,855 at prices ranging from \$1.79 to \$2.07;

36,667 shares of the Company's common stock at \$1.80 for payment of Board of Directors fees totaling \$66,000;

67,807 shares of the Company's common stock at \$2.00 per share for accrued interest totaling \$135,614;

14,451 shares of the Company's common stock at \$1.73 for payment of an employee contractual bonus totaling \$25,000.

During November 2014, the Company issued \$175,000 of the Company's common stock (87,500 shares at \$2.00 per share) in satisfaction of past-due interest and 26,250 common stock warrants at \$3.50 per share exercise price in consideration for the debt restructuring related to Hooters Australia.

During October 2014, the Company re-priced certain warrants with an original exercise price of \$5.50 and \$7.00 to \$2.00, subject to immediate cash exercise. The Company received \$349,544 of funds related to this transaction.

During the three months ended September 30, 2014, the Company raised from private investors \$641,000 for the sale of 320,500 shares of common stock, and accompanying sales of 96,150 5-year common stock warrants exercisable at \$3.50 per share.

On September 9, 2014, the Company purchased 100% of the net assets of The Burger Company located in Charlotte, North Carolina, a similar concept to our ABC restaurants, for a purchase price of \$550,000, which consisted of \$250,000 in cash and \$300,000 (146,628 shares) in the Company's common stock.

During the six months ended June 30, 2014, the Company issued an aggregate of 40,000 and 98,764 shares of the Company's common stock, valued at \$101,900 and \$330,757 to several investor relations firms in exchange for investor relations services provided to the Company.

During the six months ended June 30, 2014, the Company raised from private investors \$200,000 for 137,500 shares of common stock and 15,000 five-year common stock warrants exercisable at \$3.50 per share.

On March 19, 2014, the Company received \$500,000 from the issuance of convertible debt to one investor, and the proceeds were used for continuing the Company's growth and for working capital purposes. The Company issued 15% Secured Subordinate Convertible Notes and five-year warrants, at a price of \$5.25 per share, to purchase up to 30% of the number of shares of Company common stock issuable upon conversion of the 2014 note.

During the first three months of 2014, the Company issued an aggregate of 58,764 shares of the Company's common stock, valued at \$228,857 to several investor relations firms in exchange for investor relations services provided to the Company.

On January 31, 2014, we issued 680,272 Company units in connection with the acquisitions of Pacific NW. Each unit consisted of one share of our common stock and one five-year warrant to purchase a share of our common stock. Half (340,136) of the warrants are exercisable at \$5.50 and half (340,136) of the warrants are exercisable at \$7.00. As part of this transaction, the Hooters Sellers were granted registration rights with respect to our common stock issued and underlying the warrants, and franchise rights and leasehold rights to the locations were transferred to the Company.

On January 31, 2014, we issued 195,000 Company units in connection with the acquisition of Spoon. Each unit consisted of one share of the Company's common stock and one five-year warrant to purchase a share of the Company's common stock. Half (97,500) of the warrants are exercisable at \$5.50 and half (97,500) of the warrants are exercisable at \$7.00. As part of this transaction, EWC was granted registration rights with respect to our common stock issued and underlying the warrants, and all leaseholds and other rights were transferred to the Company. (See Note 5 "Discontinued Operations").

#### **Options and Warrants**

There are no options outstanding as of December 31, 2015 and 2014 or for the years then ended.

Fair value of any warrant issuances are valued utilizing the Black-Scholes mode. The model includes subjective input assumptions that can materially affect the fair value estimates. The expected stock price volatility for the Company's warrants was determined by the historical volatilities for industry peers and used an average of those volatilities.

A summary of the warrant activity during the years ended December 31, 2015 and 2014 is presented below:

|                               | <u>Number of<br/>Warrants</u> | <u>Weighted<br/>Average Exercise<br/>Price</u> | <u>Weighted<br/>Average<br/>Remaining Life</u> |
|-------------------------------|-------------------------------|--|--|
| Outstanding December 31, 2014 | 8,715,804                     | \$ 5.49  | 3.0  |
| Granted                       | 840,500                       | 2.55   |  |
| Exercised                     | -                             | -  |  |
| Forfeited                     | (50,000)                      | 6.25   |  |
| Outstanding December 31, 2015 | <u>9,506,304</u>              | <u>\$ 4.93</u>                                 | <u>2.0</u>                                     |
| Exercisable December 31, 2015 | <u>9,506,304</u>              | <u>\$ 4.93</u>                                 | <u>2.0</u>                                     |

The following table presents information related to stock warrants as of December 31, 2015:

| <u>Exercise Price</u> | <u>Outstanding<br/>Number of<br/>Warrants</u> | <u>Weighted<br/>Average<br/>Remaining Life<br/>in Years</u> | <u>Exercisable<br/>Number of<br/>Warrants</u> |
|-----------------------|---|---|---|
| >\$5.00               | 7,439,631                                     | 1.9   | 7,439,631                                     |
| \$4.00-\$4.99         | -   | -   | -   |
| \$3.00-\$3.99         | 799,901                                       | 2.6   | 799,901                                       |
| \$2.00-\$2.99         | 954,272                                       | 3.6   | 954,272                                       |
| \$1.00-\$1.99         | 312,500                                       | 4.0   | 312,500                                       |
|                       | <u>9,506,304</u>                              |   | <u>9,506,304</u>                              |

Amortization of debt discounts arising from warrants and convertible debt are summarized as follows at December 31, 2015 and 2014 and for the years then ended:

|                    | <u>Years Ended</u>       |                          |
|--------------------|--------------------------|--------------------------|
|                    | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
| Interest expense   | \$ 2,379,951             | \$ 336,798               |
| Consulting expense | 22,375                   | 771,095                  |
|                    | <u>\$ 2,402,326</u>      | <u>\$ 1,107,893</u>      |

#### 14. RELATED PARTY TRANSACTIONS

##### Due to related parties

The Company has received non-interest bearing loans and advances from related parties. The amounts owed by the Company as of December 31, 2015 and 2014 are as follows:

|                                    | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|------------------------------------|--------------------------|--------------------------|
| Hoot SA I, LLC                     | \$ 12,963                | \$ 12,196                |
| Hooters Australia- Current Partner | 390,779                  | -                        |
| Hooters Australia - Former Partner | -                        | 1,087,451                |
| Chanticleer Investors, LLC         | -                        | 199,436                  |
|                                    | <u>\$ 403,742</u>        | <u>\$ 1,299,083</u>      |

##### Due from related parties

The Company has earned income from and made advances to related parties. The amounts owed to the Company at December 31, 2015 and 2014 is as follows:

|                         | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|-------------------------|--------------------------|--------------------------|
| Hoot SA II, III, IV LLC | \$ 45,615                | \$ 46,015                |
|                         | <u>\$ 45,615</u>         | <u>\$ 46,015</u>         |

#### 15. SEGMENTS OF BUSINESS

The Company is in the business of operating restaurants and its operations are organized by geographic region and by brand within each region. Further each restaurant location produces monthly financial statements at the individual store level. The Company's chief operating decision maker reviews revenues and profitability at the individual restaurant location level, as well as for Full Service Hooters, Better Burger Fast Casual and Just Fresh Fast Casual level, and corporate as a group.

The following are revenues and operating income (loss) from continuing operations by segment as of and for the years ended December 31, 2015 and 2014. The Company does not aggregate or review non-current assets at the segment level.

|                                 | Years Ended            |                       |
|---------------------------------|------------------------|-----------------------|
|                                 | December 31, 2015      | December 31, 2014     |
| <b>Revenue:</b>                 |                        |                       |
| Hooters Full Service            | \$ 21,931,096          | \$ 21,284,710         |
| Better Burgers Fast Casual      | 14,542,094             | 3,230,519             |
| Just Fresh Fast Casual          | 5,498,790              | 4,838,815             |
| Corporate and Other             | 424,829                | 489,390               |
|                                 | <u>\$ 42,396,809</u>   | <u>\$ 29,843,434</u>  |
| <b>Operating Income (Loss):</b> |                        |                       |
| Hooters Full Service *          | \$ (6,602,559)         | \$ (773,447)          |
| Better Burgers Fast Casual      | (1,357,055)            | (1,641,363)           |
| Just Fresh Fast Casual          | (33,248)               | (62,854)              |
| Corporate and Other             | (3,495,054)            | (3,066,644)           |
|                                 | <u>\$ (11,487,916)</u> | <u>\$ (5,544,308)</u> |

\* Includes \$4.9 million non-cash asset impairment charge in 2015

The following are revenues, operating loss, and long-lived assets by geographic area as of and for the years ended December 31, 2015 and 2014.

|                                 | Years Ended            |                       |
|---------------------------------|------------------------|-----------------------|
|                                 | December 31, 2015      | December 31, 2014     |
| <b>Revenue:</b>                 |                        |                       |
| United States                   | \$ 25,528,467          | \$ 12,941,648         |
| South Africa                    | 6,430,524              | 6,632,024             |
| Australia                       | 6,453,377              | 5,613,381             |
| Europe                          | 3,984,441              | 4,656,381             |
|                                 | <u>\$ 42,396,809</u>   | <u>\$ 29,843,434</u>  |
| <b>Operating Income (Loss):</b> |                        |                       |
| United States                   | \$ (5,114,687)         | \$ (4,886,279)        |
| South Africa                    | (162,228)              | (373,558)             |
| Australia *                     | (6,266,695)            | (277,557)             |
| Europe                          | 55,694                 | (6,914)               |
|                                 | <u>\$ (11,487,916)</u> | <u>\$ (5,544,308)</u> |

\* Includes \$4.9 million non-cash asset impairment charge in 2015

|                            | <u>December 31, 2015</u> | <u>December 31, 2014</u> |
|----------------------------|--------------------------|--------------------------|
| <b>Non-current Assets:</b> |                          |                          |
| United States              | \$ 27,956,486            | \$ 15,434,108            |
| South Africa               | 2,393,147                | 2,172,528                |
| Australia                  | 4,781,020                | 13,068,305               |
| Europe                     | 3,255,977                | 3,648,133                |
|                            | <u>\$ 38,386,630</u>     | <u>\$ 34,323,074</u>     |

## 16. COMMITMENTS AND CONTINGENCIES

The Company, through its subsidiaries, leases the land and buildings for our five restaurants in South Africa, one restaurant in Nottingham, United Kingdom, thirty-five restaurants in the U.S., four restaurants in Australia, and one restaurant in Hungary. The South Africa leases are for five-year terms and the Hungary lease is for a ten-year term, and all of these leases include options to extend the terms. The terms for our U.S. restaurant leases vary from two to ten years and have options to extend. We lease some of our restaurant facilities under “triple net” leases that require us to pay minimum rent, real estate taxes, maintenance costs and insurance premiums and, in some instances, percentage rent based on sales in excess of specified amounts. We also lease our corporate office space in Charlotte, North Carolina.

Rent obligations for are presented below:

|            | <u>Total</u>         |
|------------|----------------------|
| 12/31/2016 | \$ 4,426,175         |
| 12/31/2017 | 4,055,189            |
| 12/31/2018 | 3,863,009            |
| 12/31/2019 | 3,499,583            |
| 12/31/2020 | 2,839,415            |
| thereafter | 8,832,725            |
|            | <u>\$ 27,516,096</u> |

Rent expense for the years ended December 31, 2015 and December 31, 2014 was \$4.1 million and \$2.7 million respectively. Rent expense for the years ended December 31, 2015 and 2014 for the Company’s restaurants was \$4.1 million and \$2.6 million, respectively, and is included in the “Restaurant operating expenses” of the Consolidated Statement of Operations. Rent expense for the years ended December 31, 2015 and 2014 for the non-restaurants was \$34 thousand and \$26 thousand, and is included in the “General and administrative expense” of the Consolidated Statement of Operations.

On March 26, 2013, our South African operations received Notice of Motion filed in the Kwazulu-Natal High Court, Durban, Republic of South Africa, filed against Rolalor (PTY) LTD (“Rolalor”) and Labyrinth Trading 18 (PTY) LTD (“Labyrinth”) by Jennifer Catherine Mary Shaw (“Shaw”). Rolalor and Labyrinth were the original entities formed to operate the Johannesburg and Durban locations, respectively. On September 9, 2011, the assets and the then-disclosed liabilities of these entities were transferred to Tundraspex (PTY) LTD (“Tundraspex”) and Dimaflo (PTY) LTD (“Dimaflo”), respectively. The current entities, Tundraspex and Dimaflo are not parties in the lawsuit. Shaw is requesting that the Respondents, Rolalor and Labyrinth, be wound up in satisfaction of an alleged debt owed in the total amount of R4,082,636 (approximately \$480,000). The two Notices were defended and argued in the High Court of South Africa (Durban) on January 31, 2014. Madam Justice Steryi dismissed the action with costs on May 5, 2014. Ms. Shaw has appealed this decision no liability has been reflected in the accompanying consolidated balance sheet as of December 31, 2015.

On January 28, 2016, our Just Fresh subsidiary was notified that it had been served with a copyright infringement complaint *Kevin Chelko Photography, Inc. f. JF Restaurants, LLC*, Case No. 3:13-CV-60-GCM (W.D. N.C.). The claim was filed in the United States District Court for the Western District of North Carolina Charlotte Division and seeks unspecified damages related to the use of certain photographic assets allegedly in violation of the United States copyright laws. The Company has asserted numerous defenses in answer to the complaint and intends to defend itself fully and vigorously no liability has been reflected in the accompanying consolidated balance sheet as of December 31, 2015.

Prior to the Company's acquisition of Little Big Burger, a class action lawsuit was filed in Oregon by certain current and former employees of Little Big Burger asserting that the former owners of Little Big Burger failed to compensate employees for overtime hours and also that an employee had been wrongfully terminated. The plaintiffs and defendants agreed to enter into a settlement agreement pursuant to which the former owners of Little Big Burger will pay a gross settlement of up to \$675,000, inclusive of plaintiffs' attorney's fees of \$225,000. This settlement was preliminarily approved by the court on February 2, 2016. The parties are proceeding with distributing the claim forms and notices of settlement to the class members and ultimately will disburse settlement payments to those who opt in.

In connection with our acquisition of Little Big Burger, the sellers agreed that the 1,619,646 shares of the Company's common stock certain of the sellers received from the Company and an additional \$200,000 in cash would be held in escrow until such time as the litigation was fully resolved. The Company does not expect to have to expend any funds related to the settlement as certain of the Sellers have agreed to retain the obligations and have set aside sufficient funds to cover the settlement. However, as the Company assumed all liabilities of Little Big Burger in the acquisition and would be required to fulfill the settlement if the sellers were unable or otherwise failed to fully fund the settlement, the Company has reflected the \$675,000 settlement amount in accrued liabilities, with an offsetting asset in other current assets, in the accompanying Consolidated Balance Sheets as of December 31, 2015.

From time to time, the Company may be involved in legal proceedings and claims that have arisen in the ordinary course of business. These actions, when ultimately concluded and settled, will not, in the opinion of management, have a material adverse effect upon the financial position, results of operations or cash flows of the company.

## 17. DISCLOSURES ABOUT FAIR VALUE

Assets and liabilities measured at fair value on a recurring basis are summarized in the following tables according to FASB ASC 820 pricing levels.

|                               | <b>Fair Value Measurement Using</b> |  |  |  |
|-------------------------------|-------------------------------------|--|--|--|
|                               | <b>Recorded<br/>value</b>           | <b>Quoted prices<br/>in active<br/>markets of<br/>identical<br/>assets<br/>(Level 1)</b> | <b>Significant<br/>other<br/>observable<br/>inputs<br/>(Level 2)</b> | <b>Significant<br/>Unobservable<br/>Inputs<br/>(Level 3)</b> |
| <b>December 31, 2015</b>      |                                     |  |  |  |
| Assets:                       |                                     |  |  |  |
| Available-for-sale securities | \$ 31,322                           | \$ 31,322  | \$ -   | \$ -   |
| Liabilities:                  |                                     |  |  |  |
| Embedded conversion feature   | \$ 1,094,000                        | \$ -   | \$ -   | \$ 1,094,000   |
| Warrants                      | \$ 137,608                          |  |  | \$ 137,608   |
| <b>December 31, 2014</b>      |                                     |  |  |  |
| Assets:                       |                                     |  |  |  |
| Available-for-sale securities | \$ 35,362                           | \$ 35,362  | \$ -   | \$ -   |
| Liabilities:                  |                                     |  |  |  |
| Embedded conversion feature   | \$ 1,610,900                        | \$ -   | \$ -   | \$ 1,610,900   |
| Warrants                      | \$ 334,300                          | \$ -   | \$ -   | \$ 334,300   |



At December 31, 2015 and 2014, the Company's available-for-sale equity securities were valued using Level 1 and Level 2 inputs as summarized above. Level 1 inputs are based on unadjusted prices for identical assets in active markets that the Company can access. Level 2 inputs are based on quoted prices for similar assets other than quoted prices in Level 1, quoted prices in markets that are not yet active, or other inputs that are observable or can be derived principally from the Black Scholes option pricing model which involves the use of various inputs or corroborated by observable market data for substantially the full term of the assets.

The derivative liabilities are measured at fair value using quoted market prices for the Company's shares and estimated volatility factors based on historical quoted market prices for the Company's common stock and are classified within Level 3 of the valuation hierarchy.

Certain assets are not carried at fair value on a recurring basis, including investments accounted for under the equity and cost methods. Accordingly, such investments are only included in the fair value hierarchy disclosure when the investment is subject to re-measurement at fair value after initial recognition and the resulting re-measurement is reflected in the consolidated financial statements.

The following table provides a summary of the changes in fair value, including net transfers in and/or out, of all financial assets measured at fair value on a recurring basis using significant unobservable inputs during the year ended December 31, 2015 and 2014.

|  | <u>Warrants</u>   | <u>Conversion<br/>Feature</u> | <u>Total</u>        |
|--|-------------------|-------------------------------|---------------------|
| Balance at January 1, 2014                     | \$ -              | \$ 2,146,000                  | \$ 2,146,000        |
| Change in fair value of derivative liability   | (292,600)         | (935,000)                     | (1,227,600)         |
| Amount included in debt discounts              | 626,900           | 399,900                       | 1,026,800           |
| Balance at December 31, 2014                   | <u>\$ 334,300</u> | <u>\$ 1,610,900</u>           | <u>\$ 1,945,200</u> |
| Change in fair value of derivative liability   | (196,992)         | (671,600)                     | (868,592)           |
| Amounts included in debt discount              | -                 | 778,900                       | 778,900             |
| Reclassification in connection with conversion | -                 | (623,900)                     | (623,900)           |
| Balance at December 31, 2015                   | <u>\$ 137,308</u> | <u>\$ 1,094,300</u>           | <u>\$ 1,231,608</u> |

#### 18. AUSTRALIA ADMINISTRATION TRANSACTIONS AND ASSET IMPAIRMENT

On July 14, 2015, voluntary administrators were appointed to review the affairs and assess the financial condition of the Hooters Australia stores. The initiation of voluntary administration followed the request of the Company because the Company believed its operating partner had been mismanaging the business. The Company believed that the Administration process would be the most effective means to objectively evaluate the state of the business and enhance the Company's position and ability to restore the Hooters Australia stores to their prior operational and financial performance levels.

From July 14, 2015 through the end of September, the Hooters Australia stores operated under the management of administrators that were appointed by the directors of the Australia entities to facilitate the Administration process. In August, 2015, the Company entered into definitive agreements to invest additional consideration into the Australia business to increase its ownership in the Australia Hooters stores from 60% to 80% and to obtain the assets of those stores free of any prior liabilities or liens. In addition, the Company agreed to purchase the Margaritaville property, but ultimately did not complete the Margaritaville transaction as the administrator was unable to provide an acceptable lease transfer for the property

The Company and a new local partner, PCS Investments, Pty (“PCS”) closed on the purchase of the five Hooters Australia stores in early October 2015, with the Company contributing \$1.0 million in additional capital for 80% ownership and PCS investing \$0.3 million for 20% ownership in the five Hooters stores. During the Administration period from July 14, 2015 through early October, 2015, the Company’s control was temporarily restricted and management did not recognize revenue or expenses related to the operation of the stores during this brief period. Effective with the resumption of control in early October, 2015, the Company resumed normal operations and recognition of revenue and expenses.

In connection with the Administration process, the Company evaluated its long-lived assets for impairment and evaluated the carrying value of all other assets and liabilities related to the Australia stores to their net realizable value. As a result of that analysis, management concluded that the goodwill balance had been impaired and that certain other balances were no longer valid or realizable as a consequence of the Administration process. As a result, the Company recorded a net asset impairment charge of \$4.5 million during 2015, which is reflected as a component of income from continuing operations in the accompanying Statements of Operations.

## **19. SUBSEQUENT EVENTS**

In early 2016, we entered into a letter of intent with a UK investment bank for an up to £10 million bond offering in the United Kingdom. The bond offering proceeds would be used to refinance certain of our existing higher interest rate notes payable and convertible debts, as well as to provide additional working capital for the opening of new restaurant locations and for general corporate purposes. The bonds are expected to be listed on the ISDX exchange in London, bear annual interest at 7.5%, with interest payments due semi-annually and principal due as a balloon payment in March 2021. We are nearing completion of the documentation and investor marketing process and have received strong indications of interest and investor commitments. We expect the bond transaction to close during the second calendar quarter of 2016. Until the transaction is fully completed, however, we cannot provide assurance as to the certainty of completion or the precise amounts, if any, that will be received by the Company.

Also in early 2016, we entered into a letter of intent with a US investment bank for up to \$10 million in additional investor capital under the US Government’s EB-5 program to be used specifically for the opening of new restaurants and the creation of new jobs in certain qualified geographic regions. We are currently preparing the required offering documents, conducting job studies, site qualification analyses, and performing other diligence and administrative activities required to implement the program. We have received approval for several potential sites and are actively engaged in marketing the program to potential investors. We expect to complete our first EB5 funding transaction in mid 2016. Until all diligence procedures are fully complete and we receive binding investor commitments, however, we cannot provide any assurance as to the certainty of completion or the precise amounts, if any, that will be received by the Company.

Also in early 2016, we entered into a letter of intent directly with a US investor to fund the opening of up to 10 Little Big Burger restaurants in the Seattle area. We are actively pursuing sites and anticipate opening our first store under that arrangement by the end of 2016.

## ITEM 9: CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

### ITEM 9A: CONTROLS AND PROCEDURES

#### Evaluation of disclosure controls and procedures

Under the PCAOB standards, a control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit the attention by those responsible for oversight of the company's financial reporting. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) and Rule 15d-15(e) promulgated under the Securities Exchange Act of 1934, as amended (Exchange Act), as of December 31, 2015. Our management has determined that, as of December 31, 2015, the Company's disclosure controls and procedures were ineffective.

#### Management's report on internal control over financial reporting

Management Responsibility for Internal Control over Financial Reporting Management is responsible for establishing and maintaining effective internal control over financial reporting, as defined in Rule 13a-15(f) under the Exchange Act. The Company's internal control over financial reporting is designed to provide reasonable assurance to the Company's management and Board of Directors regarding the preparation and fair presentation of published financial statements in accordance with the United States' generally accepted accounting principles (US GAAP), including those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and disposition of the assets of the Company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with US GAAP and that receipts and expenditures are being made only in accordance with authorizations of management and directors of the Company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Management's Evaluation of Internal Control over Financial Reporting Management evaluated our internal control over financial reporting as of December 31, 2015. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control — Integrated Framework*. As a result of this assessment and based on the criteria in this framework, management has concluded that, as of December 31, 2015, our internal control over financial reporting was ineffective.

#### Material Weaknesses

A material weakness is a control deficiency, or a combination of control deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

Management identified the following deficiencies in its internal controls over financial reporting:

- As the Company recently completed multiple acquisitions in a short period of time, it currently operates multiple accounting systems using disparate charts of accounts and inconsistent financial close procedures and timetables. The lack of consistency makes it more difficult to ensure that the consolidated financial records are completed timely and on a consistent basis each reporting period, which increases the risk of undetected errors.
- The Company's financial close procedures are not formally documented across the organization to the degree necessary to ensure that financial statements are prepared consistently and accurately each reporting period.
- The Company's information systems, as well as the organization and storage of critical financial records, were not deemed adequate to ensure the timely ability to recover from a disaster or prevent the accidental loss of critical financial records.
- The Company's financial statements include complex transactions and financial instruments that are subject to extensive technical accounting standards that increase the risk of undetected errors and where the Company's internal resources do not possess deep technical specialization.
- The Company performs extensive reconciliation and manual review procedures to ensure that the financial statements results are accurately presented, however, there is inconsistent and informal documentation of those review procedures.

Management determined that the deficiencies, evaluated in the aggregate, could potentially result in a material misstatement of the consolidated financial statements in a future annual or interim period that would not be prevented or detected. Therefore the deficiencies constitute material weaknesses in internal control. Based on that evaluation, management determined that our internal controls over financial reporting were not effective as of December 31, 2015.

### Remediation Plans

We have initiated several steps and plan to continue to evaluate and implement measures designed to improve our internal control over financial reporting in order to remediate the control deficiencies noted above.

While our evaluation of the appropriate remediation plans is still ongoing, efforts to date have included recruiting additional qualified personnel with experience in financial reporting and internal controls. We are also in the process of migrating the majority of our operations to a common accounting system, standardizing charts of accounts and formalized the documentation of accounting close and review procedures.

*Changes in Internal Control over Financial Reporting*— As a result of the acquisitions, the Company is evaluating additional changes to processes and policies to further standardize the internal control over financial reporting with respect to the monitoring, reporting and consolidation of the financial results of the acquired operations into the Company's financial statements. Except for the activities described above, there were no changes in the Company's internal control over financial reporting that occurred during the year ended December 31, 2015, that materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

### **ITEM 9B: OTHER INFORMATION**

Not applicable.

### PART III

#### **ITEM 10. Directors, Executive Officers and Corporate Governance.**

Information called for by this item may be found in our definitive Proxy Statement in connection with our 2016 Annual Meeting of Shareholders to be filed with the SEC under the headings “Board of Directors and Management,” “Section 16(a) Beneficial Ownership Reporting Compliance” and “Corporate Governance Matters” and is incorporated herein by reference.

#### **ITEM 11. Executive Compensation.**

Information called for by this item may be found in our definitive Proxy Statement in connection with our 2016 Annual Meeting of Shareholders to be filed with the SEC under the headings “Executive Compensation” and “Corporate Governance Matters” and is incorporated herein by reference.

#### **ITEM 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

Information called for by this item may be found in our definitive Proxy Statement in connection with our 2016 Annual Meeting of Shareholders to be filed with the SEC under the headings “Equity Compensation Plan Information” and “Security Ownership of Certain Beneficial Owners and Management” and is incorporated herein by reference.

#### **ITEM 13. Certain Relationships and Related Transactions, and Director Independence.**

Information called for by this item may be found in our definitive Proxy Statement in connection with our 2016 Annual Meeting of Shareholders to be filed with the SEC under the headings “Related Person Transactions” and “Corporate Governance Matters” and is incorporated herein by reference.

#### **ITEM 14. Principal Accountant Fees and Services.**

Information called for by this item may be found in our definitive Proxy Statement in connection with our 2016 Annual Meeting of Shareholders to be filed with the SEC under the headings “Independent Registered Public Accounting Firm Fee Information” and “Audit Committee Pre-Approval Policy” and is incorporated herein by reference.

**PART IV**

**ITEM 15: EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

**(a)(1) Financial Statements.**

The following financial statements of Chanticleer Holdings, Inc. are contained in Item 8 of this Form 10-K:

- Report of Independent Registered Public Accounting Firm
- Consolidated Balance Sheets at December 31, 2015 and 2014
- Consolidated Statements of Operations and Comprehensive Loss for the years ended December 31, 2015 and 2014
- Consolidated Statements of Stockholders' Equity at December 31, 2015 and 2014
- Consolidated Statements of Cash Flows for the years ended December 31, 2015 and 2014
- Notes to the Consolidated Financial Statements

**(a)(2) Financial Statements Schedules.**

Financial Statement Schedules were omitted, as they are not required or are not applicable, or the required information is included in the Financial Statements.

**(a)(3) Exhibits Filed.**

The exhibits listed in the accompanying Exhibit Index are filed as a part of this report.

**(b) Exhibits.**

See Exhibit Index.

**(c) Separate Financial Statements and Schedules.**

None.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized on March 30, 2016.

**CHANTICLEER HOLDINGS, INC.**

By: /s/ Michael D. Pruitt  
Michael D. Pruitt, Chairman  
and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

| <u>Date</u>    | <u>Title (Capacity)</u>   | <u>Signature</u>                                  |
|----------------|---|---|
| March 30, 2016 | Chairman, Chief Executive Officer,<br>and Principal Executive Officer | <u>/s/ Michael D. Pruitt</u><br>Michael D. Pruitt |
| March 30, 2016 | Chief Financial Officer and Principal<br>Accounting Officer           | <u>/s/ Eric S. Lederer</u><br>Eric S. Lederer     |
| March 30, 2016 | Director  | <u>/s/ Michael Carroll</u><br>Michael Carroll     |
| March 30, 2016 | Director  | <u>/s/ Russell J. Page</u><br>Russell J. Page     |
| March 30, 2016 | Director  | <u>/s/ Paul I. Moskowitz</u><br>Paul I. Moskowitz |
| March 30, 2016 | Director  | <u>/s/ Keith Johnson</u><br>Keith Johnson         |

## EXHIBIT INDEX

| Exhibit | Description   |
|---------|---|
| 2.1     | Purchase Agreements for Australian Entities dated June 30, 2014 (Incorporated by reference to Exhibit 2.1 to our Current Report on Form 8-K, filed with the SEC on July 3, 2014)  |
| 3.1     | Certificate of Incorporation (Incorporated by reference to the Exhibit 3.1.A to our Registration Statement on Form 10SB-12G, filed with the SEC on February 15, 2000 (File No. 000-29507))  |
| 3.2     | Certificate of Merger, filed May 2, 2005 (Incorporated by reference to Exhibit 2.1 filed with our Quarterly Report on Form 10-Q, filed with the SEC on August 15, 2011)   |
| 3.3     | Certificate of Amendment, filed July 16, 2008 (Incorporated by reference to Exhibit 3.1 filed with our Registration Statement on Form S-1/A (Registration No. 333-178307), filed with the SEC on February 3, 2012)  |
| 3.4     | Certificate of Amendment, filed March 18, 2011 Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K, filed with the SEC on March 18, 2011)  |
| 3.5     | Certificate of Amendment, filed May 23, 2012 (Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K, filed with the SEC on May 24, 2012)   |
| 3.6     | Certificate of Amendment, filed February 3, 2014 (Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K, filed with the SEC on February 4, 2014)   |
| 3.7     | Certificate of Amendment, filed October 2, 2014 (Incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K, filed with the SEC on October 2, 2014)   |
| 3.8     | Bylaws (Incorporated by reference to Exhibit 3.II.A to our Registration Statement on Form 10SB-12G, filed with the SEC on February 15, 2000 (File No. 000-29507))   |
| 4.1     | Form of Common Stock Certificate (Incorporated by reference to Exhibit 4.1 to our Registration Statement on Form S-1 (Registration No. 333-178307), filed with the SEC on December 2, 2011)   |
| 4.2     | Form of Unit Certificate dated June 2012 (Incorporated by reference to Exhibit 4.2 to our Registration Statement on Form S-1/A (Registration No. 333-178307), filed with the SEC on May 30, 2012)   |
| 4.3     | Form of Warrant Agency Agreement dated June 2012 with Form of Warrant Certificate with \$6.50 Exercise Price (Incorporated by reference to Exhibit 4.4 to our Registration Statement on Form S-1/A (Registration No. 333-178307), filed with the SEC on May 30, 2012)         |
| 4.4     | Form of 6% Secured Subordinate Convertible Note dated August 2013 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on August 5, 2013)   |
| 4.5     | Form of Warrant for August 2013 Convertible Note with \$3.00 Exercise Price (Incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K, filed with the SEC on August 5, 2013).  |
| 4.6     | Form of Warrant for September 2013 Merger Agreement with \$5.00 Exercise Price (Incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K, filed with the SEC on October 1, 2013)   |
| 4.7     | Form of Warrant for September 2013 Subscription Agreement with \$5.00 Exercise Price (Incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K, filed with the SEC on October 10, 2013)  |
| 4.8     | Form of Warrant for November 2013 Subscription Agreement with \$5.50 and \$7.00 Exercise Price (Incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K, filed with the SEC on November 13, 2013)   |
| 4.9     | Form of Warrant for January 2015 Subscription Agreement with \$2.50 Exercise Price (Incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K/A, filed with the SEC on January 9, 2015)  |
| 10.1    | Form of Franchise Agreement between the Company and Hooters of America, LLC (Incorporated by reference to Exhibit 10.2 to our Registration Statement on Form S-1 (Registration No. 333-178307), filed with the SEC on December 2, 2011)                                       |
| 10.2*   | Chanticleer Holdings, Inc. 2014 Stock Incentive Plan effective February 3, 2014 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on February 4, 2014)   |
| 10.3    | Debt Assumption Agreements, dated July 1, 2014 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on July 3, 2014)  |
| 10.4    | Gaming Assignment, dated July 1, 2014 (Incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K, filed with the SEC on July 3, 2014)   |
| 10.5    | Asset Purchase Agreement by and between Chanticleer Holdings, Inc., The Burger Company, LLC and American Burger Morehead, LLC dated September 9, 2014 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on September 10, 2014) |



- 10.6 Asset Purchase Agreement by and between Chanticleer Holdings, Inc., Dallas Spoon, LLC and Express Working Capital, LLC d/b/a CapRock Services dated December 31, 2014 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on January 6, 2015)
- 10.7 Form of Subscription Agreement dated January 2015 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K/A, filed with the SEC on January 9, 2015)
- 10.8 Form of Note dated January 2015 (Incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K/A, filed with the SEC on January 9, 2015)
- 10.9 Form of Registration Rights Agreement dated January 2015 (Incorporated by reference to Exhibit 10.3 to our Current Report on Form 8-K/A, filed with the SEC on January 9, 2015)
- 10.10 Asset Purchase Agreement by and between Chanticleer Holdings, Inc., BGR Holdings, LLC and BGR Acquisition LLC, dated February 18, 2015 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on February 18, 2015)
- 10.11 Membership Interest Purchase Agreement dated July 31, 2015 (Incorporated by reference to exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on August 3, 2015)
- 10.12 Form of Leak Out Agreement dated September 30, 2015 (Incorporated by reference to exhibit 10.2 to our Current Report on Form 8-K, filed with the SEC on October 5, 2015)
- 10.13 Form of Securities Account Control Agreement dated September 30, 2015 (Incorporated by reference to exhibit 10.3 to our Current Report on Form 8-K, filed with the SEC on October 5, 2015)
- 10.14 Stock Pledge and Security Agreement dated September 30, 2015 (Incorporated by reference to exhibit 10.4 to our Current Report on Form 8-K, filed with the SEC on October 5, 2015)
- 10.15 Asset Purchase Agreement by and between Chanticleer Holdings, Inc., BT's Burgerjoint Management, LLC and BT Burger Acquisition, LLC dated March 31, 2015 (Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed with the SEC on March 31, 2015)
- 10.16 Amendment No. 1 to Asset Purchase Agreement by and between Chanticleer Holdings, Inc., BT's Burgerjoint Management, LLC and BT Burger Acquisition, LLC dated May 31, 2015 (incorporated by reference to Exhibit 10.7 to Amendment No. 1 to Form S-3, Registration No. 333- 203679, as filed June 3, 2015)
- 10.17 Form of Securities Purchase Agreement by and between the Company and Carl Caserta dated February 11, 2015 (Incorporated by reference to Exhibit 10.1 to our Registration Statement on Form S-3 filed with the SEC on April 27, 2015)
- 10.18 Agreement dated April 24, 2015 by and among the Company, AT Media Corp. and Aton Select Fund, Ltd. (Incorporated by reference to Exhibit 10.2 to our Registration Statement on Form S-3 filed with the SEC on April 27, 2015)
- 10.19 Registration Rights Agreement by and between the Company and Carl Caserta dated February 11, 2015 (Incorporated by reference to Exhibit 10.3 to our Registration Statement on Form S-3 filed with the SEC on April 27, 2015)
- 10.20 Membership Interest Purchase Agreement dated July 31, 2015 (incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K as filed with the SEC on August 3, 2015)
- 10.21 Form of Leak out Agreement (incorporated by reference to Exhibit 10.2 to Current Report on Form 8-K as filed with the SEC on October 5, 2015)

- 10.22 Form of Securities Account Control Agreement Form of Leak out Agreement (incorporated by reference to Exhibit 10.3 to Current Report on Form 8-K as filed with the SEC on October 5, 2015)
- 10.23 Stock Pledge and Security Agreement dated September 30, 2015 (incorporated by reference to Exhibit 10.4 to Current Report on Form 8-K as filed with the SEC on October 5, 2015)
- 10.24 Business sale agreement to purchase the assets of Hoot Campbelltown Pty Ltd and Hoot Penrith Pty Ltd for the purchase price of \$390,000 AUD dated August 12, 2015+
- 10.25 Business sale agreement to purchase the assets of Hoot Gold Coast Pty Ltd and Hoot Townsville Pty Limited dated August 12, 2015+
- 10.26 Business sale agreement to purchase the assets of Hoot Parramatta Pty Ltd dated August 13, 2015+
- 21 Subsidiaries of the Company+
- 23.1 Consent of Marcum LLP, Independent Registered Public Accounting Firm+
- 23.2 Consent of Cherry Bekaert LLP, Independent Registered Public Accounting Firm+
- 31.1 Certification of Periodic Report by Michael D. Pruitt, as Chief Executive Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002+
- 31.2 Certification of Periodic Report by Eric S. Lederer, as Chief Financial Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002+
- 32.1 Certification of Periodic Report by Michael D. Pruitt, as Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002+
- 32.2 Certification of Periodic Report by Eric S. Lederer, as Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002+
- 101 The following financial information from our Annual Report on Form 10-K for the year ended December 31, 2014, formatted in XBRL (eXtensible Business Reporting Language) includes: (i) the Consolidated Balance Sheets at December 31, 2015 and December 31, 2014, (ii) the Consolidated Statements of Operations for the years ended December 31, 2015 and December 31, 2014, (iii) the Consolidated Statements of Changes in Stockholders' Equity for the years ended December 31, 2015 and December 31, 2014, (iv) the Consolidated Statements of Cash Flows for the years ended December 31, 2015 and December 31, 2014, and (v) the Notes to the Financial Statements.

\* Denotes an executive compensation plan or agreement

+ Filed herewith

Our SEC file number reference for documents filed with the SEC pursuant to the Securities Exchange Act of 1934, as amended, is 001-35570. Prior to June 7, 2012, our SEC file number reference was 000-29507.

| <b>Name</b>                       | <b>Jurisdiction of Incorporation</b> | <b>Percent Owned</b> | <b>Name</b>                              | <b>Jurisdiction of Incorporation</b> | <b>Percent Owned</b> |
|-----------------------------------|--------------------------------------|----------------------|--|--------------------------------------|----------------------|
| <b>CHANTICLEER HOLDINGS, INC.</b> | <b>Delaware, USA</b>                 |                      |  |                                      |                      |
| <b><i>Burger Business</i></b>     |                                      |                      | <b><i>Pacific Northwest Hooters</i></b>  |                                      |                      |
| American Roadside Burgers, Inc.   | Delaware, USA                        | 100%                 | Oregon Owl's Nest, LLC                   | Oregon, USA                          | 100%                 |
| <i>ARB Stores</i>                 |                                      |                      | Jantzen Beach Wings, LLC                 | Oregon, USA                          | 100%                 |
| American Roadside McBee, LLC      | North Carolina, USA                  | 100%                 | Tacoma Wings, LLC                        | Washington, USA                      | 100%                 |
| American Burger Morehead, LLC     | North Carolina, USA                  | 100%                 |  |                                      |                      |
| American Roadside Morrison, LLC   | North Carolina, USA                  | 100%                 | <b><i>South African Hooters</i></b>      |                                      |                      |
| American Burger Ally, LLC         | North Carolina, USA                  | 100%                 | Hooters On The Buzz (Pty) Ltd            | South Africa                         | 95%                  |
| BGR Acquisition, LLC              | North Carolina, USA                  | 100%                 | Chanticleer South Africa (Pty) Ltd.      | South Africa                         | 100%                 |
| BGR Franchising, LLC              | Virginia, USA                        | 100%                 | Hooters Emperors Palace (Pty.) Ltd.      | South Africa                         | 88%                  |
| BGR Operations, LLC               | Virginia, USA                        | 100%                 | Hooters PE (Pty) Ltd                     | South Africa                         | 100%                 |
| BGR Old Town, LLC                 | Maryland, USA                        | 100%                 | Hooters Ruimsig (Pty) Ltd.               | South Africa                         | 100%                 |
| BGR Dupont, LLC                   | Virginia, USA                        | 100%                 | Hooters Umhlanga (Pty.) Ltd.             | South Africa                         | 90%                  |
| BGR Arlington, LLC                | Virginia, USA                        | 100%                 | Hooters SA (Pty) Ltd                     | South Africa                         | 78%                  |
| BGR Old Keene Mill, LLC           | Virginia, USA                        | 100%                 | Hooters Willows Crossing (Pty) Ltd       | South Africa                         | 100%                 |
| BGR Potomac, LLC                  | Maryland, USA                        | 100%                 |  |                                      |                      |
| BGR Cascades, LLC                 | Virginia, USA                        | 100%                 | <b><i>Australian Hooters</i></b>         |                                      |                      |
| BGR Washingtonian, LLC            | Maryland, USA                        | 100%                 | HOTR AUSTRALIA PTY LTD                   | Australia                            | 80%                  |
| BGR Tysons, LLC                   | Virginia, USA                        | 100%                 | HOTR CAMPBELLTOWN PTY LTD                | Australia                            | 80%                  |
| BGR Springfield Mall, LLC         | Virginia, USA                        | 100%                 | HOTR GOLD COAST PTY LTD                  | Australia                            | 80%                  |
| Capitol Burger, LLC               | Maryland, USA                        | 100%                 | HOTR PARRAMATTA PTY LTD                  | Australia                            | 80%                  |
| BT Burger Acquisition, LLC        | North Carolina, USA                  | 100%                 | HOTR PENRITH PTY LTD                     | Australia                            | 80%                  |
| BT's Burgerjoint Biltmore, LLC    | North Carolina, USA                  | 100%                 | HOTR TOWNSVILLE PTY LTD                  | Australia                            | 80%                  |
| BT's Burgerjoint Promenade, LLC   | North Carolina, USA                  | 100%                 |  |                                      |                      |
| BT's Burgerjoint Sun Valley, LLC  | North Carolina, USA                  | 100%                 | <b><i>European Hooters</i></b>           |                                      |                      |
| BT's Burgerjoint Rivergate LLC    | North Carolina, USA                  | 100%                 | Chanticleer Holdings Limited             | Jersey                               | 100%                 |
| LBB Acquisition, LLC              | North Carolina, USA                  | 100%                 | West End Wings LTD                       | United Kingdom                       | 100%                 |
| Cuarto LLC                        | Oregon, USA                          | 100%                 | Crown Restaurants Kft.                   | Hungary                              | 80%                  |
| Segundo LLC                       | Oregon, USA                          | 100%                 |  |                                      |                      |
| Noveno LLC                        | Oregon, USA                          | 100%                 | <b><i>Inactive Entities</i></b>          |                                      |                      |
| Primero LLC                       | Oregon, USA                          | 100%                 | Hooters Brazil                           | Brazil                               | 100%                 |
| Septimo LLC                       | Oregon, USA                          | 100%                 | DineOut SA Ltd.                          | England                              | 89%                  |
| Quinto LLC                        | Oregon, USA                          | 100%                 | Avenel Financial Services, LLC           | Nevada, USA                          | 100%                 |
| Octavo LLC                        | Oregon, USA                          | 100%                 | Avenel Ventures, LLC                     | Nevada, USA                          | 100%                 |
| Sexto LLC                         | Oregon, USA                          | 100%                 | Chanticleer Advisors, LLC                | Nevada, USA                          | 100%                 |
|                                   |                                      |                      | Chanticleer Investment Partners, LLC     | North Carolina, USA                  | 100%                 |
| <b><i>Just Fresh</i></b>          |                                      |                      | Dallas Spoon Beverage, LLC               | Texas, USA                           | 100%                 |
| JF Franchising Systems, LLC       | North Carolina, USA                  | 56%                  | Dallas Spoon, LLC                        | Texas, USA                           | 100%                 |
| JF Restaurants, LLC               | North Carolina, USA                  | 56%                  | Hoot Campbelltown Pty Ltd                | Australia                            | 60%                  |
|                                   |                                      |                      | Chanticleer Holdings Australia Pty, Ltd. | Australia                            | 100%                 |
|                                   |                                      |                      | Hoot Australia Pty Ltd                   | Australia                            | 60%                  |
|                                   |                                      |                      | TMIX Management Australia Pty Ltd.       | Australia                            | 60%                  |
|                                   |                                      |                      | Hoot Parramatta Pty Ltd                  | Australia                            | 60%                  |
|                                   |                                      |                      | Hoot Penrith Pty Ltd                     | Australia                            | 60%                  |
|                                   |                                      |                      | Hoot Gold Coast Pty Ltd                  | Australia                            | 60%                  |
|                                   |                                      |                      | Hoot Townsville Pty. Ltd                 | Australia                            | 60%                  |
|                                   |                                      |                      | Hoot Surfers Paradise Pty. Ltd.          | Australia                            | 60%                  |
|                                   |                                      |                      | MVLE DARLING HARBOUR PTY LTD             | Australia                            | 50%                  |
|                                   |                                      |                      | MVLE GAMING PTY LTD                      | Australia                            | 100%                 |
|                                   |                                      |                      | American Roadside Cross Hill, LLC        | North Carolina, USA                  | 100%                 |



## Business Sale Agreement Hooters NSW

The Parties Listed in Schedule 1  
(collectively the **Sellers**)

and

HOTR Australia Pty Ltd  
(**Buyer**)

and

P.C.S. Investments Pty Ltd

and

Chanticleer Holdings Inc

and

David John Frank Lombe and Neil Robert Cussen  
(**Administrators**)

Upper Ground, Trafalgar Square,  
230 Clarence Street Sydney NSW 2000  
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[www.williamjameslaw.com.au](http://www.williamjameslaw.com.au)

Liability limited by a scheme approved under Professional Standards Legislation  
Legal practitioners employed by William James Pty Ltd are members of the scheme

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**Executed as an agreement.** 44



# Business Sale Agreement

## Date

## Parties

1. **The parties listed in Schedule 1** (collectively the **Sellers**)
2. **HOTR Australia Pty Ltd ACN 608 907 097** of 8 Parramatta Road, Clyde, NSW (**Buyer**)
3. **P.C.S. Investments Pty Ltd ACN 074 130 751** of 8 Parramatta Road, Clyde, NSW (**P.C.S.**)
4. **Chanticleer Holdings Inc.** a Delaware corporation of Suite 414, 7621 Little Avenue, Charlotte, North Carolina (**Chanticleer**)
5. **David John Frank Lombe** and **Neil Robert Cussen** care of Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150 Australia in their capacity as the joint and several administrators of the Sellers (**Administrators**)

## Background

- A. The Administrators were appointed as the joint and several administrators of the Sellers, on 14 July 2015 pursuant to section 436A of the *Corporations Act 2001 (Cth)*.
- B. The Sellers have agreed to sell to the Buyer, and the Buyer has agreed to buy from the Sellers, the Assets and the Businesses on the terms of this Agreement.
- C. The Guarantors have agreed to guarantee the performance of the Buyer's obligations under this Agreement.

## Agreed terms

### 1. Definitions and interpretation

#### 1.1 Definitions

In this Agreement:

**Accounting Standards** means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of financial statements; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a);

**Accruals** means all periodic or recurring outgoings and expenses in respect of or relating to the Assets and the Businesses including (if and as applicable) rent, rates, tax(es), including gaming tax(es), electricity, gas, telephone, internet, salaries, wages, lease payments, hiring charges, employer superannuation contributions and other similar

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**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

**Business Names** mean:

- (a) the registered business name Hooters of Penrith registration number BN98629792;
- (b) the registered business name Hooters Penrith registration number BN98565849; and
- (c) the registered business name Hooters of Campbelltown registration number BN98595196;

**Business Premises** means the premises leased to the Sellers under the Leases;

**Buyer's Nominee** means the person or entity nominated by the Buyer to be the transferee of the Liquor Licences;

**Completion** means the completion of the sale and purchase of the Assets and the Businesses in accordance with clause 7;

**Completion Date** means the date on which Completion occurs;

**Condition Precedent** means the condition precedent set out in clause 5.1;

**Confidential Information** means:

- (a) the terms of this Agreement and its subject matter, including Information submitted or disclosed by a party during negotiations, discussions and meetings relating to this Agreement;
- (b) Information that at the time of disclosure by a Disclosing Party is identified to the Receiving Party as being confidential; and
- (c) all other Information belonging or relating to a Disclosing Party, or any Related Entity of that Disclosing Party, that is not generally available to the public at the time of disclosure other than by reason of a breach of this Agreement or which the Receiving Party knows, or ought reasonably to be expected to know, is confidential to that Disclosing Party or any Related Entity of that Disclosing Party;

**Controller** means, in relation to a person:

- (a) a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) of that person or that person's property or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity; or
- (b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that person's property to enforce an Encumbrance;

**Corporations Act** means the *Corporations Act 2001 (Cth)*;

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**Date for Completion** means the date that Completion is to occur as set out in clause 8.1 or such other date agreed by the Sellers and the Buyer in writing;

**Deed of Consent** means a deed of consent to assignment of each Lease in a form acceptable to the Landlord and otherwise on terms and conditions acceptable to the Seller and the Buyer acting reasonably;

**Deposit** means the sum of \$39,000.00;

**Disclosing Party** means the party to whom Information belongs or relates;

**Dispose**, in relation to an Asset, means to sell, transfer, assign, surrender, convey, lease, licence or otherwise dispose of any legal, equitable or economic interest in the Asset or declare any trust in respect of it;

**Employees** means the employees of the Sellers who are providing services to the Businesses;

**Employee Entitlements** means all unpaid amounts and benefits to which each Employee is entitled by Law or under an award, enterprise agreement, industrial instrument or other agreement or arrangement, in respect of salaries, wages, allowances, commission, bonuses, and any other rights and benefits accrued or arising in respect of each Employee for the period of their service in the relevant Business (or any predecessor of the relevant Seller in any part of the Business) including in relation to the termination of their service in the Business (including notice and redundancy payments), but excludes any Leave Entitlement;

**Encumbrance** means:

- (a) any:
  - (i) legal or equitable interest or power created, arising in or reserved in or over an interest in any property or asset; or
  - (ii) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or retention of title arrangement, right of set-off, assignment of income, garnishee order, monetary claim or flawed asset arrangement);
- (b) any thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons with respect to any property or asset,
- (c) a security interest as defined in the PPSA; or
- (d) any agreement or arrangement (whether legally binding or not) to grant or create anything referred to in paragraph (a), (b) or (c);

**Excluded Assets** means any right, title or interest of a Seller in:

- (a) any cash at bank, on hand or on deposit as at the Completion Date;
  - (b) the assets listed in Part 2 of Schedule 2;
  - (c) the Book Debts;
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- (d) any cause of action or claim, in each case including any proceeds;
- (e) any insurance policy including any proceeds;
- (f) the Excluded Records;
- (g) any bank guarantee, security deposit or other lease security provided by the Sellers to any Landlord; and
- (h) any other asset or right of the Sellers not expressly listed in the definition of "Assets";

**Excluded Records** means any Record which:

- (a) does not relate exclusively to the Businesses and which the relevant Seller must retain to carry on any other business it carries on;
- (b) the Sellers or the Administrators are required to retain for the purposes of the administration or other external administration of the Sellers; or
- (c) the Sellers or the Administrators must retain by Law;

**Expert** means a person:

- (a) having appropriate qualifications and experience relevant to determining the dispute or disagreement in question;
- (b) who is agreed by the parties or, failing agreement within [5] Business Days, is nominated at the request of any party by Australian Commercial Disputes Centre (**ACDC**) in accordance with the ACDC Rules for Expert Determination; and
- (c) who does not act, or whose firm does not act, generally for any party;

**Firm** means Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150;

**Franchise Agreements** means the agreements or rights pursuant to which the Sellers use and operate the Businesses as part of the "Hooters" franchise system;

**Goodwill** means the goodwill of the Businesses arising from the conduct of the Businesses by the Sellers before Completion, including the Buyer's right to represent itself on and from Completion as carrying on the Businesses as the successor of the Sellers;

**Government Agency** means any government or any public, statutory, governmental (including a local government), semi-governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

**GST** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999*;

**Guarantors** means P.C.S. and Chanticleer;

**Information** means any information, whether oral, graphic, electronic, written or in any other form, including:

- (a) forms, memoranda, letters, specifications, processes, procedures, statements, formulae, technology, inventions, trade secrets, research and development information, know how, designs, plans, photographs, microfiche, business records, notes, accounting procedures or financial information, sales and marketing information, names and details of customers, suppliers and agents, employee details, reports, drawings and data;
- (b) copies and extracts made of or from that information and data, whether translated from the original form, recompiled, partially copied, modified, updated or otherwise altered; and
- (c) samples or specimens (if any) disclosed either before or after execution of this Agreement;

**Insolvency Event** means, in respect of a party, any one or more of the following events or circumstances:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration, bankruptcy or becoming an insolvent under administration (as defined in section 9 of the Corporations Act);
- (b) having a Controller or analogous person appointed to it or any of its property;
- (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other Law;
- (d) seeking protection from its creditors under any Law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any Law;

unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the other parties (which approval is not to be unreasonably withheld or delayed);

**Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing, including:

- (a) patents, inventions, designs, copyright, trade marks, brand names, product names, domain names, rights in circuit layouts, plant breeder's rights, know how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
- (b) any application or right to apply for registration of any of these rights;
- (c) any registration of any of those rights or any registration of any application referred to in paragraph (b); and
- (d) all renewals and extensions of these rights;

**Landlord** means the current lessor of each of the Business Premises;

**Law means:**

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations, orders or by-laws of the Commonwealth of Australia, any State or Territory of the Commonwealth of Australia or a Government Agency;
- (c) requirements and approvals (including conditions) of the Commonwealth of Australia, any State or Territory of the Commonwealth of Australia or a Government Agency that have the force of law; and
- (d) laws and rules applying to a United States public reporting company traded on a NASDAQ;

**Lease means:**

- (a) registered lease AG302711; and
- (b) registered lease AJ234197;

**Leave Entitlement** means an Employee's entitlement due by Law or under any award, enterprise agreement, industrial instrument or other agreement or arrangement, for long service leave, personal leave or annual leave or leave loading or any of them which has accrued in respect of the period of their service in the relevant Business (or any predecessor of the relevant Seller in any part of the Business) but which has not yet been taken and remains unpaid;

**Liability** includes all liabilities, losses, damages, costs, interest, fees, penalties, fines, assessments, forfeiture and expenses of whatever description (whether actual, contingent or prospective);

**Liquor Licences means:**

- (a) on-premises liquor licence with licence number LIQO624012571; and
- (b) on-premises liquor licence with licence number LIQO624004791,

issued by the New South Wales Independent Liquor and Gaming Authority;

**Liquor Licence Transfer** means, in respect of each of the Liquor Licences, an Application Form AM0320 Liquor Licence Transfer to be completed and executed in accordance with the provisions of the *Liquor Act 2007 (NSW)*, the *Liquor Regulation 2008 (NSW)* and current requirements of the New South Wales Independent Liquor and Gaming Authority and the Law;

**Loss or Claim means, in relation to any person:**

- (a) a damage, loss, cost (including legal costs on a full indemnity basis), expense, penalty, fine, forfeiture or liability incurred or suffered by the person; or
- (b) a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment or award made against the person,

however arising and whether present or future, fixed or unascertained, actual or contingent, based in contract, tort, equity or statute and whether involving a Third Party or a party to this Agreement or otherwise;

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**New Lease** means a lease of the Business Premises between the Landlord (as lessor) and the Buyer (as lessee) commencing on and from Completion on terms and conditions no less favourable than the relevant Lease.

**Notice to Complete** has the meaning given in clause 6;

**Plant and Equipment** means all the plant, equipment (including computer equipment), machinery, furniture, fixtures and fittings owned by each Seller in connection with the relevant Business and located at the relevant Business Premises, including each item set out in Part 1 of Schedule 1;

**PPSA** means the *Personal Property Securities Act 2009 (Cth)*;

**PPSA Security Interest** means a security interest as defined in the PPSA;

**PPS Law** means the PPSA and any amendment made at any time to any other law as a consequence of the PPSA and any regulations issued in respect of the PPSA;

**Prepayments** means all periodic or recurring outgoings and expenses in respect of or relating to the Assets and the Businesses including (if and as applicable) rent, rates, tax(es), including gaming tax(es), electricity, gas, telephone, internet, salaries, wages, lease payments, hiring charges, employer superannuation contributions and other similar amounts paid by the Sellers as at the Completion Date but only to the extent they relate to the period on or after the Completion Date;

**Prescribed Rate** means the rate of 10% per annum;

**Purchase Price** means the sum of \$390,000.00 (which includes the Deposit) and taking into account any adjustments to the Purchase Price under this Agreement;

**Receiver** means Schon Gregory Condon of Condon Associates purportedly appointed by Minmxt Pty Ltd to the assets and undertakings of the Sellers;

**Receiving Party** means the party to whom Information is disclosed or who possesses or otherwise acquires Information belonging or relating to a Disclosing Party;

**Records** means all of the Sellers' original or copy records, sale brochures and catalogues, sale and purchasing records, lists of clients, suppliers and customers, documents, books, files, reports, correspondence, accounts, financial records, trading records, employment records, plans and all other material relating to or used in connection with the Assets or the Businesses (whether in written, electronic or other form);

**Related Body Corporate** has the meaning given to that term in the Corporations Act;

**Related Entity** has the meaning given to that term in the Corporations Act;

**Relevant Items** means each of:

- (a) the Business Premises;
  - (b) the Leases;
  - (c) the Franchise Agreements;
  - (d) the Liquor Licences;
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- (e) any other contract, document or arrangement that is, or is to be, assigned, novated or transferred to the Buyer under or in connection with this Agreement;

**Retail Law** means the *Retail Leases Act 1994* (NSW);

**Specified Exceptions** means the clauses, matters and things referred to in clause 5.4(b);

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above but excludes any goods and services tax;

**Stock** means all inventory owned by the Sellers, located at the Business Premises and used or intended for use in connection with the Businesses as at close of business on the day before the Date for Completion, including all stocks of food, alcoholic, non-alcoholic beverages and merchandise, and including goods in transit, goods on consignment with a Third Party and stock ordered and paid for by the Sellers but not received by close of business on the day before the Date for Completion and all other general stock of a bar or restaurant used or intended for use in connection with the Businesses;

**Sunset Date** means, subject to any extension under clause 5.5 of this Agreement, the date that is 60 days after the Agreement Date or such other date as the Sellers and the Buyer agree in writing;

**Surrender** means a surrender of a Lease on terms and conditions acceptable to the Seller, acting reasonably.

**Tax, Taxes or Taxation** means all forms of present and future taxes, excise, stamp or other duties, imposts, deductions, charges, withholdings, rates, levies or other governmental impositions imposed, assessed or charged by any Government Agency, together with all interest, penalties, fines, expenses and other additional statutory charges relating to any of them, imposed or withheld by a Government Agency;

**Tax Law** means any Law relating to Tax;

**Third Party** means a person who is not a party to this Agreement;

**Transaction** means any transaction contemplated by or in connection with any Transaction Document;

**Transaction Documents** means:

- (a) this Agreement;
  - (b) the Deed of Consent, or the New Lease and Surrender (where clause 12 applies);
  - (c) any document or agreement that the parties agree in writing is to be a Transaction Document for the purposes of this Agreement;
  - (d) any document or written agreement that is entered into under or related to any of the above; and
  - (e) any written undertaking by or to a party or its lawyers that is given under or related to any of the above; and
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**Transferring Employee** means an Employee who before Completion accepts the Buyer's offer of employment referred to in clause 14.

## 1.2 Interpretation

In this Agreement, headings are used for convenience only and do not affect the interpretation of this Agreement and unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a document includes the document as modified from time to time and any document replacing it;
- (e) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (f) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (g) the word "month" means calendar month and the word "year" means 12 months;
- (h) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (i) a reference to a thing includes a part of that thing;
- (j) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (k) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)";
- (l) money amounts are stated in Australian currency unless otherwise specified; and
- (m) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (defunct body), means the agency or body that performs most closely the functions of the defunct body.

## 2. Agreement to buy and sell Assets and the Businesses

### 2.1 Sale and purchase

On and subject to the terms of this Agreement, the Sellers agree to sell and the Buyer agrees to purchase such right, title and interest as the Sellers may have in the Assets and the Businesses at Completion for the Purchase Price and on the other terms of this Agreement.

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## **2.2 Title and risk**

The title to and the risk of the Assets and the Businesses in clause 2.1 passes from the Sellers to the Buyer on and from Completion.

## **2.3 Items excluded from sale**

In respect of any customer contracts for electricity, gas, telephone, internet or any other services or assets provided by Third Parties which are not stated to form part of the Assets, the Buyer must, if it wishes to retain the use of those items, assets or services (as applicable) in connection with the Businesses, make its own arrangements with the Third Parties that own or supplied those items, assets or services (as applicable) to the Sellers and the Sellers makes no warranty or representation about the Buyer's ability to enter into agreements with or negotiate such arrangements with the relevant Third Parties.

## **3. Purchase Price**

### **3.1 Payment of the Purchase Price**

In consideration of the Sellers agreeing to sell the Assets and the Businesses to the Buyer, the Buyer must pay the Purchase Price as follows:

- (a) by payment of the Deposit to the Sellers on the Agreement Date in accordance with clause 3.2; and
- (b) by payment of the balance of the Purchase Price to the Sellers on Completion, subject to any adjustments under this Agreement.

### **3.2 Deposit**

- (a) The Buyer must pay the Deposit to the Sellers immediately on signing this Agreement.
- (b) The Sellers may (but is not obliged to) invest the Deposit.
- (c) The Sellers must hold and apply the Deposit in accordance with this Agreement.
- (d) On Completion the Deposit and any accrued interest will vest in the Sellers absolutely.

### **3.3 No Completion – Deposit**

- (a) The Buyer agrees that, if Completion does not occur, the Deposit paid to the Sellers by the Buyer under clause 3.2 is to be applied in accordance with this clause 3.3.
  - (b) If Completion does not occur on or before the Sunset Date in circumstances where the Buyer and the Guarantors are not in breach of any of its obligations under the Transaction Documents, then the Sellers must pay the Deposit plus any accrued interest (if any) to the Buyer, which will vest in the Buyer absolutely.
  - (c) If this Agreement is lawfully rescinded or terminated then, in addition to any other rights, powers or remedies provided by law:
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- (i) each party is released from its obligations under this agreement other than the obligations set out in clause 5.4(b); and
  - (ii) each party retains the rights it has against any other party in connection with any breach or claim that has arisen before rescission or termination.
- (d) For the avoidance of doubt, if Completion does not occur on or before the Sunset Date in circumstances (including as a result of the termination of this Agreement) where the Buyer or the Guarantors breach of any of its obligations under the Transaction Documents, the Deposit plus any accrued interest will vest in the Sellers absolutely, time being of the essence.

### 3.4 Apportionment of Purchase Price

The Purchase Price is apportioned as follows:

| Asset                                 | Purchase Price apportionment |
|---------------------------------------|------------------------------|
| Stock                                 | \$30,000.00                  |
| the remaining Assets other than Stock | \$360,000.00                 |

### 3.5 Manner of payment

All payments of any nature to or for the benefit of the Sellers under this Agreement must be made by bank cheque, electronic transfer to an account or accounts nominated by the Sellers or the Administrators or otherwise in cleared funds.

## 4. Period before Completion

- (a) In the period between the Agreement Date and the Completion Date, the Sellers must:
- (i) not Dispose of any Assets other than in the ordinary course of business;
  - (ii) not acquire an asset other than in the ordinary course of business;
- except with the Buyer's prior written consent.
- (b) The Sellers are not required to undertake any acts or obligations that would not normally be undertaken by an administrator trading the Businesses as agent for the relevant Seller with a view to selling it as a going concern. For the avoidance of doubt nothing in this Agreement required the Sellers of the Administrators to continue trading the Businesses.

## 5. Condition precedent to Completion

### 5.1 Condition precedent

Completion is conditional on each Landlord either:

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- (a) entering into a Deed of Consent consenting to the assignment of the relevant Lease from the relevant Seller to the Buyer and where the relevant Seller obtains the removal of Caveats AJ674051 and AJ674046; or
- (b) granting a New Lease and Surrender.

## 5.2 Duties in relation to Condition Precedent

The Buyer and the Sellers must, in relation to the Condition Precedent:

- (a) use their best endeavours to ensure that the Condition Precedent is fulfilled as soon as possible;
- (b) keep the other parties informed of any circumstances which may result in a Condition Precedent not being, or becoming incapable of being, fulfilled;
- (c) not take any action that would, or would be likely to, prevent or hinder the fulfilment of any Condition Precedent; and
- (d) promptly notify the other parties in writing if it becomes aware that a Condition Precedent has been fulfilled or has become incapable of being fulfilled.

## 5.3 Waiver

The Condition Precedent may only be waived if the Sellers, the Administrators and the Buyer agree in writing.

## 5.4 Failure of Condition

- (a) The Sellers or the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement at any time after the Sunset Date by giving written notice to each other party at any time before Completion if:
    - (i) a Condition Precedent is not fulfilled or waived before 5pm (AEST) on the Sunset Date;
    - (ii) a Condition Precedent having been fulfilled, that Condition Precedent does not remain fulfilled in all respects at all times until Completion; or
    - (iii) Completion has not occurred by 5pm (AEST) on the Sunset Date.
  - (b) On termination under this clause, each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights):
    - (i) under clause 3.3 (No Completion - Deposit);
    - (ii) under clause 18 (Confidentiality);
    - (iii) under clause 20 (Administrators' capacity and liability);
    - (iv) under clause 23 (Guarantee and Indemnity);
    - (v) under clause 25 (Goods and services tax (GST));
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- (vi) under clause 27.12 (Duty); and
- (vii) in connection with any Loss or Claim of the Sellers or the Administrators that arose before termination.

## 5.5 Sellers' Rights if Prevented from Completion

- (a) If any Seller or the Administrators are:
  - (i) restrained or prevented from completing this Agreement by injunction, court proceedings, any enforcement action by a secured creditor, claims by Third Parties, caveat, requisition or otherwise;
  - (ii) unable to secure the removal of the Receiver (either by retirement, court order or otherwise);
  - (iii) unable to obtain the consent of the Receiver to the sale pursuant to this Agreement; or
  - (iv) unable to obtain court orders otherwise approving the sale pursuant to this Agreement,

(each an **Impediment**), the Sellers may (but are not obliged) to do any or all of the following:

  - (A) delay Completion until the Impediment is removed, in which case Completion shall occur at the time and place referred to in clause 8.1 on the day that is 2 Business Days following written notice from the Seller or the Administrators that the Impediment has been removed;
  - (B) on or prior to the Sunset Date, extend the Sunset Date to a date which is up to 60 days after the Sunset Date (**Extended Sunset Date**) by notice to the Buyer; or
  - (C) if after exercising its rights under clause 5.5(a)(iv)(B) the Sellers or the Administrators determine in their absolute discretion that they are unable to remove the Impediment, terminate this Agreement by notice in writing to the Buyer.
- (b) The Buyer will have no claim against the Sellers or the Administrators in respect of any delay in Completion or termination of this Agreement caused by the Sellers or the Administrators exercising their rights under clause 5.5(a) and will not be entitled to take any action against the Sellers or the Administrators to complete this Agreement prior to removal of the Impediment except as provided for in clause 5.5(c).
- (c) If the Sellers:
  - (i) are unable to procure the removal of the Impediment; or
  - (ii) fails to serve on the Buyer notice confirming the removal of the Impediment,

by the Extended Sunset Date, then the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement by serving a notice of termination on the other parties.

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- (d) If this Agreement is terminated under this clause, then each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions.

## 6. Notice to Complete

- (a) If Completion has not been effected on or before the date contemplated in clause 8.1 any party, not being in default under this Agreement, may give to the other fourteen (14) days notice in writing (**Notice to Complete**) to complete and making time of the essence of this Agreement. The party to whom such notice is given will not be entitled to object to the sufficiency or adequacy of the period of such notice.
- (b) If the Buyer does not comply with a Notice to Complete then the Sellers or Administrators may, by notice in writing served upon the Buyer, either:
  - (i) terminate this Agreement and seek damages against the Buyer and/or the Guarantors; and/or
  - (ii) enforce against the Buyer and/or the Guarantors, without further notice, any other rights and remedies available to the Sellers.
- (c) If the Sellers do not comply with a Notice to Complete within fourteen (14) days, the Buyer may, by notice in writing served upon the Sellers or Administrators, terminate this Agreement whereupon the deposit will be immediately returned to the Buyer.

## 7. Liquor Licence

### 7.1 Liquor Licence Transfer

- (a) On the Agreement Date, the Buyer must advise the Sellers or the Administrators in writing of the name and address of the Buyer's Nominee.
  - (b) Within 3 Business Days after the Agreement Date, the Buyer must deliver to the Seller:
    - (i) a Liquor Licence Transfer in relation to each of the Liquor Licences which has been completed and executed by the Buyer's Nominee as proposed transferee and proposed business owner of the Liquor Licence;
    - (ii) all documents required to be lodged with the Liquor Licence Transfer and which are necessary for the successful completion and lodgement of the Liquor Licence Transfer; and
    - (iii) subject to clause 7.1(c), a cheque payable to 'Office of Liquor, Gaming & Racing' in respect of any prescribed application fee payable in relation to the Liquor Licence Transfer.
  - (c) The Buyer shall not be required to deliver a cheque in accordance with clause 7.1(b)(iii) if valid and complete credit card details are provided in the Liquor Licence Transfer.
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- (d) As soon as reasonably practicable after receiving the documents in accordance with clause 7.1(b), the Seller, as current licensee, must execute the Liquor Licence Transfer.
- (e) Subject to receiving the documents in accordance with clause 7.1(b), the Sellers must, not less than 3 Business Days prior to the Completion Date, lodge with the Office of Liquor Gaming and Racing, the documents received from the Buyer under clause 7.1(b).
- (f) The Buyer authorises the Sellers to make all necessary enquiries as to the progress of the Liquor Licence Transfer. The Buyer must immediately provide all necessary or further information requested by the Seller to allow the Liquor Licence Transfer to be granted provisional approval on the Completion Date.
- (g) The Buyer agrees to do all things reasonably within the power of the Buyer to cause the Liquor Licence Transfer to be granted and if any submission against its approval is lodged, to lodge its own submission to contest any such submission.
- (h) The Sellers reserve the right to lodge its own submission in support of the Liquor Licence Transfer.
- (i) The Buyer must pay any duty (including related interest or penalties) payable on the Liquor Licence Transfer under the *Duties Act 1997 (NSW)*.

## 7.2 Liquor Licence Transfer refusal

- (a) If the Liquor Licence Transfer is refused by the Independent Liquor and Gaming Authority, due in whole or in part to an objection to:
  - (i) the Buyer's Nominee, then another nominee must be nominated by the Buyer and the Buyer must provide the Sellers with the documents required under clause 7.1(b), modified as necessary to reflect the new nominee; or
  - (ii) the manager, then another manager will be nominated by the Buyer and the Buyer will provide the documents required under clause 7.1(b), modified as necessary to reflect the new manager.
- (b) The Buyer indemnifies the Sellers and the Administrators in respect of, and must pay upon request, all costs and expenses incurred by the Sellers or the Administrators in respect of the unsuccessful Liquor Licence Transfer if the Liquor Licence Transfer is refused for the reasons referred to in clause 7.2(a).

## 7.3 If Completion does not occur

- (a) If the Liquor Licence is granted provisional approval, but Completion does not occur:
    - (i) the Sellers may withdraw all documentation lodged with the Independent Liquor and Gaming Authority in relation to the Liquor Licence Transfer and the Liquor Licence Transfer will be taken to have not occurred; or
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- (ii) if the Sellers are unable to withdraw the Liquor Licence Transfer in accordance with clause 7.3(a)(i), the Buyer undertakes to immediately re-transfer the Liquor Licence granted to the Buyer's Nominee (or relevant replacement) back to the Seller or a person to be nominated in writing by the Sellers, at the Buyer's own expense.
- (b) During the period it takes for the Liquor Licence to be re-transferred in accordance with clause 7.3(a)(ii), the Buyer must only deal with the Liquor Licence as directed by the Sellers or the Administrators.

## **8. Completion**

### **8.1 Time and place**

Subject to clause 5.5, Completion must take place at the office of William James, Upper Ground Floor, Trafalgar Square, 230 Clarence Street, Sydney at 10am 2 Business Days after the satisfaction of the Condition Precedent or such other time or place agreed by the parties in writing.

### **8.2 Seller's obligations at Completion**

At Completion, the Sellers must:

- (a) make available to the Buyer for collection, such of the Assets capable of passing by delivery, at the respective places where they are located;
- (b) to the extent that they are available at Completion, deliver to the Buyer the original Records (other than the Excluded Records) in relation to the Assets and the Businesses; and
- (c) provide a consent to transfer number reference provided by ASIC for the Business Names that will entitle the Purchaser to register the Business Names after Completion,

provided that the Sellers shall not be obliged to do so unless and until the Buyer has complied with its obligations under clause 8.3(a) concerning payment of the balance of the Purchase Price.

### **8.3 Buyer's obligations at Completion**

At Completion the Buyer must:

- (a) pay the Purchase Price or that part of the Purchase Price as is required to be paid at Completion to the Sellers in accordance with clauses 3.1 and 10.2, subject to any adjustments under this Agreement;
  - (b) take possession of each Asset;
  - (c) accept all the documents and other items specified in clause 8.2 which the Sellers give the Buyer under that clause; and
  - (d) do all other acts and execute all other documents that this Agreement requires the Buyer to do or execute at Completion.
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## **9. Adjustments to the Purchase Price**

### **9.1 Sellers to provide statement**

On the day before Completion, the Sellers must provide to the Buyer a written statement setting out:

- (a) the amount of all Accruals and Prepayments; and
- (b) any amount to be paid by either the Buyer or the Sellers to the other of them, under clause 9.2.

### **9.2 Difference between Accruals and Prepayments**

If:

- (a) Prepayments exceed Accruals, the Buyer must pay an amount equal to the difference to the Sellers; or
- (b) Accruals exceed Prepayments, the Sellers must pay an amount equal to the difference to the Buyer,

in accordance with clause 10.2, as an adjustment to the Purchase Price.

## **10. Final payment**

### **10.1 Final payment certificate**

On or before the Completion Date, the Sellers must prepare and deliver to the Buyer a final payment certificate (**Final Payment Certificate**) setting out the balance of the Purchase Price payable by the Buyer, after taking into account:

- (a) any payments already made or to be made by the Buyer on Completion under this Agreement;
- (b) any amounts owed by the Buyer or the Guarantors under any Transaction Document, which for the avoidance of doubt the parties agree shall be treated as an increase to the Purchase Price;
- (c) amounts payable by either the Buyer or the Sellers under clause 9.2; and
- (d) any security deposits provided by the Sellers under any contract, document or arrangement that is being assigned, novated or transferred to the Buyer under or in connection with this Agreement where that security deposit has not been refunded to the Sellers and is being held for the benefit of the Buyer as at Completion (which amounts are to be taken as an increase in the Purchase Price).

### **10.2 Payment of balance of Purchase Price**

Subject to clause 10.3 on Completion the Buyer must pay to the Sellers the balance of the Purchase Price set out in the Final Payment Certificate.

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### 10.3 Disputes over value of Adjustments

If the Buyer, acting in good faith, disagrees with the statement delivered under clause 9.1 or the Final Payment Certificate delivered under clause 10.1 and the parties cannot reach agreement by the Completion Date, then:

- (a) on Completion, the Buyer must pay to the Sellers the balance of the Purchase Price set out in the Final Payment Certificate;
- (b) the Buyer and the Sellers must use their reasonable endeavours to reach agreement as soon as possible;
- (c) if the Buyer and the Sellers are unable to reach agreement within 5 Business Days after Completion, the Buyer and the Sellers must refer the disagreement to an Expert for determination under clauses 10.4 to 10.7 (inclusive); and
- (d) the Buyer and the Sellers must, within 5 Business Days after receipt of the Expert's determination, account to each other, as appropriate, in accordance with the Expert's determination.

### 10.4 Role of Expert

The Expert acts as an expert and not as an arbitrator. The parties must accept the determination of the Expert as final and binding, except in the case of manifest error.

### 10.5 Process

The Expert:

- (a) must conduct its determination in accordance with the ACDC Rules for Expert Determination, which Rules are taken to be incorporated into this Agreement;
- (b) may proceed in the manner the Expert thinks most appropriate and is not bound to follow the rules of natural justice or the rules of evidence;
- (c) must take into account all information and submissions provided to the Expert by the parties relating to the matter to be determined;
- (d) must determine the matter in a manner that has regard to, and is consistent with, the terms of this Agreement; and
- (e) must promptly give each of the parties a written determination that includes the reasons for the determination.

### 10.6 Information

The Sellers and the Buyer must:

- (a) give the Expert access to any records that are relevant to the matter to be determined;
  - (b) use reasonable endeavours to make available to the Expert all information relevant to the dispute and which the Expert reasonably requires in order to resolve the dispute; and
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- (c) provide to the Expert any other assistance reasonably requested by the Expert.

#### **10.7 Costs**

Each party must pay its own costs of complying with clauses 10.4 to 10.7 (inclusive). Unless the Expert otherwise determines, having regard to all the circumstances, the costs of the Expert and any other costs must be shared equally by the parties.

### **11. Lease Agreement**

#### **11.1 Election**

- (a) The Buyer may elect to:
  - (i) take an assignment of the Leases; or
  - (ii) if the relevant Landlord agrees, take a new lease of the Premises from the Landlord.

by giving the Sellers written notice of its election within 5 Business Days after the Agreement Date.
- (b) If the Buyer does not give a notice under clause 11.1(a) then it is deemed to have made an election to take an assignment of the Leases.

#### **11.2 Sale subject to Lease**

The Buyer accepts the Leases (or the New Lease, if the Tenant makes an election under clause 11.1(a)(ii)).

#### **11.3 Landlord's costs**

- (a) Despite any other clause in this Agreement, or any Lease, the Buyer is responsible for and must pay to the Landlord or reimburse to the Sellers any costs charged by the Landlord, including costs incurred for:
    - (i) drafting, negotiating and finalising a Deed of Consent or the New Lease and Surrender;
    - (ii) approving the Buyer;
    - (iii) obtaining any consents the Landlord must get before giving any approvals; and
    - (iv) any other document concerning the assignment of the Lease or the New Lease and Surrender.
  - (b) The Buyer is responsible for any registration fees and stamp duty payable in connection with either:
    - (i) the assignment of the Lease; or
    - (ii) the New Lease and the Surrender (where an election is made under clause 11.1(a)(ii)).
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**11.4 Sellers' Costs**

The Sellers are responsible for their own costs of any Assignment and Surrender of the Leases.

**12. Surrender of Lease and New Lease****12.1 Applicability**

This clause 12 only applies if the Buyer elects to take a New Lease under clause 11.1(a)(ii).

**12.2 Sellers' obligations**

The relevant Seller must use all reasonable endeavours to procure a Surrender on and from Completion.

**12.3 Buyer's obligations**

The Buyer must use all reasonable endeavours to procure that the Landlord enters into a New Lease commencing from Completion and gives a Surrender effective on Completion, including by:

- (a) providing all financial information required by the Landlord;
- (b) providing all information required by the Landlord in relation to the Buyer's retailing skills;
- (c) providing the Landlord with any bank guarantee, security deposit, guarantee or indemnity or other security that the Landlord reasonably requires with respect to the performance of its obligations as lessee under the New Lease;
- (d) providing any other information or documentation or comfort the Landlord may reasonably require under the New Lease;
- (e) by providing such information and documents as the Landlord may require from time to time under the Retail Law; and
- (f) if the Buyer is required to provide any other document or information to any person under the Retail Law or any other relevant retail leases legislation, providing such document or information within the time permitted under that legislation.

**12.4 If Landlord refuses to enter into New Lease**

If the Landlord refuses to enter into the New Lease and/or the Surrender, then the parties agree that the Buyer will elect to take an assignment of the Lease.

**13. Assignment of Lease****13.1 Applicability**

This clause 13 only applies if the Buyer elects to take an assignment of the Lease under clause 11.1(a)(i) or is deemed to have elected to do so under clause 11.1(b) or clause 12.4.

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### **13.2 Seller's obligations**

On and from the Agreement Date, if the Landlord requires the Buyer and the Sellers to enter into a deed as a condition of giving its consent to the assignment of the Lease, then the Sellers must use all reasonable endeavours to procure that the Landlord enters into the Deed of Consent before the Sunset Date.

### **13.3 Buyer's obligations**

The Buyer must provide all reasonable assistance that the Sellers reasonably require (at the Buyer's cost) to procure the Landlord's consent to the assignment of the Lease in accordance with the requirements of the Lease, including:

- (a) providing all financial information required by the Landlord;
- (b) providing all information required by the Landlord in relation to the Buyer's retailing skills;
- (c) entering into a Deed of Consent, if required by the Landlord;
- (d) acknowledging that it will observe and perform the lessee's covenants in the Lease;
- (e) providing the Landlord with any bank guarantee, security deposit, guarantee or indemnity or other security that the Landlord reasonably requires with respect to the performance of its obligations as lessee under the Lease;
- (f) providing any other information or documentation or comfort the Landlord may reasonably require under the Lease;
- (g) by providing such information and documents as the Landlord may require from time to time under the Retail Law; and
- (h) if the Buyer is required to provide any other document or information to any person under the Retail Law or any other relevant retail leases legislation, providing such document or information within the time permitted under that legislation;

### **13.4 Transfer**

- (a) The Buyer must properly execute and stamp any necessary transfer of lease form and ensure that the transfer of lease form is lodged with the relevant land titles office promptly after Completion and use all reasonable endeavours to obtain registration of the transfer of lease form, at the sole cost of the Buyer.
- (b) The Buyer must provide the Sellers with evidence of registration of the transfer of lease form no later than the date that is 1 month after Completion.

## **14. Employees**

### **14.1 Offer of employment**

- (a) On or as soon as practicable after the Agreement Date but before the Completion Date, the Buyer may make offers of employment to the Employees provided such offers are conditional upon Completion occurring.
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- (b) The Buyer will confirm with the Administrators when the offers of employment are made to the Employees and on what terms as soon as practicable after making such offers.
- (c) The Sellers will use reasonable endeavours to encourage those Employees that are offered employment by the Buyer under clause 14.1(a) to accept the offers of employment provided to them by the Buyer.
- (d) The parties agree and acknowledge that the Employees who do not become Transferring Employees, remain the responsibility of the relevant Seller and the Buyer will have no responsibility whatsoever for any Liability relating to those employees.

#### **14.2 Terms and conditions of employment**

Each offer to the Employees must be:

- (a) conditional on Completion occurring and effective on and from Completion;
- (b) irrevocable before the day that is 2 Business Days after the Sunset Date;
- (c) conditional on the Employee resigning from his or her employment with the Seller, effective immediately before commencement of employment with the Buyer; and
- (d) otherwise, be on terms acceptable to the Sellers.

#### **14.3 Buyer's obligations**

On and from Completion, the Buyer is responsible for, and indemnifies the Sellers against all Employee Entitlements and Leave Entitlements that accrue to Transferring Employees in respect of the period on or after Completion, including all remuneration and entitlements, relating to their actual employment by the Buyer.

#### **14.4 Sellers' obligations**

At or within 10 Business Days after Completion, the Sellers must provide the Buyer with details of the superannuation fund(s) (to the extent that they are available to the Seller) to which the relevant Seller was contributing on behalf of the Transferring Employees before Completion so as to enable the Buyer to continue making contributions to those funds in accordance with applicable Laws.

### **15. Debtors and Creditors**

#### **15.1 Debts incurred prior to the Completion Date**

- (a) Subject to clause 15.2(b), the Sellers are solely responsible for all debts and Liabilities incurred before Completion in respect of the Businesses and the Assets.
  - (b) All Prepayments must be reimbursed by the Buyer to the Sellers as an adjustment to the Purchase Price in accordance with clause 9.2.
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## 15.2 Debts incurred after the Completion Date

- (a) The Buyer is solely responsible for all debts and Liabilities incurred on or after Completion in respect of the Assets and the Businesses and must indemnify and keep indemnified the Sellers and the Administrators against any Loss or Claim in relation to those debts and Liabilities.
- (b) For the avoidance of doubt, the Buyer's liability under clause 15.2(a) includes all debts and Liabilities in relation to any orders placed by the Sellers in respect of the Businesses prior to Completion for which goods or services have not yet been provided prior to Completion.
- (c) All Accruals must be paid for by the Sellers to the Buyer as an adjustment to the Purchase Price in accordance with clause 9.2.

## 15.3 Entitlement to income

- (a) The parties acknowledge and agree that the Sellers are entitled to income derived from conducting the Businesses before Completion and the Buyer is entitled to income derived from conducting the Businesses on and from Completion.
- (b) Without limiting clause 15.3(a), the Book Debts remain the property of the Sellers and after Completion the Buyer must promptly account to the Sellers in respect of any moneys received by the Buyer in part or full payment of any of the Book Debts.
- (c) The Sellers and the Buyer must keep each other regularly informed as to moneys received by either of them contrary to the principles in clauses 15.3(a) and 15.3(b).

## 16. Indemnity in relation to transferred contracts

The Buyer accepts responsibility for the performance of any contract, document, Authorisation or arrangement that is assigned or transferred to the Buyer under or in connection with this Agreement on and from the time of assignment or transfer (including any obligation for the payment of any money), but only for the period after Completion, and must indemnify and keep indemnified the Sellers and the Administrators against any Loss or Claim arising from or in connection with any breach or non-performance of any such contract, document, Authorisation or arrangement by the Buyer.

## 17. Personal Property Securities regime

### 17.1 PPSA further steps

- (a) If in the Sellers' opinion:
  - (i) any of the Transaction Documents contains or any of the Transactions creates a PPSA Security Interest for the purposes of the PPS Law; or
  - (ii) the PPS Law does or could affect the Seller's rights or obligations under or in connection with any Transaction Document,

(each a **PPSA Event**), the Sellers may, in its absolute discretion, do any of the following:



- (iii) register or give any notification in connection with any relevant PPSA Security Interest and exercise rights in connection with the PPSA Security Interest; and
  - (iv) give notice to the Buyer requiring it to do anything at its expense that the Sellers require for the purposes of the relevant PPSA Event including, but not limited to, amending any of the Transaction Documents, executing any new document or agreement, obtaining consents and supplying information.
- (b) The Buyer must comply with any notice received pursuant to clause 17.1(a) within the time stipulated in the notice.

## **17.2 Sellers' right to terminate the Agreement**

If:

- (a) any action referred to in clause 17.1 is not taken to the Sellers' satisfaction; or
- (b) despite such action the Sellers determine that its rights or obligations under or in connection with the Transactions or any of the Transaction Documents have been or will be materially adversely affected,

then the Sellers may give notice to the Buyer terminating this Agreement or any other document in connection with the Transactions and requiring:

- (c) full repayment of all outstanding monies (if any); and
- (d) the return of all of the Sellers' property within the control of the Buyer (if any),

within 10 days after the date of notification. Upon the giving of that notice, each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions or under this clause 17.2.

## **17.3 General**

- (a) The Buyer irrevocably and unconditionally waives its right to receive from the Sellers any notice under the PPS Law (including notice of a verification statement) unless required by the PPS Law and if the notice cannot be excluded.
  - (b) The Buyer must not register a PPSA Security Interest against the Sellers without their prior written consent.
  - (c) The Buyer must notify the Sellers immediately of any change in its name, address, and any other information provided to the Sellers to enable the Sellers to register a financing change statement under the PPS Law if required.
  - (d) The parties agree that the subject matter referred to in section 275(1) of the PPS Law is confidential and each party must not disclose any such information to a third party (other than their professional advisers and financiers or to enforce a right under or in connection with this Agreement).
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**17.4 Contracting out**

- (a) The following provisions of the PPS Law do not apply and, for the purposes of section 115 are "contracted out" of these terms, namely sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.
- (b) The parties agree that the Sellers have the power to retain, deal with or dispose of any property seized by it in the manner specified in sections 123, 125, 126, 128, 129 and 134(1) of the PPS Law and in any other manner it deems fit.

**17.5 Survival**

The parties agree that the provisions of this clause 17 survive any completion, expiry or termination of this Agreement.

**18. Confidentiality****18.1 Obligations of confidentiality**

- (a) The Receiving Party acknowledges that the Disclosing Party's Confidential Information is the property of and confidential to, or a trade secret of, the Disclosing Party. Subject to clause 18.2, the Receiving Party must:
  - (i) keep the Disclosing Party's Confidential Information confidential and not directly or indirectly disclose, divulge or communicate that Confidential Information to, or otherwise place that Confidential Information at the disposal of, any other person without the prior written approval of the Disclosing Party;
  - (ii) take all reasonable steps to secure and keep secure all of the Disclosing Party's Confidential Information coming into its possession or control; and
  - (iii) not memorise, use, modify, reverse engineer or make copies, notes or records of the Disclosing Party's Confidential Information for any purpose other than in connection with the performance by the Receiving Party of its obligations under this Agreement or any Law.
- (b) For the avoidance of doubt, the parties agree not to disclose the terms of this Agreement or its subject matter including, without limitation, the fact that Completion has occurred.

**18.2 Exceptions**

The obligations of confidentiality under clause 18.1 do not apply to any information that:

- (a) is generally available to the public (other than by reason of a breach of this Agreement);
  - (b) is disclosed with the prior written approval of the Disclosing Party;
  - (c) is disclosed to the Office of Liquor Gaming & Racing or the Independent Liquor and Gaming Authority in relation to the Liquor Licence Transfer;
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- (d) is disclosed to the Landlord for the purposes of satisfying the Condition Precedent;
- (e) is disclosed to a professional adviser, banker or financial adviser of the Receiving Party or to a person whose consent or approval is required under or in connection with this Agreement;
- (f) is required in order for the Administrators to comply with their obligations as administrators or liquidators of the Sellers;
- (g) Chanticleer is required to disclose to the Securities Exchange Commission under the Securities Exchange Act of 1934 and Securities Act of 1933;
- (h) is required to be disclosed by any applicable Law; or
- (i) is disclosed by a party in order to enforce any of its rights under or in connection with this Agreement.

### 18.3 Survival

The obligations imposed by this clause 18 survive any completion, expiry or termination of this Agreement.

### 19. Termination

- (a) If at any time on or before the Completion Date:
  - (i) a Condition Precedent becomes incapable of being fulfilled or has not otherwise been waived;
  - (ii) the Buyer breaches any of its obligations under the Transaction Documents; or
  - (iii) an Insolvency Event occurs in relation to the Buyer or the Guarantor,

then the Sellers or the Administrators may terminate this Agreement (without prejudice to the Seller's or the Administrators' other rights and remedies) by notice to the Buyer, whereupon the Sellers and the Administrators will be released from all of their obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (if any) under clause 3.3. For the avoidance of doubt, if an Insolvency Event occurs in relation to the Buyer or the Guarantor, the Buyer shall be deemed to have breached this Agreement.
- (b) If at any time on or before the Completion Date:
  - (i) a Condition Precedent becomes incapable of being fulfilled and it has not otherwise been waived; or
  - (ii) the Sellers breach any of their obligations under the Transaction Documents; or

then the Buyer may terminate this Agreement (without prejudice to the Buyer's other rights and remedies) by notice to the Seller, whereupon the Buyer will be

released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose.

## **20. Administrators' capacity and liability**

### **20.1 Administrators acting as agent**

- (a) All references to the Administrators in this Agreement are references to the Administrators in their capacity as administrators of the Sellers.
- (b) Each of the Buyer and the Guarantors acknowledges and agrees that:
  - (i) the Buyer is contracting with the Sellers for the purchase of the Assets and the Businesses under this Agreement and not the Administrators;
  - (ii) by entering into this Agreement, the Administrators are acting not in a personal capacity but as agents of the Sellers; and
  - (iii) any Information provided in connection with this Agreement to the Buyer by the Administrators or the Administrators' Representatives is provided on behalf of the Sellers.
- (c) If any of the Sellers enters into liquidation at any time prior to Completion, this Agreement and the Transaction Documents shall continue to operate as if references to the Administrators includes the Administrators in their capacity as liquidators of the relevant Seller.

### **20.2 No personal liability of Administrators**

For the avoidance of doubt, the parties agree that in connection with the negotiation, execution and completion of this Agreement, the Administrators are acting as the agent of the Sellers and to the maximum extent permitted by Law:

- (a) neither the Administrators nor the Administrators' Representatives are personally liable under:
    - (i) this Agreement;
    - (ii) the transactions contemplated by this Agreement;
    - (iii) any act, matter or thing arising out of or in connection with this Agreement; or
    - (iv) under any other deed, instrument or document entered into, under or in connection with this Agreement;
  - (b) any Loss or Claim the Buyer or the Guarantors may have resulting from a breach of an implied or express term of this Agreement or in connection with the Assets or the Businesses must be made solely against the relevant Seller;
  - (c) each of the Buyer and the Guarantors releases the Administrators and the Administrators' Representatives from liability to the Buyer or the Guarantors for any Loss or Claim on any ground in connection with this Agreement, the Assets or the Businesses or under any other deed, instrument or document entered into, under or in connection with this Agreement; and
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- (d) each Administrator is entitled to enforce his rights under this Agreement independently of each other Administrator.

### **20.3 Survival**

The parties agree that the provisions of this clause 20 survive any completion, expiry or termination of this Agreement.

## **21. No warranties**

### **21.1 Buyer's acknowledgments**

Each of the Buyer and the Guarantors acknowledge and agree that:

- (a) to the maximum extent permitted by Law, the Sellers and the Administrators make no statements or representations nor give any warranties in respect of the sale of the Assets and the Businesses or about the quality or condition of the Assets or the Business or the Relevant Items nor do they make or give any other representations or warranties except those expressly set out in this Agreement;
- (b) without limiting clause 21.1(a), the Sellers and the Administrators do not make any statements or representations nor give any warranties about:
- (i) the physical state, quality or condition of any of the Assets or the Businesses or the Relevant Items;
  - (ii) the standing, validity or enforceability of, or compliance by the Sellers with, any Intellectual Property Rights or the Relevant Items;
  - (iii) any rights of the Sellers (including title) in respect of the Assets or the Businesses or the Relevant Items;
  - (iv) the Assets being free of any Encumbrance;
  - (v) the value of the Assets or the Businesses or the Relevant Items;
  - (vi) the accuracy of the description of the Assets or the Businesses or the Relevant Items;
  - (vii) the purposes for which the Assets or the Businesses or the Relevant Items can legally and physically be used;
  - (viii) the ability of the Buyer to negotiate agreements with, or enter into arrangements, with any Third Party that owns or supplied:
    - (A) those items of plant and equipment listed in Part 2 of Schedule 1; or
    - (B) any customer contracts for electricity, gas, telephone, internet or any other services or assets provided by Third Parties which are not stated to form part of the Assets;
  - (ix) compliance of the Assets or the Businesses or the Relevant Items with any Laws;
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- (x) whether all licences, approvals, permits, consents, certificates or authorities required for the use of the Assets or the Businesses or the Relevant Items are held by the Seller;
  - (xi) whether the Sellers have complied with all licences, approvals, permits, consents, certificates or authorities granted in respect of any of the Assets or the Businesses or the Relevant Items;
  - (xii) whether the Sellers have complied with all obligations imposed on it by statutes, orders, regulations, industrial instruments (including enterprise agreements and modern awards) relevant to conditions of service;
  - (xiii) the profitability or financial performance of the Assets or the Businesses or the Relevant Items;
  - (xiv) the future viability or profitability of the Assets or the Businesses or the Relevant Items;
  - (xv) the truth, accuracy or completeness of any information or statements contained within any information memoranda, due diligence or other materials provided to the Buyer in relation to the state, condition or sale of the Assets or the Businesses or the Relevant Items;
  - (xvi) the fitness or suitability of the Assets or the Businesses or the Relevant Items for any purpose (including any purpose expressly or impliedly disclosed by the Buyer to the Sellers, the Administrators or the Administrators' Representatives);
  - (xvii) the suitability of the Business Premises for the Businesses or any other purpose;
  - (xviii) the fixtures and fittings at the Business Premises;
  - (xix) the likelihood of the Liquor Licence Transfer being approved;
  - (xx) the terms or conditions of any contract, document, Authorisation or arrangement to which any Seller is a party;
  - (xxi) the standing, validity or enforceability of any contract, document, Authorisation or arrangement to which any Seller is a party;
  - (xxii) the standing, validity or enforceability of any actual or proposed assignment, novation or transfer of any contract, document, Authorisation or arrangement to which any Seller is a party; or
  - (xxiii) any counterparty to any contract, document, Authorisation or arrangement to which any Seller is a party (including the landlord);
- (c) to the maximum extent permitted by Law, all warranties, representations and statements which may have been made or given by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators, whether express, implied, written or oral, other than those expressly contained in this Agreement, are excluded and the Sellers and the Administrators disclaim all liability in relation to these;
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- (d) each of the Buyer and the Guarantors do not rely on any statement, representation, warranty, condition or other conduct in relation to the Businesses or Assets or the Relevant Items which may have been made or given by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators and declares that it would have entered into this Agreement on the same terms and conditions irrespective of any such statement, representation, warranty, condition or other conduct;
- (e) the Buyer has agreed to purchase the Assets and the Businesses for a price calculated to take into account the risk to the Buyer represented by the fact that all parties believe that the exclusions and limitations contained in this Agreement would be recognised by the courts as fully effective;
- (f) each of the Buyer and the Guarantors has received independent professional advice in relation to the purchase of the Assets and the Businesses and in relation to the Relevant Items and has investigated all material matters that a reasonably prudent intending buyer of the Assets and the Businesses would investigate and has (to the extent it has had access to the Assets or Businesses or the Relevant Items) satisfied itself about anything arising from its investigation;
- (g) each of the Buyer and the Guarantor relies on its own investigations and professional advice received and does not rely on any statement, representation, assurance, warranty, condition or other conduct in relation to the Assets or the Businesses or the Relevant Items which may have:
  - (i) been made or given; or
  - (ii) failed to have been made or given,
 by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators;
- (h) each Asset and the Businesses and each Relevant Item is purchased by the Buyer as a result of the independent exercise of the Buyer's own skill and judgment after due inspection and investigation;
- (i) each Asset and the Businesses and each Relevant Item is purchased by the Buyer on an "as is where is" basis with all existing patent and latent defects and irregularities; and
- (j) the Administrators have not:
  - (i) conducted any due diligence investigation, other investigation or enquiries in relation to the Assets or the Businesses or the Relevant Items; or
  - (ii) verified, audited, examined or reviewed any information provided by the Sellers to the Buyer as to its truth, accuracy or completeness.

## 21.2 Limitations

- (a) Each of the Buyer and the Guarantors may not claim against the Sellers, the Administrators or the Administrators' Representatives for any Loss or Claim
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arising from or relating to any statement, representation, warranty, promise or agreement in connection with the sale of any of the Assets or the Businesses or the Relevant Items:

- (i) made or implied; or
- (ii) failed to have been made or given,

by the Sellers, the Administrators, the Administrators' Representatives or any representative or other person purporting to act on behalf of any of them, except to the extent that the right to make such a claim is:

- (iii) expressly set out in this Agreement; or
  - (iv) a right that by Law cannot be excluded or modified.
- (b) All warranties, conditions, promises, representations and statements which may have been made or given by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators, whether express, implied, written or oral, statutory or otherwise other than those expressly contained in this Agreement, are excluded to the maximum extent permitted by Law.
  - (c) To the maximum extent permitted by Law, each of the Buyer and the Guarantors may not object to, rescind, cancel or terminate this Agreement, in any way whatsoever delay Completion, deduct, withhold or set-off any amount from the Purchase Price or claim compensation for damages from the Sellers, because of the status of any matter described in clause 21.1.

## **22. Party as trustee**

### **22.1 Capacity**

If the Buyer or the Guarantor (**Trustee**) enters into this Agreement in the capacity as trustee of any trust (**Trust**) under any trust deed, deed of settlement or other instrument (**Trust Deed**), and whether or not any other party has notice of the Trust, then the Trustee enters into this Agreement both as trustee of the Trust and in its personal capacity.

### **22.2 Trustee's warranties**

The Trustee represents and warrants that:

- (a) it is the only trustee of the Trust and no action has been taken or is proposed to remove it as trustee of the Trust;
  - (b) the Trustee has power under the Trust Deed and, in the case of a corporation, under its constitution, to enter into and execute this Agreement and to perform the obligations imposed under this Agreement as Trustee;
  - (c) all necessary resolutions have been passed as required by the Trust Deed and, in the case of a corporate Trustee, by its constitution, in order to make this Agreement fully binding on the Trustee;
  - (d) the execution of this Agreement is for the benefit of the beneficiaries of the Trust;
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- (e) the Trustee is not, and has never been, in default under the Trust Deed;
- (f) it has a right to be fully indemnified out of the Trust assets in respect of obligations incurred by it under this Agreement and the assets of the Trust are sufficient to satisfy that right of indemnity;
- (g) there is not now, and the Trustee will not do anything by virtue of which there will be in the future, any restriction or limitation on the right of the Trustee to be indemnified out of the assets of the Trust; and
- (h) there is no material fact or circumstance relating to the assets, matters or affairs of the Trust that might, if disclosed, be expected to affect the decision of the other parties to enter into this Agreement.

### **22.3 Repetition**

The representations and warranties set out in clause 22.2 are repeated on each day from and including the Agreement Date to and including the Completion Date with reference to the facts and circumstances then subsisting.

## **23. Guarantee and indemnity**

### **23.1 Guarantee of Buyer's performance**

- (a) In consideration of the Sellers agreeing to sell the Businesses and the Assets to the Buyer on the terms of this Agreement, the Guarantors guarantee to the Sellers and the Administrators the punctual performance by the Buyer of the Buyer's obligations under this Agreement, including its obligations to pay money.
- (b) The Guarantor must:
  - (i) pay to the Sellers any amount that the Buyer fails to pay the Sellers on or by the due date for payment as prescribed by this Agreement; and
  - (ii) comply with any of the Buyer's obligations that the Buyer fails to comply with on or by the due date for compliance as prescribed by this Agreement,

whether or not demand has been made by the Sellers or the Administrators on the Buyer.
- (c) The aggregate amount payable under the guarantee provided by the Guarantors pursuant to this Agreement is limited to the amount of the Purchase Price.

### **23.2 Indemnity**

The Guarantors indemnify and must keep indemnified the Sellers and the Administrators against any Loss or Claim that may be brought against the Sellers or the Administrators or which the Sellers or the Administrators may pay, sustain or incur as a direct or indirect result of any breach or non-performance of this Agreement by the Buyer. The Sellers or the Administrators may enforce this right of indemnity at any time, including before it has incurred the liability, loss or costs.

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**23.3 Continuing obligation**

The guarantee and indemnity given under this clause 23 is a continuing obligation which:

- (a) continues after Completion and after the parties' other obligations under this Agreement terminate; and
- (b) is not discharged by any one payment.

**23.4 Obligations and rights not affected by certain matters**

The Guarantors' obligations and the rights of the Sellers and the Administrators under this guarantee and indemnity are not affected by anything which might otherwise affect them at Law including:

- (a) any concession (such as extra time) being given to any person, including the Guarantors or the Buyer;
- (b) the failure or delay of the Sellers or the Administrators in taking action or asserting a right, or any other act, omission or mistake by the Sellers or the Administrators;
- (c) the assignment, novation or transfer of a right or obligation of the Sellers or the Administrators;
- (d) this Agreement (or any agreement entered into in order to perform this Agreement) being varied; or
- (e) an obligation or liability of any person being invalid or unenforceable.

**23.5 Guarantors' rights suspended**

The Guarantors must not do any of the following, without the consent of the Sellers and the Administrators, until all money payable to the Sellers or the Administrators (as the case may be) in connection with this Agreement is fully and finally paid:

- (a) exercise a right of contribution or indemnity as against the Sellers or the Administrators;
  - (b) take a step to enforce a right against the Sellers or the Administrators in connection with money the Guarantors pay to the Sellers or the Administrators under this guarantee and indemnity;
  - (c) claim a share of any money the Sellers receives in connection with this Agreement;
  - (d) claim the benefit of (for example, by subrogation), or seek the transfer of, a guarantee, indemnity or security the Sellers or the Administrators hold in connection with this Agreement;
  - (e) try to reduce its liability under this guarantee and indemnity through set-off or counterclaim; or
  - (f) prove in competition with the Sellers or the Administrators if the Buyer is unable to pay its debts as and when they fall due.
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**23.6 Reinstating the Seller's and the Administrators' rights**

If a claim is made (such as a claim under the Law relating to insolvency) that a payment or transfer to the Sellers in connection with this Agreement is void or voidable and that claim is upheld, conceded or compromised, then the Sellers or the Administrators (as the case may be) are immediately entitled to the rights the Sellers or the Administrators had against the Buyer and the Guarantors before the payment or transfer was made.

**23.7 Reimbursing the Sellers and the Administrators for costs**

The Guarantors must pay or reimburse the Sellers and the Administrators on demand for:

- (a) the Sellers' and the Administrators' costs in connection with enforcing or deciding whether to enforce this guarantee and indemnity; and
- (b) all Tax payable in connection with this guarantee and indemnity or any transaction, including a payment, contemplated by it.

**23.8 Applying money paid by the Guarantors**

The Sellers or the Administrators may apply amounts it receives from the Guarantors under this guarantee and indemnity in any manner or order it chooses.

**24. Interest on overdue payments****24.1 Payment of default interest**

If a party fails to pay on the due date any amount that the party is obliged to pay under this Agreement, the party must pay interest on that amount. The interest:

- (a) must be paid on written demand (or if no demand is made, on Completion) given to that party by the party or parties to whom the amount is payable;
- (b) is calculated from and including the day on which it falls due to but excluding the day on which it is paid in full; and
- (c) accrues each day at the Prescribed Rate.

Each of the Buyer and the Guarantors acknowledges and agrees that interest at the Prescribed Rate is a genuine pre-estimate of the liquidated damages likely to be suffered by the Seller.

**24.2 Other rights not affected**

A party's right to require payment of interest under clause 24.1 does not affect any other rights or remedies it may have in respect of a failure to pay an amount due under this Agreement.

**25. Goods and services tax (GST)****25.1 Definitions**

In this clause:

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- (a) the expressions **Consideration, GST, Input Tax Credit, Recipient, Supply, Supply of a Going Concern, Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the GST Act;
- (b) **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (as amended); and
- (c) **Supplier** means any party treated by the GST Act as making a Supply under this Agreement.

## **25.2 Price is GST exclusive**

Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST.

## **25.3 Supply of a going concern**

The Supplier and Recipient agree that the supply of the Assets and the Businesses under this Agreement constitutes the Supply of a Going Concern under which the Supplier:

- (a) is supplying to the Recipient all of the things that are necessary for the continued operation of an enterprise; and
- (b) carries on and will carry on, the enterprise until the day of the Supply (whether or not as a part of a larger enterprise carried on by the Supplier).

## **25.4 Recipient registered for GST**

The Recipient warrants that on the day of the Supply it will be registered or required to be registered under the GST Act.

## **25.5 Consequences if parties mistaken as to sale of a going concern**

If the Supply made under this Agreement does not satisfy the requirements of section 38-325 of the GST Act, then:

- (a) the Recipient must pay to the Supplier an additional amount equal to the GST payable on the Taxable Supply and any penalties or interest that may be imposed in respect of the GST payable; and
- (b) the additional amount is payable immediately after the Supplier provides a valid Tax Invoice to the Recipient in respect of the Supply.

## **26. Access to Documents Before and After Completion**

### **26.1 Before Completion**

The Sellers have, and will give the Buyer or its representatives reasonable access, during normal business hours, to the Business Premises until the Completion Date and the Sellers will make available to the Buyer and its accountants and lawyers (at the Buyer's cost), all relevant books, books of account, records, contracts, registers, and any other documents relating to the Assets as the Buyer, its accountants or lawyers may reasonably request and the Buyer its accountants or lawyers may take copies thereof, provided that in exercising its rights under this clause the Buyer must, and must cause

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its representatives to, comply with the Sellers' reasonable directions and not cause unreasonable interference or disturbance to the Sellers or the Businesses.

## **26.2 After Completion**

- (a) The Buyer grants to the Sellers and the Administrators the right to access and take copies (at the Sellers' cost) of records belonging to or in the possession or control of the Buyer after Completion, to the extent those records relate in any way to the Assets in respect of any period before Completion.
- (b) Where it is proposed to exercise the rights under clause 26.2(a), the Sellers will provide reasonable notice to the Buyer.
- (c) The rights under clause 26.2(a) may be exercised at any time from Completion until the date that is 90 days from the Completion Date.
- (d) Nothing in this clause limits or restricts any other rights of access any party may have independently of this Agreement whether under the Corporations Act or otherwise.

## **27. General**

### **27.1 Nature of obligations**

- (a) Any provision in this Agreement which binds more than one person binds all of those persons jointly and each of them severally.
- (b) Each obligation imposed on a party by this Agreement in favour of another is a separate obligation.

### **27.2 Entire understanding**

- (a) This Agreement contains the entire understanding between the parties concerning the subject matter of the Agreement and supersedes, terminates and replaces all prior agreements and communications between the parties.
- (b) Each party acknowledges that, except as expressly stated in this Agreement, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of this Agreement.

### **27.3 No adverse construction**

This Agreement, and any provision of this Agreement, is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

### **27.4 Further assurances**

A party, at its own expense and within a reasonable time of being requested by another party to do so, must do all things and execute all documents that are reasonably necessary to give full effect to this Agreement.

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**27.5 No waiver**

- (a) A failure, delay, relaxation or indulgence by a party in exercising any power or right conferred on the party by this Agreement does not operate as a waiver of the power or right.
- (b) A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Agreement.
- (c) A waiver of a breach does not operate as a waiver of any other breach.
- (d) A provision of, or right under, this Agreement may only be waived by the party that has the benefit of that provision or right in writing.

**27.6 Severability**

Any provision of this Agreement which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Agreement in any other case,

without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.

**27.7 Successors and assigns**

This Agreement binds and benefits the parties and their respective successors and permitted assigns under clause 27.8.

**27.8 No assignment**

A party cannot assign or otherwise transfer or deal with the benefit of this Agreement without the prior written consent of each other party.

**27.9 Consents and approvals**

Where anything depends on the consent or approval of a party then, unless this Agreement provides otherwise, that consent or approval may be given conditionally or unconditionally or withheld, in the absolute discretion of that party.

**27.10 No variation**

This Agreement cannot be amended or varied except in writing signed by the parties.

**27.11 Costs**

Each party must pay its own legal costs of and incidental to the preparation and completion of this Agreement.

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**27.12 Duty**

- (a) Any Stamp Duty payable in respect of this Agreement or any instrument created in connection with it must be paid by the Buyer.
- (b) The Buyer undertakes to keep the Sellers and the Administrators indemnified against all liability relating to such Stamp Duty.

**27.13 Governing law and jurisdiction**

- (a) This Agreement is governed by and must be construed in accordance with the laws in force in New South Wales.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.

**27.14 Notices**

Any notice or other communication to or by a party under this Agreement:

- (a) may be given by personal service, post or facsimile;
- (b) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:

- (i) If to the Sellers or the Administrators:

Address: c/- Deloitte Touche Tohmatsu, Eclipse Tower, Level  
19, 60 Station Street, Parramatta NSW 2150  
Attention: Neil Cussen  
Facsimile: +61 (0)2 9840 7001

- (ii) If to the Buyer and/or the Guarantors:

Address: c/- Harris Freidman Lawyers  
Level 10, 25 Bligh Street, Sydney NSW 2000  
Attention: Fiona McLay  
Facsimile: 02 9233 3527

or to any other address last notified by the party to the sender by notice given in accordance with this clause;

- (c) must be signed:
  - (i) in the case of a corporation registered in Australia, by its administrator, any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or
  - (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and
- (d) is deemed to be given by the sender and received by the addressee:

- (i) if delivered in person, when delivered to the addressee;
- (ii) if posted within Australia, at 9.00 am on the second Business Day after the date of posting to the addressee whether delivered or not; or
- (iii) if sent by facsimile transmission, on the date and time shown on the transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety and in legible form to the facsimile number of the addressee notified for the purposes of this clause,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

#### **27.15 Counterparts**

If this Agreement consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

#### **27.16 No merger**

A term or condition of, or act done in connection with, this Agreement does not operate as a merger of any of the rights or remedies of the parties under this Agreement and those rights and remedies continue unchanged.

#### **27.17 Operation of indemnities**

Unless this Agreement expressly provides otherwise:

- (a) each indemnity in this Agreement survives the completion, expiry or termination of this Agreement; and
- (b) a party may recover a payment under an indemnity in this Agreement before it makes the payment in respect of which the indemnity is given.

#### **27.18 No right of set-off**

Unless this Agreement expressly provides otherwise, a party has no right of set-off against a payment due to another party.

#### **27.19 Relationship of parties**

Unless this Agreement expressly provides otherwise, nothing in this Agreement may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

#### **27.20 Reasonable endeavours**

Any provision of this Agreement that requires the Sellers or the Administrators to use reasonable endeavours, or any similar provision, in no way requires the Sellers or the Administrators to rectify any breach, to incur any obligations, to pay any moneys, to grant any waiver or to accept any unreasonable or unusual conditions or requirements imposed by Third Parties.



**Schedule 1 – Sellers**

**Hoot Campbelltown Pty Ltd ACN 152 673 633 (Administrators Appointed)**

**Hoot Penrith Pty Ltd ACN 147 839 790 (Administrators Appointed)**



**Schedule 2 – Plant and Equipment**

**(Clause 1.1)**

**Part 1 – Plant and Equipment**



Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF # | FINANCIER | ACCT # | LOCATION                 | QTY | ITEM            | MAKE | MODEL | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-----------|--------|--------------------------|-----|-----------------|------|-------|-----|--|------------|
| 2-1   | -         | -      | Indoor Dining Area & Bar | 27  | Dining Table    | -    | -     | -   | Timber Laminate, Approx. 1000mm (L) x 1000mm (W)                   | -          |
| 2-2   | -         | -      | Indoor Dining Area & Bar | 96  | Dining Chair    | -    | -     | -   | Timber Laminate, Orange Vinyl Upholstered                          | -          |
| 2-3   | -         | -      | Indoor Dining Area & Bar | 2   | Bar Table       | -    | -     | -   | Timber Laminate, Oval Shape, Approx. 2200mm (L) x 800mm (W)        | -          |
| 2-4   | -         | -      | Indoor Dining Area & Bar | 12  | Bar Table       | -    | -     | -   | Timber Laminate, Approx. 1600mm (L) x 800mm (W)                    | -          |
| 2-5   | -         | -      | Indoor Dining Area & Bar | 88  | Bar Stool       | -    | -     | -   | Timber Laminate, No Back   | -          |
| 2-6   | -         | -      | Indoor Dining Area & Bar | 16  | Bar Stool       | -    | -     | -   | Timber Laminate, Orange Vinyl Upholstered, With Back               | -          |
| 2-7   | -         | -      | Indoor Dining Area & Bar | 2   | Dining Table    | -    | -     | -   | Timber Laminate, Approx. 1600mm (L) x 1600mm (W)                   | -          |
| 2-8   | -         | -      | Indoor Dining Area & Bar | 13  | Television      | Vivo | -     | -   | Approx. 28 Inch, LCD, Wall Mounted                                 | -          |
| 2-9   | -         | -      | Indoor Dining Area & Bar | 28  | Television      | Vivo | -     | -   | 55 Inch, HD, LCD, Wall & Roof Mounted                              | -          |
| 2-10  | -         | -      | Indoor Dining Area & Bar | 2   | Television      | Vivo | -     | -   | 42 Inch, LCD, Roof Mounted   | -          |
| 2-11  | -         | -      | Indoor Dining Area & Bar | 1   | Storage Unit    | -    | -     | -   | Timber Laminate, Fitted With 19 x Lockable Door, 4 Lockable Drawer | -          |
| 2-12  | -         | -      | Indoor Dining Area & Bar | 1   | Display Counter | -    | -     | -   | Timber Laminate, L-Shape, Fitted With Glass Top, 5 Door Under      | -          |
| 2-13  | -         | -      | Indoor Dining Area & Bar | 6   | Booth Seat      | -    | -     | -   | Timber Laminate, Orange Vinyl Upholstered, 3 Seater, Double Sided  | -          |
| 2-14  | -         | -      | Indoor Dining Area & Bar | 4   | Booth Seat      | -    | -     | -   | Timber Laminate, Orange Vinyl Upholstered, 3 Seater                | -          |

Hoot Penrith Pty Ltd (Administrators Appointed)  
281 Mulgoa Road, Penrith NSW 2570

| REF # | FINANCIER | ACCT # | LOCATION                 | QTY | ITEM                         | MAKE  | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|-----------|--------|--------------------------|-----|------------------------------|-------|-------|-----|---|------------|
| 1-1   | -         | -      | Indoor Dining Area & Bar | 24  | Dining Table                 | -     | -     | -   | Timber Laminate, Approx. 1000mm (L) x 1000mm (W)                    | -          |
| 1-2   | -         | -      | Indoor Dining Area & Bar | 9   | Dining Table                 | -     | -     | -   | Timber Laminate, Approx. 1600mm (L) x 800mm (W)                     | -          |
| 1-3   | -         | -      | Indoor Dining Area & Bar | 73  | Dining Chair                 | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered                           | -          |
| 1-4   | -         | -      | Indoor Dining Area & Bar | 7   | Booth Seat                   | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered, 3 Seater, Double Sided   | -          |
| 1-5   | -         | -      | Indoor Dining Area & Bar | 4   | Booth Seat                   | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered, 3 Seater                 | -          |
| 1-6   | -         | -      | Indoor Dining Area & Bar | 6   | Bar Table                    | -     | -     | -   | Timber Laminate, Approx. 1600mm (L) x 800mm (W)                     | -          |
| 1-7   | -         | -      | Indoor Dining Area & Bar | 30  | Bar Stool                    | -     | -     | -   | Timber Laminate, No Back  | -          |
| 1-8   | -         | -      | Indoor Dining Area & Bar | 7   | Bar Stool                    | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered, With Back                | -          |
| 1-9   | -         | -      | Indoor Dining Area & Bar | 14  | Television                   | Vivo  | -     | -   | 42 Inch, LCD, Roof Mounted  | -          |
| 1-10  | -         | -      | Indoor Dining Area & Bar | 10  | Television                   | Sonic | -     | -   | 32 Inch, LCD, Wall Mounted  | -          |
| 1-11  | -         | -      | Indoor Dining Area & Bar | 8   | Television                   | Vivo  | -     | -   | 55 Inch, LCD, Roof Mounted  | -          |
| 1-12  | -         | -      | Indoor Dining Area & Bar | 1   | Television                   | Sonic | -     | -   | 55 Inch, LCD, Roof Mounted  | -          |
| 1-13  | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench            | -     | -     | -   | Commercial, Stainless Steel, Fitted With Return, 3 Door, Splashback | -          |
| 1-14  | -         | -      | Indoor Dining Area & Bar | 1   | Decommissioned I.T Equipment | -     | -     | -   | Allowance For Decommissioned I.T Equipment Stored In Booth Seats    | -          |

Hoot Penrith Pty Ltd (Administrators Appointed)  
251 Mulgoa Road, Penrith NSW 2570

| REF #              | FINANCIER | ACCT # | LOCATION                 | QTY | ITEM                  | MAKE      | MODEL      | YOIM | EXTRA DESCRIPTION   | SERIAL NO. |
|--------------------|-----------|--------|--------------------------|-----|-----------------------|-----------|------------|------|---|------------|
| 1-15               | -         | -      | Indoor Dining Area & Bar | 1   | Under Bench Fridge    | -         | -          | -    | Commercial, Stainless Steel, 3 Door, Compressor To Side, Approx. 2000mm (L)   | -          |
| 1-16               | -         | -      | Indoor Dining Area & Bar | 2   | Display Esky          | -         | -          | -    | Commercial, Stainless Steel, Approx. 1000mm (L)   | -          |
| 1-17               | -         | -      | Indoor Dining Area & Bar | 1   | Espresso Machine      | Beoma     | -          | -    | Commercial, Stainless Steel, Single Group, Single Steamer   | -          |
| 1-18               | -         | -      | Indoor Dining Area & Bar | 1   | Coffee Grinder        | Eureka    | -          | -    | Commercial, Black Steel, With Hopper  | -          |
| 1-19               | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench     | -         | -          | -    | Commercial, Stainless Steel, Fitted With 2 x Tray Shelving Under, Spirits Holder, Ice Bin, Approx. 2200mm (L)   | -          |
| 1-20               | -         | -      | Indoor Dining Area & Bar | 2   | Open Glass Top Fridge | Cold-Rite | -          | -    | Commercial, Stainless Steel, Single Door  | -          |
| 1-21               | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench     | -         | -          | -    | Commercial, Stainless Steel, Fitted With 2 Door Under, Spill Station, Approx. 1800mm (L)  | -          |
| 1-22               | -         | -      | Indoor Dining Area & Bar | 1   | Blender               | Sunbeam   | PB7650     | -    | Commercial, Stainless Steel   | -          |
| 1-23               | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench     | -         | -          | -    | Commercial, Stainless Steel, Fitted With 2 Door Under, Single Basin, Approx. 1600mm (L)   | -          |
| 1-24               | -         | -      | Indoor Dining Area & Bar | 1   | Glass Washer          | Hobart    | Ecomax 450 | -    | Commercial, Stainless Steel   | -          |
| 1-25               | -         | -      | Indoor Dining Area & Bar | 1   | Decorations           | -         | -          | -    | Allowance For Decorations Through-Out Area Consisting Of: LED Bud Light / Hooters Sign; Hooters Surfboard; Assorted Signage; 2010 Penrith Panthers Signed Jersey; Etc | -          |
| 1-26               | -         | -      | Outdoor Dining Area      | 7   | Bar Table             | -         | -          | -    | Assorted, Timber Laminate, Approx. 1400mm (L)   | -          |
| 1-27               | -         | -      | Outdoor Dining Area      | 34  | Bar Stool             | -         | -          | -    | Timber Laminate, No Back  | -          |
| <b>TOTAL -&gt;</b> |           |        |                          |     |                       |           |            |      |   |            |

Hoot Perinth Pty Ltd (Administrators Appointed)  
261 Mulgoa Road, Perinth NSW 2570

| REF #          | FINANCIER | ACCT # | LOCATION            | QTY | ITEM               | MAKE       | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|----------------|-----------|--------|---------------------|-----|--------------------|------------|-------|-----|---|------------|
| 1-28           | -         | -      | Outdoor Dining Area | 6   | Dining Table       | -          | -     | -   | Timber Laminated, Approx. 1000mm (L) x 1000mm (W)   | -          |
| 1-29           | -         | -      | Outdoor Dining Area | 14  | Dining Chair       | -          | -     | -   | Timber Laminated, Orange Vinyl Upholstered  | -          |
| 1-30           | -         | -      | Outdoor Dining Area | 3   | Outdoor Heater     | Heat Strip | -     | -   | Electric, Roof Mounted  | -          |
| 1-31           | -         | -      | Outdoor Dining Area | 2   | Television         | -          | -     | -   | 55 Inch, LCD, Roof Mounted  | -          |
| 1-32           | -         | -      | Outdoor Dining Area | 1   | Television         | -          | -     | -   | 55 Inch, LCD, Roof Mounted, <b>Broken Screen</b>  | -          |
| 1-33           | -         | -      | Food Dispatch Area  | 2   | Shelving           | -          | -     | -   | Assorted, Timber Laminated, Wall Mounted, Approx. 6000mm (L)  | -          |
| 1-34           | -         | -      | Food Dispatch Area  | 2   | Baby Seat          | -          | -     | -   | Timber Laminated  | -          |
| 1-35           | -         | -      | Food Dispatch Area  | 1   | Preparation Bench  | -          | -     | -   | Commercial, Stainless Steel, Fitted With Single Basin, Splashback, Approx. 1200mm (L) x 700mm (D)   | -          |
| 1-36           | -         | -      | Storage Room        | 7   | Dining Chair       | -          | -     | -   | Timber Laminated, Orange Vinyl Upholstered  | -          |
| 1-37           | -         | -      | Storage Room        | 1   | Bar Stool          | -          | -     | -   | Timber Laminated, Orange Vinyl Upholstered, With Back   | -          |
| 1-38           | -         | -      | Storage Room        | 1   | Ladder             | Bailey     | -     | -   | Aluminium, 12 Rung, Foldable  | -          |
| 1-39           | -         | -      | Storage Room        | 1   | Cordless Drill     | Ryobi      | -     | -   | 14 Volt, With Case  | -          |
| 1-40           | -         | -      | Kitchen             | 1   | Preparation Bench  | -          | -     | -   | Commercial, Stainless Steel, Fitted With Shelving Under, 4 Door, Built-in Deep Fryer, Roof Mounted Shelving, Tub Stand, Approx. 8000mm (L) 1000mm (D) | -          |
| 1-41           | -         | -      | Kitchen             | 2   | Under Bench Fridge | Skope      | -     | -   | Commercial, Stainless Steel, 2 Door, Compressor To Side   | -          |
| <b>TOTAL</b> → |           |        |                     |     |                    |            |       |     |   |            |

Hoot Penrith Pty Ltd (Administrators Appointed)  
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| REF # | FINANCER | ACCT # | LOCATION | QTY | ITEM                | MAKE        | MODEL          | YOM  | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|----------|--------|----------|-----|---------------------|-------------|----------------|------|--|------------|
| 1-42  | -        | -      | Kitchen  | 1   | Under Bench Fridge  | Skope       | -              | -    | Commercial, Stainless Steel, 4 Door, Compressor To Side  | -          |
| 1-43  | -        | -      | Kitchen  | 1   | Bain Marie          | Birko       | -              | -    | Commercial, Stainless Steel, 6 Tray, With Hot Water Dispenser, Electric                              | -          |
| 1-44  | -        | -      | Kitchen  | 1   | Salamander          | Roband      | SA15           | -    | Commercial, Stainless Steel, Electric  | 1123       |
| 1-45  | -        | -      | Kitchen  | 1   | Pizza Oven          | Mighty Chef | CXT            | -    | Commercial, Stainless Steel, With Key Pad Controls, <b>Not In Working Condition</b>                  | -          |
| 1-46  | -        | -      | Kitchen  | 1   | Pizza Make-Up Bench | Williams    | -              | -    | Steel, 3 Door Under, Compressor To Side, Fitted With Stainless Steel Cold Food Station To Top        | -          |
| 1-47  | -        | -      | Kitchen  | 1   | Fridge              | Williams    | HBD2B          | -    | Commercial, Stainless Steel, Mounted To Shelf, <b>Not In Working Condition</b>                       | C1550      |
| 1-48  | -        | -      | Kitchen  | 1   | Preparation Bench   | -           | -              | -    | Commercial, Stainless Steel, With Splashback, Approx. 600mm (L) x 800mm (D)                          | -          |
| 1-49  | -        | -      | Kitchen  | 1   | Free Standing Sink  | -           | -              | -    | Commercial, Stainless Steel, 3 Basin, With 2 x Tap, Splashback, Approx. 3500mm (L)                   | -          |
| 1-50  | -        | -      | Kitchen  | 2   | Shelving            | -           | -              | -    | Stainless Steel, 2 Tier, Wall Mounted, Approx. 2000mm (L)  | -          |
| 1-51  | -        | -      | Kitchen  | 1   | Preparation Bench   | -           | -              | -    | Commercial, Stainless Steel, 2 Tier, Approx. 3000mm (L) x 800mm (D)                                  | -          |
| 1-52  | -        | -      | Kitchen  | 1   | Platform Scale      | Accuweight  | DB-II          | 2008 | 300KG Max  | 100843165  |
| 1-53  | -        | -      | Kitchen  | 1   | Chest Fridge        | -           | -              | -    | Commercial, Stainless Steel, 2 x PVC Sliding Door, 2 Door Under, Compressor To Side                  | -          |
| 1-54  | -        | -      | Kitchen  | 2   | Deep Fryer          | Frymaster   | Computer Magic | -    | Commercial, Stainless Steel, Gas, 2 Basket   | -          |
| 1-55  | -        | -      | Kitchen  | 1   | Deep Fryer          | Frymaster   | Computer Magic | -    | Commercial, Stainless Steel, 2 Basket, Gas, <b>Not In Working Condition - Requires Computer Chip</b> | -          |

Hoot Penrith Pty Ltd (Administrators Appointed)  
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| REF # | FINANCIER | ACCT # | LOCATION     | QTY | ITEM                    | MAKE      | MODEL          | YOM  | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-----------|--------|--------------|-----|-------------------------|-----------|----------------|------|--|------------|
| 1-56  | -         | -      | Kitchen      | 1   | Range Hood              | Gaylord   | -              | -    | Commercial, Stainless Steel, 3 Fan, Approx. 2000mm (L)   | -          |
| 1-57  | -         | -      | Kitchen      | 2   | Deep Fryer              | Pitco     | -              | -    | Commercial, Stainless Steel, Gas, 2 Basket   | -          |
| 1-58  | -         | -      | Kitchen      | 1   | Griddle Plate           | Goldstein | RBA-4B         | -    | Commercial, Stainless Steel, Gas, 4 Burner, <i>Not In Working Condition</i>                                      | 75436NG    |
| 1-59  | -         | -      | Kitchen      | 1   | Chargrill               | Goldstein | RBA-48L        | -    | Commercial, Stainless Steel, Gas, 4 Burner   | 88847NG    |
| 1-60  | -         | -      | Kitchen      | 1   | Preparation Bench       | -         | -              | -    | Commercial, Stainless Steel, 3 Tier, Approx. 800mm (L) x 800mm (D)   | -          |
| 1-61  | -         | -      | Kitchen      | 1   | Range Hood              | -         | -              | -    | Commercial, Stainless Steel, 3 Fan, Approx. 4000mm (L)   | -          |
| 1-62  | -         | -      | Kitchen      | 1   | Range Hood              | Gaylord   | -              | -    | Commercial, Stainless Steel, 2 Fan, Approx. 2000mm (L)   | -          |
| 1-63  | -         | -      | Kitchen      | 2   | Sink                    | -         | -              | -    | Commercial, Stainless Steel, Single Basin, Fitted To Wall  | -          |
| 1-64  | -         | -      | Kitchen      | 1   | Utensils                | -         | -              | -    | Allowance For All Assorted Commercial Kitchen Utensils Through-Out Consisting Of: Pots, Pans, Trays, Bowls, Etc. | -          |
| 1-65  | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -         | -              | -    | Commercial, Stainless Steel, 2 Tier, Approx. 2000mm (L)  | -          |
| 1-66  | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -         | -              | -    | Commercial, Stainless Steel Fitted With Splashback, With Wall Mounted Shelf, Approx. 1000mm (L)                  | -          |
| 1-67  | -         | -      | Wash-Up Area | 1   | Sink                    | -         | -              | -    | Commercial, Stainless Steel, Single Basin, Fitted To Wall  | -          |
| 1-68  | -         | -      | Wash-Up Area | 1   | Pass Through Dishwasher | Eswood    | Smart Wash 900 | 2014 | Commercial, Stainless Steel, 3 Wash Cycle Option, 6 Minute Scrub Cycle   | 4265471    |
| 1-69  | -         | -      | Wash-Up Area | 1   | Wash-Up Bench           | -         | -              | -    | Commercial, Stainless Steel, L-Shape, Fitted With 2 x Basin, 2 Tier Shelf, Approx. 3000mm (L)                    | -          |



Hoot Penrith Pty Ltd (Administrators Appointed)  
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| REF #              | FINANCIER | ACCT # | LOCATION     | QTY | ITEM                | MAKE    | MODEL           | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|--------------------|-----------|--------|--------------|-----|---------------------|---------|-----------------|-----|---|------------|
| 1-70               | -         | -      | Storage Area | 1   | Shelving Unit       | -       | -               | -   | PVC, L-Shape, 4 Continuous Bay, 4 Tier, Approx. 1200mm (L) x 1800mm (H)   | -          |
| 1-71               | -         | -      | Storage Area | 1   | Backpack Vacuum     | Pullman | PV14 BE         | -   | 1100 Watt   | -          |
| 1-72               | -         | -      | Storage Area | 1   | First Aid Kit       | -       | -               | -   | Wall Mounted, With Contents   | -          |
| 1-73               | -         | -      | Storage Area | 1   | Bench               | -       | -               | -   | Commercial, Stainless Steel, 2 Tier, Approx. 800mm (L) x 800mm (D) x 600mm (H)  | -          |
| 1-74               | -         | -      | Office       | 1   | Filing Cabinet      | -       | -               | -   | Steel, 2 Drawer   | -          |
| 1-75               | -         | -      | Office       | 1   | Safe                | CMI     | -               | -   | Fitted With Single Door, Single Drawer, Dial Combination Lock   | -          |
| 1-76               | -         | -      | Office       | 1   | Desktop Computer    | Acer    | Veriton         | -   | Core i5 Processor, With 21 Inch LCD Monitor   | -          |
| 1-77               | -         | -      | Office       | 1   | Desktop Computer    | HP      | -               | -   | Core i5 Processor, With 17 Inch LCD Monitor   | -          |
| 1-78               | -         | -      | Office       | 1   | Communications Rack | -       | -               | -   | Beige Steel, With 24 Port Patch Panel, 24 Port Switch, Netgear Prosafe JGS516PE Switch  | -          |
| 1-79               | -         | -      | Office       | 1   | Telephone System    | NEC     | Univerge SV8100 | -   | With Handsets   | -          |
| 1-80               | -         | -      | Office       | 1   | Surround System     | -       | -               | -   | Consisting Of: Subwoofer; 15 x Assorted Speakers; IPad; ProXime CE700AR USB KVM Extender; Aynwan Music Box; Bose Panaray System Digital; Australian Monitor Amplifier; Australian Monitor DCM500 Amplifier; Redback A4080 Amplifier; OSC ISA500T Amplifier; OSC GX5 Amplifier | -          |
| <b>TOTAL -&gt;</b> |           |        |              |     |                     |         |                 |     |   | -          |

Hoot Penrith Pty Ltd (Administrators Appointed)  
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| REF #   | FINANCIER | ACCT # | LOCATION    | QTY | ITEM                                   | MAKE           | MODEL       | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|---------|-----------|--------|-------------|-----|--|----------------|-------------|-----|---|------------|
| 1-81    | -         | -      | Office      | 1   | Digital Television Distribution System | -              | -           | -   | Consisting Of: Kramer VM-1021 Video Distributor Amplifier; Kramer VS-3232V Video Matrix Switcher; Samsung DVD Player; Topfield Digital Video Broadcasting System; Cloud DCM-1 Digital Control Mixer | -          |
| 1-82    | -         | -      | Office      | 1   | Security System                        | -              | -           | -   | Consisting Of: Cameras Throughout, Recording Device   | -          |
| 1-83    | -         | -      | Office      | 1   | Bar Stool                              | -              | -           | -   | Timber Laminate, No Back  | -          |
| 1-84    | -         | -      | Office      | 1   | Manager's Chair                        | -              | -           | -   | Black Vinyl Upholstered, High Back, Gas Lift, Swivel  | -          |
| 1-85    | -         | -      | Office      | 1   | Multi-Function Centre                  | Brother        | MFC-J5910DW | -   | Digital Display, Inkjet   | -          |
| 1-86    | -         | -      | Coolroom    | 1   | Coolroom & Freezer Room                | -              | -           | -   | White Sandwich Panel Construction, Approx. 10000mm (L) x 2500mm (W) x 2800mm (H), Completed With Buffalo Trident 3 Fan FDC, Buffalo Trident 2 Fan FDC, Compressor, Fitted Security Cage             | -          |
| 1-87    | -         | -      | Coolroom    | 2   | Shelving Unit                          | -              | -           | -   | PVC, 3 Continuous Bay, 4 Tier   | -          |
| 1-88    | -         | -      | Coolroom    | 1   | Shelving Unit                          | -              | -           | -   | PVC, Single Bay, 4 Tier   | -          |
| 1-89    | -         | -      | Change Room | 1   | Ice Maker                              | Hoshizaki      | KM-S15MAHE  | -   | Commercial, Stainless Steel, Single Phase, (Fan Broken)   | -          |
| 1-90    | -         | -      | Change Room | 1   | Industrial Misting Fan                 | Blizzard       | BMFS550     | -   | ø500mm  | -          |
| 1-91    | -         | -      | Change Room | 1   | Locker                                 | -              | -           | -   | Timber Laminate, 20 Door  | -          |
| 1-92    | -         | -      | Change Room | 1   | Bar Fridge                             | Crystal Cooler | -           | -   | Approx. 25 Litre  | -          |
| TOTAL → |           |        |             |     |  |                |             |     |   |            |

Hoot Penrith Pty Ltd (Administrators Appointed)  
261 Mulgoa Road, Penrith NSW 2570

| REF # | FINANCIER | ACCT # | LOCATION            | QTY | ITEM                    | MAKE       | MODEL   | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-----------|--------|---------------------|-----|-------------------------|------------|---------|-----|--|------------|
| 1-93  | -         | -      | Loading Dock        | 1   | Pass Through Dishwasher | Hobart     | CS-A-90 | -   | Commercial, Stainless Steel, <b>Not In Working Condition</b>   | -          |
| 1-94  | -         | -      | Loading Dock        | 1   | Food Warmer             | Thermodyne | -       | -   | 2 Tier, Single Phase, Approx. 1500mm (L). <b>Not In Working Condition</b>  | -          |
| 1-95  | -         | -      | Throughout Premises | 1   | Cutlery & Crockery      | -          | -       | -   | Allowance For All Assorted Cutlery And Crockery Consisting Of: Knives, Spoons, Forks, Plates, Glasses, Etc.  | -          |
| 1-96  | -         | -      | Throughout Premises | 1   | Point Of Sale System    | -          | -       | -   | Consisting of: 4 x AdvanPOS EP5530 Terminals, 4 x Order Display Terminals, Receipt Printers, Cash Drawers  | -          |
| 1-97  | -         | -      | Throughout Premises | 1   | Fit-Out                 | -          | -       | -   | Allowance For Fit-Out Throughout Premises Including: Timber Floors; Assorted Internal Cladding To Walls; Bar; Built-In Mirrors; Booth Tables, Booth Partitions, External Wall Cladding, Signage, Electrical Fittings, Gas Fittings, Air Conditioning Fittings, Outdoor Veranda, Display Cabinets, Etc. | -          |

TOTAL->

Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF # | FINANCIER | ACCT # | LOCATION                 | QTY | ITEM               | MAKE           | MODEL          | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|-----------|--------|--------------------------|-----|--------------------|----------------|----------------|-----|---|------------|
| 2-15  | -         | -      | Indoor Dining Area & Bar | 2   | Preparation Bench  | -              | -              | -   | Commercial, Stainless Steel, Fitted With Return, Single Door Under, Tray Shelf Under, Approx. 1400mm (L)  | -          |
| 2-16  | -         | -      | Indoor Dining Area & Bar | 1   | Decorations        | -              | -              | -   | Allowance For Decorations Through-Out Area Consisting Of: LED Bud Light / Hooters Sign; Hooters Surfboard; Assorted Signage; LED Monster Sign; LED Budweiser Sign; A-Frame Blackboard; Etc. | -          |
| 2-17  | -         | -      | Indoor Dining Area & Bar | 1   | Booth Seat         | -              | -              | -   | Timber Laminate, Orange Vinyl Upholstered, U-Shape  | -          |
| 2-18  | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench  | -              | -              | -   | Commercial, Stainless Steel, Fitted With Single Basin, Tap, 2 Door Under, Tray Shelf Under, Approx. 2000mm (L) x 700mm (D)  | -          |
| 2-19  | -         | -      | Indoor Dining Area & Bar | 1   | Espresso Machine   | Conti          | Essika         | -   | Commercial, Stainless Steel, 2 Group, With Steamer  | -          |
| 2-20  | -         | -      | Indoor Dining Area & Bar | 1   | Coffee Grinder     | Eureka         | -              | -   | Commercial, Black Steel, With Hopper  | -          |
| 2-21  | -         | -      | Indoor Dining Area & Bar | 1   | Blender            | Island Oasis   | -              | -   | Commercial, Stainless Steel, With Hopper  | -          |
| 2-22  | -         | -      | Indoor Dining Area & Bar | 1   | Under Bench Fridge | -              | -              | -   | Commercial, Stainless Steel, 6 Door, Fitted With Bench Top, 2 x Display Esky, 2 Tier Display Stand, Approx. 4000mm (L)  | -          |
| 2-23  | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench  | -              | -              | -   | Commercial, Stainless Steel, Fitted With Return, 5 x Tray Shelf Under, 2 x Ice Bin, Spill Station, 3 Door Under, Splashback, Approx. 6000mm (L)   | -          |
| 2-24  | -         | -      | Indoor Dining Area & Bar | 1   | Ice Crusher        | Shrinkang Corp | Crystal Masher | -   | With Hopper   | -          |
| 2-25  | -         | -      | Outdoor Dining Area      | 8   | Dining Table       | -              | -              | -   | Timber Laminate, Approx. 1000mm (L) x 1000mm (W)  | -          |
| 2-26  | -         | -      | Outdoor Dining Area      | 28  | Dining Chair       | -              | -              | -   | Timber Laminate, Orange Mesh Upholstered  | -          |

TOTAL ->

Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF # | FINANCIER | ACCT # | LOCATION           | QTY | ITEM               | MAKE                    | MODEL  | YOM  | EXTRA DESCRIPTION   | SERIAL NO |
|-------|-----------|--------|--------------------|-----|--------------------|-------------------------|--------|------|---|-----------|
| 2-27  | -         | -      | Food Dispatch Area | 1   | Glass Crusher      | PEL Recycling Equipment | -      | -    | Single Phase, <b>Not In Working Condition</b>   | -         |
| 2-28  | -         | -      | Food Dispatch Area | 1   | Dining Chair       | -                       | -      | -    | Timber Laminate, Orange Vinyl Upholstered   | -         |
| 2-29  | -         | -      | Food Dispatch Area | 2   | Baby Chair         | -                       | -      | -    | Timber Laminate   | -         |
| 2-30  | -         | -      | Food Dispatch Area | 1   | Under Bench Fridge | -                       | -      | -    | Commercial, Stainless Steel, 2 Door, Compressor To Side   | -         |
| 2-31  | -         | -      | Food Dispatch Area | 1   | Preparation Bench  | -                       | -      | -    | Commercial, Stainless Steel, Fitted With 2 Door Under   | -         |
| 2-32  | -         | -      | Kitchen            | 1   | Preparation Bench  | -                       | -      | -    | Commercial, Stainless Steel, Fitted With 10 x Door Under, 2 x Cutlery Holders, 2 Tier Shelving Above, 2 Continuous Bay Sauce Rack, Approx. 10000mm (L) x 1600mm (D) | -         |
| 2-33  | -         | -      | Kitchen            | 1   | Chest Fridge       | -                       | -      | -    | Commercial, Stainless Steel, 2 x PVC Sliding Door, 2 Door Under, Compressor To Side   | -         |
| 2-34  | -         | -      | Kitchen            | 1   | Under Bench Fridge | -                       | -      | -    | Commercial, Stainless Steel, 3 Door, Compressor To Side   | -         |
| 2-35  | -         | -      | Kitchen            | 2   | Under Bench Fridge | -                       | -      | -    | Commercial, Stainless Steel, 2 Door, Compressor To Side   | -         |
| 2-36  | -         | -      | Kitchen            | 1   | Bain Marie         | Woodson                 | -      | -    | Commercial, Stainless Steel, 6 Tray, With Hot Water Dispenser, Electric   | -         |
| 2-37  | -         | -      | Kitchen            | 1   | Food Warmer        | Thermodyne              | 700CT  | 2012 | Commercial, Stainless Steel, 2 Door, 4 Tier, Electric   | 11616     |
| 2-38  | -         | -      | Kitchen            | 1   | Salamander         | Goldstein               | SA48FF | -    | Commercial, Stainless Steel, Gas, 4 Burner  | 75886NG   |
| 2-39  | -         | -      | Kitchen            | 1   | Sandwich Press     | Woodson                 | -      | -    | Commercial, Stainless Steel, Electric   | -         |

Hoot Campbelltown Pty Ltd (Administrators Appointed)  
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| REF # | FINANCIER | ACCT # | LOCATION | QTY | ITEM                | MAKE        | MOBEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|-----------|--------|----------|-----|---------------------|-------------|-------|-----|---|------------|
| 2-40  | -         | -      | Kitchen  | 1   | Pizza Make-Up Bench | Williams    | -     | -   | Steel, 3 Door Under, Compressor To Side, Fitted With Stainless Steel Cold Food Station To Top   | -          |
| 2-41  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, 2 Tier, Approx. 2500mm (L) x 800mm (D)                             | -          |
| 2-42  | -         | -      | Kitchen  | 1   | Shelf               | -           | -     | -   | Stainless Steel, Wall Mounted, Approx. 3000mm (L)   | -          |
| 2-43  | -         | -      | Kitchen  | 2   | Shelf               | -           | -     | -   | Stainless Steel, 2 Tier, Wall Mounted, Approx. 1000mm (L)                                       | -          |
| 2-44  | -         | -      | Kitchen  | 1   | Pizza Oven          | Mighty Chef | CXT   | -   | Commercial, Stainless Steel, With Key Pad Controls, <b>Not in Working Condition</b>             | -          |
| 2-45  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, Fitted With Splashback, Approx. 1400mm (L) x 800mm (D)             | -          |
| 2-46  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, 2 Tier, Fitted With Splashback, Approx. 3000mm (L) x 800mm (D)     | -          |
| 2-47  | -         | -      | Kitchen  | 1   | Free Standing Sink  | -           | -     | -   | Commercial, Stainless Steel, Fitted With 2 x Basin, Flexible Hose, Tap, Approx. 3500mm (L)      | -          |
| 2-48  | -         | -      | Kitchen  | 1   | Shelf               | -           | -     | -   | Commercial, Stainless Steel, Wall Mounted, Approx. 2000mm (L)                                   | -          |
| 2-49  | -         | -      | Kitchen  | 3   | Deep Fryer          | Pitco       | -     | -   | Commercial, Stainless Steel, Gas, 2 Bay, 4 Basket   | -          |
| 2-50  | -         | -      | Kitchen  | 1   | Range Hood          | -           | -     | -   | Commercial, Stainless Steel, 3 Fan, Approx. 3000mm (L)  | -          |
| 2-51  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, 2 Tier, Approx. 1200mm (L) x 600mm (D)                             | -          |
| 2-52  | -         | -      | Kitchen  | 1   | Freezer Drawer      | -           | -     | -   | Commercial, Stainless Steel, Single Drawer, Compressor To Side                                  | -          |
| 2-53  | -         | -      | Kitchen  | 1   | Freezer Drawer      | -           | -     | -   | Commercial, Stainless Steel, Single Drawer, Compressor To Side, <b>Not in Working Condition</b> | -          |

TOTAL →

Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF # | FINANCIER | ACCT # | LOCATION     | QTY | ITEM                    | MAKE        | MODEL    | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-----------|--------|--------------|-----|-------------------------|-------------|----------|-----|--|------------|
| 2-54  | -         | -      | Kitchen      | 1   | Utensils                | -           | -        | -   | Allowance For All Assorted Commercial Kitchen Utensils Through-Out Consisting Of: Pots, Pans, Trays, Bowls, Etc.     | -          |
| 2-55  | -         | -      | Kitchen      | 2   | Griddle Plate           | MagiKitch'n | -        | -   | Commercial, Stainless Steel, Gas, 10 Burner  | -          |
| 2-56  | -         | -      | Kitchen      | 1   | Range Hood              | -           | -        | -   | Commercial, Stainless Steel, 5 Fan, Approx. 5000mm (L)   | -          |
| 2-57  | -         | -      | Kitchen      | 1   | Hot Plate               | Goldstein   | GPG-DB24 | -   | Commercial, Stainless Steel, Gas, 2 Burner   | -          |
| 2-58  | -         | -      | Kitchen      | 1   | Preparation Bench       | -           | -        | -   | Commercial, Stainless Steel, 2 Tier, Fitted With Single Basin, Approx. 2000mm (L)                                    | -          |
| 2-59  | -         | -      | Kitchen      | 1   | Char Grill              | Goldstein   | -        | -   | Commercial, Stainless Steel, Gas, 6 Burner   | -          |
| 2-60  | -         | -      | Kitchen      | 1   | Preparation Bench       | -           | -        | -   | Commercial, Stainless Steel, 2 Tier, Approx. 1000mm (L) 1000mm (D)   | -          |
| 2-61  | -         | -      | Kitchen      | 1   | Range Hood              | -           | -        | -   | Commercial, Stainless Steel, 3 Fan   | -          |
| 2-62  | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -           | -        | -   | Commercial, Stainless Steel, Fitted With Single Basin, Tap, 2 Tier Shelf Under                                       | -          |
| 2-63  | -         | -      | Wash-Up Area | 1   | Pass Through Dishwasher | Hobart      | GL71H    | -   | Commercial, Stainless Steel,   | 90305437   |
| 2-64  | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -           | -        | -   | Commercial, Fitted With Tray Shelf Under, Approx. 1000mm (L) x 800mm (D)   | -          |
| 2-65  | -         | -      | Wash-Up Area | 2   | Shelf                   | -           | -        | -   | Commercial, Stainless Steel, 3 Tier, Approx. 800mm (L)   | -          |
| 2-66  | -         | -      | Wash-Up Area | 1   | Pass Through Dishwasher | Hobart      | C44BR    | -   | Commercial, Stainless Steel, With L-Shape Infeed Conveyor  | 210802143  |
| 2-67  | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -           | -        | -   | Commercial, Stainless Steel, L-Shape, Fitted With Basin, Flexible Hose, 2 Tier Shelf, Approx. 2500mm (L) x 800mm (D) | -          |

Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF #          | FINANCIER | ACCT # | LOCATION     | QTY | ITEM                    | MAKE       | MODEL       | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|----------------|-----------|--------|--------------|-----|-------------------------|------------|-------------|-----|--|------------|
| 2-68           | -         | -      | Wash-Up Area | 1   | Range Hood              | -          | -           | -   | Commercial, Stainless Steel, Single Fan, Approx. 1000mm (L)  | -          |
| 2-69           | -         | -      | Wash-Up Area | 2   | Sink                    | -          | -           | -   | Commercial, Stainless Steel, Single Basin, Wall Mounted  | -          |
| 2-70           | -         | -      | Wash-Up Area | 1   | Ice Maker               | Hoshizaki  | KM-650MAHE  | -   | Commercial, Stainless Steel, 650 Litre   | A00634E    |
| 2-71           | -         | -      | Wash-Up Area | 1   | Stock Trolley           | Rubbermaid | -           | -   | Black, 2 Tier  | -          |
| 2-72           | -         | -      | Wash-Up Area | 1   | First Aid Kit           | -          | -           | -   | Wall Mounted, With Contents  | -          |
| 2-73           | -         | -      | Coolroom     | 1   | Coolroom & Freezer Room | -          | -           | -   | White Sandwich Panel Construction, Approx. 1200mm (L) x 2500mm (W) x 2800mm (H), Completed With 3 x Mullen 2 Fan FDC, Compressor | -          |
| 2-74           | -         | -      | Coolroom     | 1   | Shelf Unit              | -          | -           | -   | Grey Plastic, 4 Continuous Bay   | -          |
| 2-75           | -         | -      | Coolroom     | 1   | Shelf Unit              | -          | -           | -   | Grey Plastic, 3 Continuous Bay   | -          |
| 2-76           | -         | -      | Coolroom     | 1   | Shelf Unit              | -          | -           | -   | Grey Plastic, 6 Continuous Bay   | -          |
| 2-77           | -         | -      | Office       | 1   | Safe                    | Chubb      | -           | -   | Key Operated Entry, Approx. 800mm (L) x 1200mm (H) x 800mm (D)   | -          |
| 2-78           | -         | -      | Office       | 2   | Bar Stool               | -          | -           | -   | Timber Laminated, Orange Vinyl Upholstered, With Back  | -          |
| 2-79           | -         | -      | Office       | 2   | Filing Cabinet          | -          | -           | -   | Steel, 2 Drawer  | -          |
| 2-80           | -         | -      | Office       | 1   | Desktop Computer        | Acer       | -           | -   | Pentium 4 Processor, With 19 Inch LCD Monitor  | -          |
| 2-81           | -         | -      | Office       | 1   | Multi-Function Centre   | Brother    | MFC-J6510DQ | -   | Colour   | -          |
| <b>TOTAL →</b> |           |        |              |     |                         |            |             |     |  | -          |



Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Remmie Road, Woodbine NSW 2560

| REF # | FINANCER | ACCT # | LOCATION     | QTY | ITEM                                   | MAKE    | MODEL           | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|----------|--------|--------------|-----|--|---------|-----------------|-----|---|------------|
| 2-82  | -        | -      | Office       | 1   | Security System                        | -       | -               | -   | Consisting Of: 25 x Camera; 19 Inch LCD Monitor; SecureView   | -          |
| 2-83  | -        | -      | Office       | 1   | Communications Rack                    | -       | -               | -   | Steel, With 24 Port Switch, Smart UPA 1500 UPS, Acer Server With Xeon Processor, 16 Port Switch, Super Stack 3 Switch   | -          |
| 2-84  | -        | -      | Office       | 1   | Surround System                        | -       | -               | -   | Consisting Of: Bose Panaray System Digital Controller II, 2 x Australia Monitor AMC-60; 3 x Assorted QSC Amplifier; 19 Speakers; Subwoofer; IPad; Server Link; 19" Inch LCD Monitor | -          |
| 2-85  | -        | -      | Office       | 1   | Digital Television Distribution System | -       | -               | -   | Consisting Of: AMX Netlinox NI-4100; Beyonwiz; DVD Player; Sierra Video Lassen XZ Routing Switchers; Cloud DCM-1 Digital Control Mixer  | -          |
| 2-86  | -        | -      | Office       | 1   | Telephone System                       | NEC     | Univerge SV8100 | -   | With Handsets   | -          |
| 2-87  | -        | -      | Office       | 1   | Communications Rack                    | -       | -               | -   | Steel   | -          |
| 2-88  | -        | -      | Change Room  | 4   | Bar Stool                              | -       | -               | -   | Timber Laminated, No Back   | -          |
| 2-89  | -        | -      | Change Room  | 1   | Dining Chair                           | -       | -               | -   | Timber Laminated, Orange Vinyl Upholstered  | -          |
| 2-90  | -        | -      | Change Room  | 1   | Locker                                 | -       | -               | -   | Timber Laminated, 20 Door   | -          |
| 2-91  | -        | -      | Loading Dock | 1   | Step Ladder                            | Rhino   | -               | -   | Aluminium, 120KG SWL, 5 Rung  | -          |
| 2-92  | -        | -      | Loading Dock | 1   | Platform Trolley                       | -       | -               | -   | Foldable, Approx. 1000mm (L) x 600mm (W)  | -          |
| 2-93  | -        | -      | Loading Dock | 3   | Trolley                                | -       | -               | -   | Assorted, Steel   | -          |
| 2-94  | -        | -      | Loading Dock | 1   | Ice Maker                              | Scotman | MVH600          | -   | Commercial, Stainless Steel, <b>Not In Working Condition</b>  | -          |

Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF #             | FINANCIER | ACCT # | LOCATION            | QTY | ITEM                 | MAKE | MODEL | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------------------|-----------|--------|---------------------|-----|----------------------|------|-------|-----|--|------------|
| 2-95              | -         | -      | Loading Dock        | 2   | Shelf Unit           | -    | -     | -   | Steel Frame, Assorted, Approx. 1800mm (L) x 1800mm (H)   | -          |
| 2-96              | -         | -      | Throughout Premises | 1   | Cutlery & Crockery   | -    | -     | -   | Allowance For All Assorted Cutlery And Crockery Consisting Of: Knives, Spoons, Forks, Plates; Glasses; Etc.  | -          |
| 2-97              | -         | -      | Throughout Premises | 1   | Point Of Sale System | -    | -     | -   | Consisting Of: 3 x Point Of Sale Terminals; 2 x Order Monitor; Receipt Printers; Cash Drawers  | -          |
| 2-98              | -         | -      | Throughout Premises | 1   | Fit-Out              | -    | -     | -   | Allowance For Fit-Out Throughout Premises Including: Timber Floors; Assorted Internal Cladding To Walls; Bar; Booth Tables; Booth Partitions, External Wall Cladding, Signage, Electrical Fittings, Gas Fittings, Air Conditioning Fittings, Outdoor Veranda, Etc. | -          |
| <b>TOTAL-&gt;</b> |           |        |                     |     |                      |      |       |     |  |            |

**Part 2 – Excluded Assets**



Hoot Campbelltown Pty Ltd (Administrators Appointed)  
4 Rennie Road, Woodbine NSW 2560

| REF #   | FINANCIER             | ACCT # | LOCATION                 | QTY | ITEM                     | MAKE                  | MOBEL           | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|---------|-----------------------|--------|--------------------------|-----|--------------------------|-----------------------|-----------------|-----|--|------------|
| TOTAL → |                       |        |                          |     |                          |                       |                 |     |  |            |
| 9-1     | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Billiards Table          | -                     | -               | -   | Timber Laminate, Coin Operated, With Cues & Balls, Approx. 2800mm (L) x 1200mm (W)                     | -          |
| 9-2     | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Arcade Game              | Raw Thrills           | Big Buck Pro 27 | -   | LCD Screen, Multi Player, Coin Operated  | BBHP-8428  |
| 9-3     | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Sega                     | Daytona               | USA2            | -   | LCD Screen, Multi Player, Coin Operated  | -          |
| 9-4     | Complete ATM Services | -      | Indoor Dining Area & Bar | 1   | ATM                      | Complete ATM Services | -               | -   | LCD Screen, Key Pad  | -          |
| 9-5     | Property Of Others    | -      | Coolroom                 | 1   | Beer Reticulation System | -                     | -               | -   | Consisting Of: 4 x Key Spikes; Andale 7035 Chiller Unit, 2 x 2 Post Tap                                | -          |
| 9-6     | Cadbury Schwepps      | -      | Loading Dock             | 1   | Post Mix System          | -                     | -               | -   | Consisting Of: 8 Spike, 2 x Taps; Lancer Chiller Unit  | -          |
| 9-7     | Scanline              | -      | Loading Dock             | 1   | Oil Storage Tank         | -                     | -               | -   | Stainless Steel, Mobile, Approx. 400 Litre   | -          |
| 9-8     | OZ Tank               | -      | Loading Dock             | 1   | Chemical Storage Tank    | -                     | -               | -   | Stainless Steel, Mobile, Approx. 500 Litre   | -          |
| 9-9     | Alisco                | -      | Throughout Premises      | 1   | Miscellaneous            | -                     | -               | -   | Allowance For Assorted Items Consisting Of: 3 x Mat; Qty of Glass Clothes; Blue Food Wipes; Tea Towels | -          |

Hoot Penrith Pty Ltd (Administrators Appointed)  
251 Mulgoa Road, Penrith NSW 2570

| REF #        | FINANCIER             | ACCT # | LOCATION                 | QTY | ITEM                      | MAKE                  | MODEL              | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|--------------|-----------------------|--------|--------------------------|-----|---------------------------|-----------------------|--------------------|-----|--|------------|
| 8-1          | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Prize Arcade Game         | Topgun Amusements     | Chocolate Castle   | -   | Coin Operated, Mobile  | -          |
| 8-2          | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Arcade Game               | Raw Thrills           | Big Buck Sarafi 27 | -   | LCD Screen, Multi Player, Coin Operated  | BBS-01203  |
| 8-3          | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Prize Arcade Game         | Amusinc               | Bonus Spin         | -   | Coin Operated, Mobile, Dual Prize  | -          |
| 8-4          | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Candy Dispenser           | Coolspot              | Candy Shop         | -   | Coin Operated  | -          |
| 8-5          | Complete ATM Services | -      | Indoor Dining Area & Bar | 1   | ATM                       | Complete ATM Services | -                  | -   | LCD Screen, Key Pad  | -          |
| 8-6          | Property Of Others    | -      | Coolroom                 | 1   | Beer Retirculation System | -                     | -                  | -   | Consisting Of: 4 x Key Spikes; Hoshizaki Lancer Chiller Unit; 4 Post Tap; Oil Free Air Compressor  | -          |
| 8-7          | Cadbury Schwepps      | -      | Loading Dock             | 1   | Post Mix System           | -                     | -                  | -   | Consisting Of: 2 x Taps; Chiller Unit  | -          |
| 8-8          | OZ Tank               | -      | Loading Dock             | 1   | Oil Storage Tank          | -                     | -                  | -   | Stainless Steel, Mobile, Approx. 400 Litre   | -          |
| 8-9          | OZ Tank               | -      | Loading Dock             | 1   | Chemical Storage Tank     | -                     | -                  | -   | Stainless Steel, Mobile, Approx. 500 Litre   | -          |
| 8-10         | Alisco                | -      | Throughout Premises      | 1   | Miscellaneous             | -                     | -                  | -   | Allowance For Assorted Items Consisting Of: Mat; Qty of Glass Clothes; Blue Food Wipes; Tea Towels | -          |
| <b>TOTAL</b> |                       |        |                          |     |                           |                       |                    |     |  | -          |

Executed as an agreement.

**Signed for and on behalf of Hoot  
Campbelltown Pty Ltd ACN 152 673 633**  
(Administrators Appointed) by its joint and  
several administrator in the presence of:



.....

Signature of witness



.....

Signature of administrator

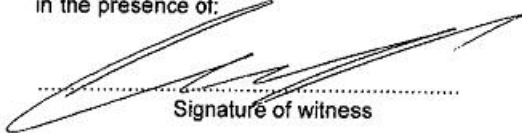
Guy Wall

.....  
Name of witness  
(please print)

NEIL ROBERT CUSSEN

.....  
Name of administrator

**Signed for and on behalf of Hoot Penrith Pty  
Ltd ACN 147 839 790 (Administrators  
Appointed) by its joint and several administrator**  
in the presence of:



.....

Signature of witness



.....

Signature of administrator

Guy Wall

.....  
Name of witness  
(please print)

NEIL ROBERT CUSSEN

.....  
Name of administrator

Signed by David John Frank Lombe in the presence of:

)  
)  
)  
)

.....  
Signature of witness

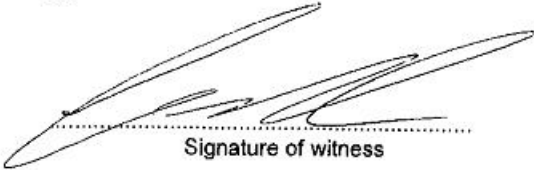
.....  
Signature of administrator


**David John Frank Lombe**

.....  
Name of witness  
(please print)

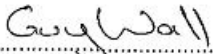
Signed by Neil Robert Cussen in the presence of:

)  
)  
)  
)

  
.....  
Signature of witness

  
.....  
Signature of administrator

**Neil Robert Cussen**

  
.....  
Name of witness  
(please print)

**Executed by HOTR Australia Pty Ltd ACN 605** )  
**907 097** in accordance with section 127(1) of the )  
*Corporations Act 2001 (Cth):* )  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)

**Executed by P.C.S. Investments Pty Ltd ACN** )  
**074 130 751** in accordance with section 127(1) )  
of the *Corporations Act 2001 (Cth):* )  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)

**Executed by Chanticleer Holdings Inc.:** )  
)  
)  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)





## **Deed of Amendment Business Sale Agreement – Hooters NSW**

The Parties Listed in Schedule 1  
(collectively the **Sellers**)

and

**HOTR Australia Pty Ltd**  
(**Buyer**)

and

**Chanticleer Holdings, Inc**  
A Delaware Corporation

and

**P.C.S. Investments Pty Limited**  
ACN 074 130 751

and

**David John Frank Lombe and Neil Robert Cussen**

## Deed of Amendment

### Date

### Parties

1. **The parties listed in Schedule 1** (collectively the **Sellers**)
2. **HOTR Australia Pty Ltd ACN 608 907 097** of 8 Parramatta Road, Clyde, NSW (**Buyer**)
3. **P.C.S. Investments Pty Ltd ACN 074 130 751** of 8 Parramatta Road, Clyde, NSW (**P.C.S.**)
4. **Chanticleer Holdings Inc.** a Delaware corporation of Suite 414, 7621 Little Avenue, Charlotte, North Carolina (**Chanticleer**)
5. **David John Frank Lombe and Neil Robert Cussen** care of Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150 Australia in their capacity as the joint and several administrators of the Sellers (**Administrators**)

### Background

- A. The parties have entered into a business sale agreement in relation to the sale of the assets and businesses of the Sellers to the Buyer dated 12 August 2015 (**Business Sale Agreement**).
- B. The parties have agreed to amend the Business Sale Agreement in accordance with the terms and conditions of this Deed.

### Agreed terms

#### 1. Definitions and interpretation

##### 1.1 Definitions

All capitalised terms in this Deed that are not otherwise defined herein or have a clear alternate meaning, shall have the meaning ascribed to such term in the Business Sale Agreement.

##### 1.2 Interpretation

In this Deed, headings are used for convenience only and do not affect the interpretation of this Deed and unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
  - (b) a gender includes the other genders;
  - (c) other grammatical forms of defined words or expressions have corresponding meanings;
  - (d) a reference to a document includes the document as modified from time to time and any document replacing it;
-

- (e) ~~if something is to be~~ or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (f) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (g) the word "month" means calendar month and the word "year" means 12 months;
- (h) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (i) a reference to a thing includes a part of that thing;
- (j) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (k) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)";
- (l) money amounts are stated in Australian currency unless otherwise specified; and
- (m) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body that performs most closely the functions of the defunct body.

## 2. Amendments to the Business Sale Agreement

### 2.1 Amendments

The Business Sale Agreement is amended by:

- (a) deleting clause 5.3 and replacing it with the following new clause 5.3:

#### 5.3 Waiver

*The Condition Precedent may only be waived if the Administrators and the Buyer agree in writing.*

- (b) deleting clause 5.4(a) and replacing it with the following new clause 5.4(a):

- (a) *The Administrators or the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement at any time after the Sunset Date by giving written notice to each other party at any time before Completion if:*

- (i) *a Condition Precedent is not fulfilled or waived before 5pm (AEST) on the Sunset Date;*
- (ii) *a Condition Precedent having been fulfilled, that Condition Precedent does not remain fulfilled in all respects at all times until Completion; or*

- (iii) *Completion has not occurred by 5pm (AEST) on the Sunset Date.*
- (c) deleting the heading of clause 5.5 and replacing it with the heading:  
*Administrators' rights if prevented from Completion*
- (d) deleting clause 5.5(a) and replacing it with the following new clause 5.5(a):
  - (a) *If any Seller or the Administrators are:*
    - (i) *restrained or prevented from completing this Agreement by injunction, court proceedings, any enforcement action by a secured creditor, claims by Third Parties, caveat, requisition or otherwise;*
    - (ii) *unable to secure the removal of the Receiver (either by retirement, court order or otherwise);*
    - (iii) *unable to obtain the consent of the Receiver to the sale pursuant to this Agreement; or*
    - (iv) *unable to obtain court orders otherwise approving the sale pursuant to this Agreement,*

*(each an **Impediment**), the Administrators may (but are not obliged) to do any or all of the following:*

    - (A) *delay Completion until the Impediment is removed, in which case Completion shall occur at the time and place referred to in clause 8.1 on the day that is 2 Business Days following written notice from the Administrators that the Impediment has been removed;*
    - (B) *on or prior to the Sunset Date, extend the Sunset Date to a date which is up to 60 days after the Sunset Date (Extended Sunset Date) by notice to the Buyer; or*
    - (C) *if after exercising its rights under clause 5.5(a)(iv)(B) the Administrators determine in their absolute discretion that they are unable to remove the Impediment, terminate this Agreement by notice in writing to the Buyer.*
- (e) deleting clause 5.5(b) and replacing it with the following new clause 5.5(b):
  - (b) *The Buyer will have no claim against the Sellers or the Administrators in respect of any delay in Completion or termination of this Agreement caused by the Administrators exercising their rights under clause 5.5(a) and will not be entitled to take any action against the Sellers or the Administrators to complete this Agreement prior to removal of the Impediment except as provided for in clause 5.5(c).*
- (f) deleting clause 5.5(c) and replacing it with the following new clause 5.5(c):
  - (c) *If the Administrators:*

- (i) are unable to procure the removal of the Impediment; or
- (ii) fails to serve on the Buyer notice confirming the removal of the Impediment,

by the Extended Sunset Date, then the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement by serving a notice of termination on the other parties.

- (g) deleting clause 6(a) and replacing it with the following new clause 6(a):

- (a) *If Completion has not been effected on or before the date contemplated in clause 8.1 the Buyer or the Administrators, not being in default under this Agreement, may give to the other fourteen (14) days notice in writing (Notice to Complete) to complete and making time of the essence of this Agreement. The party to whom such notice is given will not be entitled to object to the sufficiency or adequacy of the period of such notice.*

- (h) deleting clause 6(b) and replacing it with the following new clause 6(b):

- (b) *If the Buyer does not comply with a Notice to Complete then the Administrators may, by notice in writing served upon the Buyer, either:*
  - (i) *terminate this Agreement and seek damages against the Buyer and/or the Guarantors on behalf of the Seller and/or in its own right; and/or*
  - (ii) *enforce against the Buyer and/or the Guarantors, without further notice, any other rights and remedies available to the Sellers or the Administrators.*

- (i) deleting clause 17.2 and replacing it with the following new clause 17.2:

**17.2 Administrators' right to terminate the Agreement**

*if:*

- (a) *any action referred to in clause 17.1 is not taken to the Administrators' satisfaction; or*
- (b) *despite such action the Administrators determine that the Seller's rights or obligations under or in connection with the Transactions or any of the Transaction Documents have been or will be materially adversely affected,*

*then the Administrators may give notice to the Buyer terminating this Agreement or any other document in connection with the Transactions and requiring:*

- (c) *full repayment of all outstanding monies (if any); and*
  - (d) *the return of all of the Sellers' property within the control of the Buyer (if any),*
-

*within 10 days after the date of notification. Upon the giving of that notice, each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions or under this clause 17.2.*

- (j) deleting clause 19(a) and replacing it with the following new clause 19(a):
  - (a) *If at any time on or before the Completion Date:*
    - (i) *a Condition Precedent becomes incapable of being fulfilled or has not otherwise been waived;*
    - (ii) *the Buyer breaches any of its obligations under the Transaction Documents; or*
    - (iii) *an Insolvency Event occurs in relation to the Buyer or the Guarantor,*

*then the Administrators may terminate this Agreement (without prejudice to the Seller's or the Administrators' other rights and remedies) by notice to the Buyer, whereupon the Sellers and the Administrators will be released from all of their obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (if any) under clause 3.3. For the avoidance of doubt, if an Insolvency Event occurs in relation to the Buyer or the Guarantor, the Buyer shall be deemed to have breached this Agreement.*

## **2.2 Effect of amendments**

- (a) The Business Sale Agreement will be read and construed subject to this Deed, and in all other respects the provisions of the Business Sale Agreement are ratified and confirmed, and, subject to the amendments contained in this Deed, the Business Sale Agreement will continue in full force and effect.
  - (b) The amendments to the Business Sale Agreement do not affect the validity or enforceability of the Business Sale Agreement.
  - (c) Nothing in this deed:
    - (i) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Business Sale Agreement before the date of this Deed; or
    - (ii) discharges, releases or otherwise affects any liability or obligation arising under the Business Sale Agreement before the date of this Deed.
  - (d) Each Party agrees to be bound by the Business Sale Agreement as amended by this Deed.
-

### **3. General**

#### **3.1 Entire understanding**

- (a) This Deed contains the entire understanding between the parties concerning the subject matter of the Deed and supersedes, terminates and replaces all prior Deeds and communications between the parties.
- (b) Each party acknowledges that, except as expressly stated in this Deed, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of the other party in relation to the subject matter of this Deed.

#### **3.2 No adverse construction**

This Deed is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

#### **3.3 Further assurances**

The Buyer, at its own expense and within a reasonable time of being requested by another party to do so, must do all things and execute all documents that are reasonably necessary to give full effect to this Deed.

#### **3.4 No waiver**

- (a) A failure, delay, relaxation or indulgence by a party in exercising any power or right conferred on the party by this Deed does not operate as a waiver of the power or right.
- (b) A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Deed.
- (c) A waiver of a breach does not operate as a waiver of any other breach.

#### **3.5 Severability**

Any provision of this Deed that is invalid in any jurisdiction must in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Deed in any other case,

without invalidating or affecting the remaining provisions of this Deed or the validity of that provision in any other jurisdiction.

#### **3.6 Successors and assigns**

This Deed binds and benefits the parties and their respective successors and permitted assigns.

---

**3.7 No assignment**

The Buyer cannot assign or otherwise transfer the benefit of this Deed without the prior written consent of each other party.

**3.8 Consents and approvals**

Where anything depends on the consent or approval of a party then, unless this Deed provides otherwise, that consent or approval may be given conditionally or unconditionally or withheld, in the absolute discretion of that party.

**3.9 No variation**

This Deed cannot be amended or varied except in writing signed by the parties.

**3.10 Costs**

Each party must pay its own legal costs of and incidental to the preparation and completion of this Deed.

**3.11 Stamp Duty**

- (a) Any Stamp Duty (including related interest, fines or penalties) payable in respect of this Deed or any instrument created in connection with it must be paid by the Buyer.
- (b) The Buyer undertakes to keep the Seller and the Administrators indemnified against all liability relating to the Stamp Duty (including interest, fines and penalties).

**3.12 Governing law and jurisdiction**

- (a) This Deed is governed by and must be construed in accordance with the Laws of New South Wales.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Deed, its performance or subject matter.

**3.13 Counterparts**

If this Deed consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

**3.14 No merger**

A term or condition of, or act done in connection with, this Deed does not operate as a merger of any of the rights or remedies of the parties under this Deed and those rights and remedies continue unchanged.

**3.15 Relationship of parties**

Nothing in this Deed may be construed as creating a relationship of partnership, principal and agent, employer and employee, representative, or trustee and beneficiary.

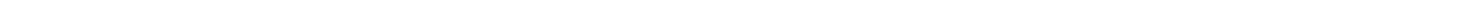
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**Schedule 1 – Sellers**

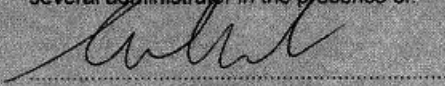
**Hoot Campbelltown Pty Ltd ACN 152 673 633 (Administrators Appointed)**

**Hoot Penrith Pty Ltd ACN 147 839 790 (Administrators Appointed)**



Executed as a deed.

Signed for and on behalf of Hoot  
Campbelltown Pty Ltd ACN 152 673 633  
(Administrators Appointed) by its joint and  
several administrator in the presence of:



Signature of witness

Luke James Cussen

Name of witness  
(please print)

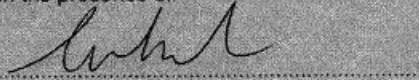


Signature of administrator

NEIL ROBERT CUSSEN

Name of administrator

Signed for and on behalf of Hoot Penrith Pty  
Ltd ACN 147 839 790 (Administrators  
Appointed) by its joint and several administrator  
in the presence of:



Signature of witness

Luke James Cussen

Name of witness  
(please print)



Signature of administrator

NEIL ROBERT CUSSEN

Name of administrator

Signed by **David John Frank Lombe** in the presence of: )  
)  
)  
)

.....  
Signature of witness

.....  
Signature of administrator

**David John Frank Lombe**

.....  
Name of witness  
(please print)

Signed by **Neil Robert Cussen** in the presence of: )  
)  
)  
)

.....  
Signature of witness

.....  
Signature of administrator

**Neil Robert Cussen**

.....  
Name of witness  
(please print)



**Executed by HOTR Australia Pty Ltd ACN 605 907 097** in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*: )  
)  
)  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)

**Executed by P.C.S. Investments Pty Ltd ACN 074 130 751** in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*: )  
)  
)  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)

**Executed by Chanticleer Holdings Inc.:** )  
)  
)  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)





## Business Sale Agreement Hooters QLD

The Parties Listed in Schedule 1  
(collectively the **Sellers**)

and

HOTR Australia Pty Ltd  
(**Buyer**)

and

P.C.S. Investments Pty Ltd

and

Chanticleer Holdings Inc

and

David John Frank Lombe and Neil Robert Cussen  
(**Administrators**)

Upper Ground, Trafalgar Square,  
230 Clarence Street Sydney NSW 2000  
GPO Box 97 Sydney NSW 2001  
phone: +61 2 9925 3222

[www.williamjameslaw.com.au](http://www.williamjameslaw.com.au)

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Legal practitioners employed by William James Pty Ltd are members of the scheme

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# Business Sale Agreement

## Date

## Parties

1. **The parties listed in Schedule 1** (collectively the **Sellers**)
2. **HOTR Australia Pty Ltd ACN 608 907 097** of 8 Parramatta Road, Clyde, New South Wales (**Buyer**)
3. **P.C.S. Investments Pty Ltd ACN 074 130 751** of 8 Parramatta Road, Clyde, New South Wales (**P.C.S.**)
4. **Chanticleer Holdings Inc.** a Delaware corporation of Suite 414, 7621 Little Avenue, Charlotte, North Carolina (**Chanticleer**)
5. **David John Frank Lombe and Neil Robert Cussen** care of Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150 Australia in their capacity as the joint and several administrators of the Sellers (**Administrators**)

## Background

- A. The Administrators were appointed as the joint and several administrators of the Sellers, on 15 July 2015 pursuant to section 436A of the *Corporations Act 2001 (Cth)*.
- B. The Sellers have agreed to sell to the Buyer, and the Buyer has agreed to buy from the Sellers, the Assets and the Businesses on the terms of this Agreement.
- C. The Guarantors have agreed to guarantee the performance of the Buyer's obligations under this Agreement.

## Agreed terms

### 1. Definitions and interpretation

#### 1.1 Definitions

In this Agreement:

**Accounting Standards** means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of financial statements; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a);

**Accruals** means all periodic or recurring outgoings and expenses in respect of or relating to the Assets and the Businesses including (if and as applicable) rent, rates, tax(es), including gaming tax(es), electricity, gas, telephone, internet, salaries, wages,

---

lease payments, hiring charges, employer superannuation contributions and other similar amounts unpaid by the Sellers as at the Completion Date but only to the extent they relate to the period before the Completion Date;

**Administrators' Representatives** means the Firm and the partners, employees, agents, advisers, contractors and consultants of the Firm or the Administrators;

**AEST** means Australian Eastern Standard Time;

**Agreement** means this agreement including the background, any schedules and any annexures;

**Agreement Date** means the date of this Agreement;

**ASIC** means the Australian Securities and Investments Commission;

**Assets** means such right, title and interest as the Seller has in the following assets:

- (a) the Plant and Equipment;
- (b) the Escrow Assets;
- (c) the Stock;
- (d) the Records;
- (e) the rights and benefits of the Sellers under any contract, document or arrangement that is, or is to be, assigned, novated or transferred to the Buyer under or in connection with this Agreement;
- (f) the Leases (subject to clause 13);
- (g) the Franchise Agreements;
- (h) the Liquor Licences
- (i) the Business Names; and
- (j) Goodwill,

but excluding the Excluded Assets;

**Authorisation** means:

- (a) an authorisation, consent, right, certificate, licence, permit, declaration, exemption, notarisation or waiver, however described (including any renewal or partial renewal); and
  - (b) any authorisation or consent regarded as given by a Government Agency where, in relation to something that can be prohibited or restricted by law if the Government Agency takes action within a specified period, that period expires without that action being taken;
-

**Book Debts** means the trade debts and other receivables owing to the Sellers in connection with the Businesses set out in the books of the Businesses as at close of business on the day before the Completion Date;

**Businesses** means the restaurant and bar businesses carried on by the relevant Sellers at the Business Premises;

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney or Brisbane;

**Business Names** mean:

- (k) the registered business name Hooters of Gold Coast; and
- (l) the registered business name Hooter of Townsville.

**Business Premises** means the premises leased to the Sellers under the Leases;

**Buyer's Nominee** means the person or entity nominated by the Buyer to be the transferee of the Liquor Licences;

**Completion** means the completion of the sale and purchase of the Assets and the Businesses in accordance with clause 7;

**Completion Date** means the date on which Completion occurs;

**Conditions Precedent** means each of the conditions precedent set out in clause 5.1;

**Confidential Information** means:

- (a) the terms of this Agreement and its subject matter, including Information submitted or disclosed by a party during negotiations, discussions and meetings relating to this Agreement;
- (b) Information that at the time of disclosure by a Disclosing Party is identified to the Receiving Party as being confidential; and
- (c) all other Information belonging or relating to a Disclosing Party, or any Related Entity of that Disclosing Party, that is not generally available to the public at the time of disclosure other than by reason of a breach of this Agreement or which the Receiving Party knows, or ought reasonably to be expected to know, is confidential to that Disclosing Party or any Related Entity of that Disclosing Party;

**Controller** means, in relation to a person:

- (a) a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) of that person or that person's property or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity; or
  - (b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that person's property to enforce an Encumbrance;
-

**Corporations Act** means the *Corporations Act 2001 (Cth)*;

**Date for Completion** means the date that Completion is to occur as set out in clause 8.1 or such other date agreed by the Sellers and the Buyer in writing;

**Deed of Consent** means a deed of consent to assignment of each Lease in a form acceptable to the Landlord and otherwise on terms and conditions acceptable to the Seller and the Buyer acting reasonably;

**Deposit** means the sum of \$83,000.00;

**Disclosing Party** means the party to whom Information belongs or relates;

**Dispose**, in relation to an Asset, means to sell, transfer, assign, surrender, convey, lease, licence or otherwise dispose of any legal, equitable or economic interest in the Asset or declare any trust in respect of it;

**Employees** means the employees of the Sellers who are providing services to the Businesses;

**Employee Entitlements** means all unpaid amounts and benefits to which each Employee is entitled by Law or under an award, enterprise agreement, industrial instrument or other agreement or arrangement, in respect of salaries, wages, allowances, commission, bonuses, and any other rights and benefits accrued or arising in respect of each Employee for the period of their service in the relevant Business (or any predecessor of the relevant Seller in any part of the Business) including in relation to the termination of their service in the Business (including notice and redundancy payments), but excludes any Leave Entitlement;

**Encumbrance** means:

- (a) any:
  - (i) legal or equitable interest or power created, arising in or reserved in or over an interest in any property or asset; or
  - (ii) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or retention of title arrangement, right of set-off, assignment of income, garnishee order, monetary claim or flawed asset arrangement);
- (b) any thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons with respect to any property or asset,
- (c) a security interest as defined in the PPSA; or
- (d) any agreement or arrangement (whether legally binding or not) to grant or create anything referred to in paragraph (a), (b) or (c);

**Escrow Assets** means the assets listed in Part 2 of Schedule 2;

**Excluded Assets** means any right, title or interest of a Seller in:

- (a) any cash at bank, on hand or on deposit as at the Completion Date;
-

- (b) the assets listed in Part 3 of Schedule 2;
- (c) the Book Debts;
- (d) any cause of action or claim, in each case including any proceeds;
- (e) any insurance policy including any proceeds;
- (f) the Excluded Records;
- (g) any bank guarantee, security deposit or other lease security provided by the Seller to any Landlord in relation to a Lease; and
- (h) any other asset or right of the Sellers not expressly listed in the definition of "Assets";

**Excluded Records** means any Record which:

- (a) does not relate exclusively to the Businesses and which the relevant Seller must retain to carry on any other business it carries on;
- (b) the Sellers or the Administrators are required to retain for the purposes of the administration or other external administration of the Sellers; or
- (c) the Sellers or the Administrators must retain by Law;

**Expert** means a person:

- (a) having appropriate qualifications and experience relevant to determining the dispute or disagreement in question;
- (b) who is agreed by the parties or, failing agreement within [5] Business Days, is nominated at the request of any party by Australian Commercial Disputes Centre (**ACDC**) in accordance with the ACDC Rules for Expert Determination; and
- (c) who does not act, or whose firm does not act, generally for any party;

**Firm** means Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150;

**Franchise Agreements** means the agreement or rights pursuant to which the Sellers use and operate the Businesses as part of the "Hooters" franchise system;

**Goodwill** means the goodwill of the Businesses arising from the conduct of the Businesses by the Sellers before Completion, including the Buyer's right to represent itself on and from Completion as carrying on the Businesses as the successor of the Sellers;

**Government Agency** means any government or any public, statutory, governmental (including a local government), semi-governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

**GST** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999*;

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**Guarantors** means P.C.S. and Chanticleer;

**Information** means any information, whether oral, graphic, electronic, written or in any other form, including:

- (a) forms, memoranda, letters, specifications, processes, procedures, statements, formulae, technology, inventions, trade secrets, research and development information, know how, designs, plans, photographs, microfiche, business records, notes, accounting procedures or financial information, sales and marketing information, names and details of customers, suppliers and agents, employee details, reports, drawings and data;
- (b) copies and extracts made of or from that information and data, whether translated from the original form, recompiled, partially copied, modified, updated or otherwise altered; and
- (c) samples or specimens (if any) disclosed either before or after execution of this Agreement;

**Insolvency Event** means, in respect of a party, any one or more of the following events or circumstances:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration, bankruptcy or becoming an insolvent under administration (as defined in section 9 of the Corporations Act);
- (b) having a Controller or analogous person appointed to it or any of its property;
- (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other Law;
- (d) seeking protection from its creditors under any Law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any Law;

unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the other parties (which approval is not to be unreasonably withheld or delayed);

**Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing, including:

- (a) patents, inventions, designs, copyright, trade marks, brand names, product names, domain names, rights in circuit layouts, plant breeder's rights, know how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
  - (b) any application or right to apply for registration of any of these rights;
-



- (c) any registration of any of those rights or any registration of any application referred to in paragraph (b); and
- (d) all renewals and extensions of these rights;

**Landlord** means the current lessor of each of the Business Premises;

**Law** means:

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations, orders or by-laws of the Commonwealth of Australia, any State or Territory of the Commonwealth of Australia or a Government Agency;
- (c) requirements and approvals (including conditions) of the Commonwealth of Australia, any State or Territory of the Commonwealth of Australia or a Government Agency that have the force of law; and
- (d) laws and rules applying to a United States public reporting company traded on a NASDAQ;

**Lease** means:

- (a) registered lease 715718864 as varied by registered amendment 715718886; and
- (b) registered lease 716077899;

**Leave Entitlement** means an Employee's entitlement due by Law or under any award, enterprise agreement, industrial instrument or other agreement or arrangement, for long service leave, personal leave or annual leave or leave loading or any of them which has accrued in respect of the period of their service in the relevant Business (or any predecessor of the relevant Seller in any part of the Business) but which has not yet been taken and remains unpaid;

**Liability** includes all liabilities, losses, damages, costs, interest, fees, penalties, fines, assessments, forfeiture and expenses of whatever description (whether actual, contingent or prospective);

**Liquor Licences** means:

- (a) subsidiary on-premises licence with licence number 168739; and
- (b) subsidiary on-premises licence with licence number 164695,

issued by the Queensland Office of Liquor and Gaming Regulation;

**Liquor Licence Transfer** means, in respect of each of the Liquor Licences, a Form 3 Application for a Transfer Liquor Licence to be completed and executed in accordance with the provisions of the *Liquor Act 1992 (QLD)*, the *Liquor Regulation 2002 (QLD)* and current requirements of the Queensland Office of Liquor and Gaming Regulation and the Law;

**Loss or Claim** means, in relation to any person:

- (a) a damage, loss, cost (including legal costs on a full indemnity basis), expense, penalty, fine, forfeiture or liability incurred or suffered by the person; or
- (b) a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment or award made against the person,

however arising and whether present or future, fixed or unascertained, actual or contingent, based in contract, tort, equity or statute and whether involving a Third Party or a party to this Agreement or otherwise;

**New Lease** means a lease of the Business Premises between the Landlord (as lessor) and the Buyer (as lessee) commencing on and from Completion on terms and conditions no less favourable than the relevant Lease.

**Notice to Complete** has the meaning given in clause 6;

**Plant and Equipment** means all the plant, equipment (including computer equipment), machinery, furniture, fixtures and fittings owned by each Seller in connection with the relevant Business and located at the relevant Business Premises, including each item set out in Part 1 of Schedule 1;

**PPSA** means the *Personal Property Securities Act 2009 (Cth)*;

**PPSA Security Interest** means a security interest as defined in the PPSA;

**PPS Law** means the PPSA and any amendment made at any time to any other law as a consequence of the PPSA and any regulations issued in respect of the PPSA;

**Prepayments** means all periodic or recurring outgoings and expenses in respect of or relating to the Assets and the Businesses including (if and as applicable) rent, rates, tax(es), including gaming tax(es), electricity, gas, telephone, internet, salaries, wages, lease payments, hiring charges, employer superannuation contributions and other similar amounts paid by the Sellers as at the Completion Date but only to the extent they relate to the period on or after the Completion Date;

**Prescribed Rate** means the rate of 10% per annum;

**Purchase Price** means the sum of \$830,000.00 (which includes the Deposit), and taking into account any adjustments to the Purchase Price under this Agreement;

**Receiving Party** means the party to whom Information is disclosed or who possesses or otherwise acquires Information belonging or relating to a Disclosing Party;

**Records** means all of the Sellers' original or copy records, sale brochures and catalogues, sale and purchasing records, lists of clients, suppliers and customers, documents, books, files, reports, correspondence, accounts, financial records, trading records, employment records, plans and all other material relating to or used in connection with the Assets or the Businesses (whether in written, electronic or other form);

**Related Body Corporate** has the meaning given to that term in the Corporations Act;

**Related Entity** has the meaning given to that term in the Corporations Act;

**Relevant Items** means each of:

- (a) the Business Premises;
- (b) the Leases;
- (c) the Franchise Agreements;
- (d) the Liquor Licences;
- (e) any other contract, document or arrangement that is, or is to be, assigned, novated or transferred to the Buyer under or in connection with this Agreement;

**Retail Law** means the *Retail Shop Leases Act 1994* (QLD);

**Retention Amount** means \$50,000;

**Specified Exceptions** means the clauses, matters and things referred to in clause 5.4(b);

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above but excludes any goods and services tax;

**Stock** means all inventory owned by the Sellers, located at the Business Premises and used or intended for use in connection with the Businesses as at close of business on the day before the Date for Completion, including all stocks of food, alcoholic, non-alcoholic beverages and merchandise, and including goods in transit, goods on consignment with a Third Party and stock ordered and paid for by the Sellers but not received by close of business on the day before the Date for Completion and all other general stock of a bar or restaurant used or intended for use in connection with the Businesses;

**Sunset Date** means, subject to any extension under clause 5.5 of this Agreement, the date that is 60 days after the Agreement Date or such other date as the Sellers and the Buyer agree in writing;

**Surrender** means a surrender of the Lease on terms and conditions acceptable to the Seller, acting reasonably;

**Tax, Taxes or Taxation** means all forms of present and future taxes, excise, stamp or other duties, imposts, deductions, charges, withholdings, rates, levies or other governmental impositions imposed, assessed or charged by any Government Agency, together with all interest, penalties, fines, expenses and other additional statutory charges relating to any of them, imposed or withheld by a Government Agency;

**Tax Law** means any Law relating to Tax;

**Third Party** means a person who is not a party to this Agreement;

**Transaction** means any transaction contemplated by or in connection with any Transaction Document;

**Transaction Documents** means:

- (a) this Agreement;
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- (b) the Deed of Consent, or the New Lease and Surrender (where clause 13 applies);
- (c) any document or agreement that the parties agree in writing is to be a Transaction Document for the purposes of this Agreement;
- (d) any document or written agreement that is entered into under or related to any of the above; and
- (e) any written undertaking by or to a party or its lawyers that is given under or related to any of the above; and

**Transferring Employee** means an Employee who before Completion accepts the Buyer's offer of employment referred to in clause 15.

## 1.2 Interpretation

In this Agreement, headings are used for convenience only and do not affect the interpretation of this Agreement and unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
  - (b) a gender includes the other genders;
  - (c) other grammatical forms of defined words or expressions have corresponding meanings;
  - (d) a reference to a document includes the document as modified from time to time and any document replacing it;
  - (e) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
  - (f) the word "person" includes a natural person and any body or entity whether incorporated or not;
  - (g) the word "month" means calendar month and the word "year" means 12 months;
  - (h) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
  - (i) a reference to a thing includes a part of that thing;
  - (j) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
  - (k) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)";
  - (l) money amounts are stated in Australian currency unless otherwise specified; and
-

- (m) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (defunct body), means the agency or body that performs most closely the functions of the defunct body.

## **2. Agreement to buy and sell Assets and the Businesses**

### **2.1 Sale and purchase**

On and subject to the terms of this Agreement, the Sellers agree to sell and the Buyer agrees to purchase such right, title and interest as the Sellers may have in the Assets and the Businesses at Completion for the Purchase Price and on the other terms of this Agreement.

### **2.2 Title and risk**

The title to and the risk of the Assets and the Businesses in clause 2.1 passes from the Sellers to the Buyer on and from Completion.

### **2.3 Items excluded from sale**

In respect of any customer contracts for electricity, gas, telephone, internet or any other services or assets provided by Third Parties which are not stated to form part of the Assets, the Buyer must, if it wishes to retain the use of those items, assets or services (as applicable) in connection with the Businesses, make its own arrangements with the Third Parties that own or supplied those items, assets or services (as applicable) to the Sellers and the Sellers makes no warranty or representation about the Buyer's ability to enter into agreements with or negotiate such arrangements with the relevant Third Parties.

## **3. Purchase Price**

### **3.1 Payment of the Purchase Price**

In consideration of the Sellers agreeing to sell the Assets and the Businesses to the Buyer, the Buyer must pay the Purchase Price as follows:

- (a) by payment of the Deposit to the Sellers on the Agreement Date in accordance with clause 3.2; and
- (b) by payment of the balance of the Purchase Price to the Sellers on Completion,

subject to any adjustments under this Agreement.

### **3.2 Deposit**

- (a) The Buyer must pay the Deposit to the Sellers immediately on signing this Agreement.
  - (b) The Sellers may (but is not obliged to) invest the Deposit.
  - (c) The Sellers must hold and apply the Deposit in accordance with this Agreement.
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- (d) On Completion the Deposit and any accrued interest will vest in the Sellers absolutely.

### 3.3 No Completion – Deposit

- (a) The Buyer agrees that, if Completion does not occur, the Deposit paid to the Sellers by the Buyer under clause 3.2 is to be applied in accordance with this clause 3.3.
- (b) If Completion does not occur on or before the Sunset Date in circumstances where the Buyer and Guarantors are not in breach of any of its obligations under the Transaction Documents, then the Sellers must pay the Deposit plus any accrued interest (if any) to the Buyer, which will vest in the Buyer absolutely.
- (c) If this Agreement is lawfully rescinded or terminated then, in addition to any other rights, powers or remedies provided by law:
- (i) each party is released from its obligations under this agreement other than the obligations set out in clause 5.4(b); and
  - (ii) each party retains the rights it has against any other party in connection with any breach or claim that has arisen before rescission or termination.
- (d) For the avoidance of doubt, if Completion does not occur on or before the Sunset Date in circumstances (including as a result of the termination of this Agreement) where the Buyer or the Guarantors breach of any of its obligations under the Transaction Documents, the Deposit plus any accrued interest will vest in the Sellers absolutely, time being of the essence.

### 3.4 Apportionment of Purchase Price

The Purchase Price is apportioned as follows:

| <b>Asset</b>                          | <b>Purchase Price apportionment</b> |
|---------------------------------------|-------------------------------------|
| Stock                                 | \$30,000.00                         |
| the remaining Assets, excluding Stock | \$800,000.00                        |

### 3.5 Manner of payment

All payments of any nature to or for the benefit of the Sellers under this Agreement must be made by bank cheque, electronic transfer to an account or accounts nominated by the Sellers or the Administrators or otherwise in cleared funds.

## 4. Period before Completion

- (a) In the period between the Agreement Date and the Completion Date, the Sellers must:
- (i) not Dispose of any Assets other than in the ordinary course of business;

(ii) not acquire an asset other than in the ordinary course of business; except with the Buyer's prior written consent.

(b) The Sellers are not required to undertake any acts or obligations that would not normally be undertaken by an administrator trading the Businesses as agent for the relevant Seller with a view to selling it as a going concern. For the avoidance of doubt nothing in this Agreement requires the Sellers or the Administrators to continue trading the Businesses.

## **5. Conditions precedent to Completion**

### **5.1 Conditions precedent**

Completion is conditional on each of the following conditions set out below being fulfilled in accordance with the terms of this Agreement:

- (a) each Landlord either:
  - (i) entering into a Deed of Consent consenting to the assignment of the relevant Lease from the relevant Seller to the Buyer; or
  - (ii) granting a New Lease and Surrender; and
- (b) the Office of Liquor and Gaming Regulation granting "subject to completion" approval to the Liquor Licence Transfer for both of the Liquor Licences.

### **5.2 Duties in relation to Conditions Precedent**

The Buyer and the Sellers must, in relation to the Conditions Precedent:

- (a) use their best endeavours to ensure that the Conditions Precedent are fulfilled as soon as possible;
- (b) keep the other parties informed of any circumstances which may result in a Condition Precedent not being, or becoming incapable of being, fulfilled;
- (c) not take any action that would, or would be likely to, prevent or hinder the fulfilment of any Condition Precedent; and
- (d) promptly notify the other parties in writing if it becomes aware that a Condition Precedent has been fulfilled or has become incapable of being fulfilled.

### **5.3 Waiver**

The Conditions Precedent may only be waived if the Sellers, the Administrators and the Buyer agree in writing

### **5.4 Failure of Condition**

- (a) The Sellers or the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement at any time after the Sunset Date by giving written notice to each other party at any time before Completion if:

- (i) a Condition Precedent is not fulfilled or waived before 5pm (AEST) on the Sunset Date;
  - (ii) a Condition Precedent having been fulfilled, that Condition Precedent does not remain fulfilled in all respects at all times until Completion; or
  - (iii) Completion has not occurred by 5pm (AEST) on the Sunset Date.
- (b) On termination under this clause, each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights):
- (i) under clause 3.3 (No Completion - Deposit);
  - (ii) under clause 19 (Confidentiality);
  - (iii) under clause 21 (Administrators' capacity and liability);
  - (iv) under clause 24 (Guarantee and Indemnity);
  - (v) under clause 26 (Goods and services tax (GST));
  - (vi) under clause 28.12 (Duty); and
  - (vii) in connection with any Loss or Claim of the Sellers or the Administrators that arose before termination.

#### 5.5 Seller's Rights if Prevented from Completion

- (a) If any Seller or the Administrators are restrained or prevented from completing this Agreement by injunction, court proceedings, any enforcement action by a secured creditor, claims by Third Parties, caveat, requisition or otherwise (each an **Impediment**), the Sellers may (but are not obliged) to do any or all of the following:
- (i) on or prior to the Sunset Date, extend the Sunset Date to a date which is up to 60 days after the Sunset Date (**Extended Sunset Date**) by notice to the Buyer; or
  - (ii) if after exercising its rights under clause 5.5(a)(i) the Sellers or the Administrators determine in their absolute discretion that they are unable to remove the Impediment, terminate this Agreement by notice in writing to the Buyer.
- (b) The Buyer will have no claim against the Sellers or the Administrators in respect of any delay in Completion or termination of this Agreement caused by the Sellers or the Administrators exercising their rights under clause 5.5(a) and will not be entitled to take any action against the Sellers or the Administrators to complete this Agreement prior to removal of the Impediment except as provided for in clause 5.5(c).
- (c) If the Sellers:



- (i) are unable to procure the removal of the Impediment; or
- (ii) fails to serve on the Buyer notice confirming the removal of the Impediment,

by the Extended Sunset Date, then the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement by serving a notice of termination on the other parties.

- (d) If this Agreement is terminated under this clause, then each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions.

## 6. Notice to Complete

- (a) If Completion has not been effected on or before the date contemplated in clause 8.1 any party, not being in default under this Agreement, may give to the other fourteen (14) days notice in writing (**Notice to Complete**) to complete and making time of the essence of this Agreement. The party to whom such notice is given will not be entitled to object to the sufficiency or adequacy of the period of such notice.
- (b) If the Buyer does not comply with a Notice to Complete then the Sellers or Administrators may, by notice in writing served upon the Buyer, either:
  - (i) terminate this Agreement and seek damages against the Buyer and/or the Guarantors; and/or
  - (ii) enforce against the Buyer and/or the Guarantors, without further notice, any other rights and remedies available to the Sellers.
- (c) If the Sellers do not comply with a Notice to Complete within fourteen (14) days, the Buyer may, by notice in writing served upon the Sellers or Administrators, terminate this Agreement whereupon the deposit will be immediately returned to the Buyer.

## 7. Liquor Licence

### 7.1 Liquor Licence Transfer

- (a) On the Agreement Date, the Buyer must advise the Sellers or the Administrators in writing of the name and address of the Buyer's Nominee.
  - (b) Within 3 Business Days after the Agreement Date, the Buyer must deliver to the Seller:
    - (i) a Liquor Licence Transfer in relation to the Liquor Licence which has been completed and executed by the Buyer's Nominee as proposed transferee and proposed business owner of the Liquor Licence;
    - (ii) all documents required to be lodged with the Liquor Licence Transfer and which are necessary for the successful completion and lodgement of the Liquor Licence Transfer; and
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- (iii) subject to clause 7.1(c), a cheque payable to 'Office of Liquor, Gaming and Regulation' in respect of any prescribed application fee payable in relation to the Liquor Licence Transfer.
- (c) The Buyer shall not be required to deliver a cheque in accordance with clause 7.1(b)(iii) if valid and complete credit card details are provided in the Liquor Licence Transfer.
- (d) As soon as reasonably practicable after receiving the documents in accordance with clause 7.1(b), the Seller, as current licensee, must execute the Liquor Licence Transfer.
- (e) Subject to receiving the documents in accordance with clause 7.1(b), the Sellers must promptly lodge with the Office of Liquor and Gaming Regulation, the documents received from the Buyer under clause 7.1(b).
- (f) The Buyer authorises the Sellers to make all necessary enquiries as to the progress of the Liquor Licence Transfer. The Buyer must immediately provide all necessary or further information requested by the Sellers to allow the Liquor Licence Transfer to be granted "subject to completion" approval on or before the Completion Date.
- (g) The Buyer agrees to do all things reasonably within the power of the Buyer to cause the Liquor Licence Transfer to be granted and if any submission against its approval is lodged, to lodge its own submission to contest any such submission. The Buyer must not object to any conditions being imposed by the Office of Liquor and Gaming Regulation on the Liquor Licence or the Liquor Licence Transfer and cannot delay completion of, or rescind or terminate, this Agreement as a result of any such conditions.
- (h) The Sellers reserve the right to lodge its own submission in support of the Liquor Licence Transfer.
- (i) The Buyer must pay any duty (including related interest or penalties) payable on the Liquor Licence Transfer under the *Duties Act 2001 (QLD)*.

## 7.2 Liquor Licence Transfer refusal

- (a) If the Liquor Licence Transfer is refused by the Office of Liquor and Gaming Regulation, due in whole or in part to an objection to:
    - (i) the Buyer's Nominee, then another nominee must be nominated by the Buyer and the Buyer must provide the Sellers with the documents required under clause 7.1(b), modified as necessary to reflect the new nominee; or
    - (ii) the manager, then another manager will be nominated by the Buyer and the buyer will provide the documents required under clause 7.1(b), modified as necessary to reflect the new manager.
  - (b) The Buyer indemnifies the Sellers and the Administrators in respect of, and must pay upon request, all costs and expenses incurred by the Sellers or the Administrators in respect of the unsuccessful Liquor Licence Transfer if the Liquor Licence Transfer is refused for the reasons referred to in clause 7.2(a).
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### 7.3 If Completion does not occur

- (a) If the Liquor Licence is granted "subject to completion" approval, but Completion does not occur:
  - (i) the Sellers may withdraw all documentation lodged with the Office of Liquor and Gaming Regulation in relation to the Liquor Licence Transfer and the Liquor Licence Transfer will be taken to have not occurred; or
  - (ii) if the Sellers are unable to withdraw the Liquor Licence Transfer in accordance with clause 7.3(a)(i), the Buyer undertakes to immediately re-transfer the Liquor Licence granted to the Buyer's Nominee (or relevant replacement) back to the Seller or a person to be nominated in writing by the Sellers, at the Buyer's own expense.
- (b) During the period it takes for the Liquor Licence to be re-transferred in accordance with clause 7.3(a)(ii), the Buyer must only deal with the Liquor Licence as directed by the Sellers or the Administrators.

### 7.4 Approval

From the earlier of:

- (a) the date the Liquor Licence Transfer is transferred to the Buyer's Nominee by the Office of Liquor and Gaming Regulation; and
- (b) Completion,

the Buyer:

- (c) accepts responsibility for the performance of all of the obligations and liabilities under the Liquor Licence (including the payment of any money due under the Liquor Licence); and
- (d) indemnifies the Sellers and the Administrators against any Loss or Claim arising from or in connection with the Liquor Licence.

## 8. Completion

### 8.1 Time and place

Subject to clause 5.5, Completion must take place at the office of William James, Upper Ground Floor, Trafalgar Square, 230 Clarence Street, Sydney at 10am 2 Business Days after the satisfaction of the Conditions Precedent, or such other time or place agreed by the parties in writing.

### 8.2 Seller's obligations at Completion

At Completion, the Sellers must:

- (a) make available to the Buyer for collection, such of the Assets capable of passing by delivery, at the respective places where they are located;

- (b) to the extent that they are available at Completion, deliver to the Buyer the original Records (other than the Excluded Records) in relation to the Assets and the Businesses; and
- (c) provide a consent to transfer number reference provided by ASIC for the Business Names that will entitle the Purchaser to register the Business Names after Completion,

provided that the Sellers shall not be obliged to do so unless and until the Buyer has complied with its obligations under clause 8.3(a) concerning payment of the balance of the Purchase Price.

### **8.3 Buyer's obligations at Completion**

At Completion the Buyer must:

- (a) pay the Purchase Price or that part of the Purchase Price as is required to be paid at Completion to the Sellers in accordance with clauses 3.1 and 11.2, subject to any adjustments under this Agreement;
- (b) take possession of each Asset;
- (c) accept all the documents and other items specified in clause 8.2 which the Sellers give the Buyer under that clause; and
- (d) do all other acts and execute all other documents that this Agreement requires the Buyer to do or execute at Completion.

## **9. Adjustments to the Purchase Price**

### **9.1 Sellers to provide statement**

On the day before Completion, the Sellers must provide to the Buyer a written statement setting out:

- (a) the amount of all Accruals and Prepayments; and
- (b) any amount to be paid by either the Buyer or the Sellers to the other of them, under clause 9.2.

### **9.2 Difference between Accruals and Prepayments**

If:

- (a) Prepayments exceed Accruals, the Buyer must pay an amount equal to the difference to the Sellers; or
- (b) Accruals exceed Prepayments, the Sellers must pay an amount equal to the difference to the Buyer,

in accordance with clause 11.2, as an adjustment to the Purchase Price.

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## 10. Retention Amount

- (a) The Buyer acknowledges that one or more Third Parties has asserted ownership over the Escrow Assets.
- (b) As soon as practicable after receiving the balance of the Purchase Price from the Buyer pursuant to clause 8.3(a), the Sellers shall transfer the Retention Amount into a separate bank account as a retention fund against claims that an Asset is owned by a Third Party.
- (c) The Sellers may use any of the Retention Amount to satisfy any such claim made against any Asset sold under this Agreement.
- (d) The Retention Amount, or any remaining part thereof as the case may be, shall vest in the Sellers 60 days from the Completion Date, once all such claims notified to the Seller or the Administrators in this period have been resolved.

## 11. Final payment

### 11.1 Final payment certificate

On or before the Completion Date, the Sellers must prepare and deliver to the Buyer a final payment certificate (**Final Payment Certificate**) setting out the balance of the Purchase Price payable by the Buyer, after taking into account:

- (a) any payments already made or to be made by the Buyer on Completion under this Agreement;
- (b) any amounts owed by the Buyer or the Guarantors under any Transaction Document, which for the avoidance of doubt the parties agree shall be treated as an increase to the Purchase Price;
- (c) amounts payable by either the Buyer or the Sellers under clause 9.2; and
- (d) any security deposits provided by the Sellers under any contract, document or arrangement that is being assigned, novated or transferred to the Buyer under or in connection with this Agreement where that security deposit has not been refunded to the Sellers and is being held for the benefit of the Buyer as at Completion (which amounts are to be taken as an increase in the Purchase Price).

### 11.2 Payment of balance of Purchase Price

Subject to clause 11.3 on Completion the Buyer must pay to the Sellers the balance of the Purchase Price set out in the Final Payment Certificate.

### 11.3 Disputes over value of Adjustments

If the Buyer, acting in good faith, disagrees with the statement delivered under clause 9.1 or the Final Payment Certificate delivered under clause 11.1 and the parties cannot reach agreement by the Completion Date, then:

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- (a) on Completion, the Buyer must pay to the Sellers the balance of the Purchase Price set out in the Final Payment Certificate;
- (b) the Buyer and the Sellers must use their reasonable endeavours to reach agreement as soon as possible;
- (c) if the Buyer and the Sellers are unable to reach agreement within 5 Business Days after Completion, the Buyer and the Sellers must refer the disagreement to an Expert for determination under clauses 11.4 to 11.7 (inclusive); and
- (d) the Buyer and the Sellers must, within 5 Business Days after receipt of the Expert's determination, account to each other, as appropriate, in accordance with the Expert's determination.

#### **11.4 Role of Expert**

The Expert acts as an expert and not as an arbitrator. The parties must accept the determination of the Expert as final and binding, except in the case of manifest error.

#### **11.5 Process**

The Expert:

- (a) must conduct its determination in accordance with the ACDC Rules for Expert Determination, which Rules are taken to be incorporated into this Agreement;
- (b) may proceed in the manner the Expert thinks most appropriate and is not bound to follow the rules of natural justice or the rules of evidence;
- (c) must take into account all information and submissions provided to the Expert by the parties relating to the matter to be determined;
- (d) must determine the matter in a manner that has regard to, and is consistent with, the terms of this Agreement; and
- (e) must promptly give each of the parties a written determination that includes the reasons for the determination.

#### **11.6 Information**

The Sellers and the Buyer must:

- (a) give the Expert access to any records that are relevant to the matter to be determined;
  - (b) use reasonable endeavours to make available to the Expert all information relevant to the dispute and which the Expert reasonably requires in order to resolve the dispute; and
  - (c) provide to the Expert any other assistance reasonably requested by the Expert.
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**11.7 Costs**

Each party must pay its own costs of complying with clauses 11.4 to 11.7 (inclusive). Unless the Expert otherwise determines, having regard to all the circumstances, the costs of the Expert and any other costs must be shared equally by the parties.

**12. Lease Agreement****12.1 Election**

- (a) The Buyer may elect to:
- (i) take an assignment of the Leases; or
  - (ii) if the relevant Landlord agrees, take a new lease of the Premises from the Landlord.
- by giving the Sellers written notice of its election within 5 Business Days after the Agreement Date.
- (b) If the Buyer does not give a notice under clause 12.1(a) then it is deemed to have made an election to take an assignment of the Leases.

**12.2 Sale subject to Lease**

The Buyer accepts the Leases (or the New Lease, if the Buyer makes an election under clause 12.1(a)(ii)).

**12.3 Landlord's costs**

- (a) Despite any other clause in this Agreement, or any Lease, the Buyer is responsible for and must pay to the Landlord or reimburse to the Sellers any costs charged by the Landlord, including costs incurred for:
- (i) drafting, negotiating and finalising a Deed of Consent or the New Lease and Surrender;
  - (ii) approving the Buyer;
  - (iii) obtaining any consents the Landlord must get before giving any approvals; and
  - (iv) any other document concerning the assignment of the Lease or the New Lease and Surrender.
- (b) The Buyer is responsible for any registration fees and stamp duty payable in connection with either:
- (i) the assignment of the Lease; or
  - (ii) the New Lease and the Surrender (where an election is made under clause 12.1(a)(ii)).
-

**12.4 Sellers' Costs**

The Sellers are responsible for their own costs of any Assignment and Surrender of the Leases.

**13. Surrender of Lease and New Lease****13.1 Applicability**

This clause 13 only applies if the Buyer elects to take a New Lease under clause 12.1(a)(ii).

**13.2 Sellers' obligations**

The relevant Seller must use all reasonable endeavours to procure a Surrender on and from Completion.

**13.3 Buyer's obligations**

The Buyer must use all reasonable endeavours to procure that the Landlord enters into a New Lease commencing from Completion and gives a Surrender effective on Completion, including by:

- (a) providing all financial information required by the Landlord;
- (b) providing all information required by the Landlord in relation to the Buyer's retailing skills;
- (c) providing the Landlord with any bank guarantee, security deposit, guarantee or indemnity or other security that the Landlord reasonably requires with respect to the performance of its obligations as lessee under the New Lease;
- (d) providing any other information or documentation or comfort the Landlord may reasonably require under the New Lease;
- (e) by providing such information and documents as the Landlord may require from time to time under the Retail Law; and
- (f) if the Buyer is required to provide any other document or information to any person under the Retail Law or any other relevant retail leases legislation, providing such document or information within the time permitted under that legislation.

**13.4 If Landlord refuses to enter into New Lease**

If the Landlord refuses to enter into the New Lease and/or the Surrender, then the parties agree that the Buyer will elect to take an assignment of the Lease.

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## **14. Assignment of Lease**

### **14.1 Applicability**

This clause 14 only applies if the Buyer elects to take an assignment of the Lease under clause 12.1(a)(i) or is deemed to have elected to do so under clause 12.1(b) or clause 13.4.

### **14.2 Seller's obligations**

On and from the Agreement Date, if the Landlord requires the Buyer and the Sellers to enter into a deed as a condition of giving its consent to the assignment of the Lease, then the Sellers must use all reasonable endeavours to procure that the Landlord enters into the Deed of Consent before the Sunset Date.

### **14.3 Buyer's obligations**

The Buyer must provide all reasonable assistance that the Sellers reasonably require (at the Buyer's cost) to procure the Landlord's consent to the assignment of the Lease in accordance with the requirements of the Lease, including:

- (a) providing all financial information required by the Landlord;
- (b) providing all information required by the Landlord in relation to the Buyer's retailing skills;
- (c) entering into a Deed of Consent, if required by the Landlord;
- (d) acknowledging that it will observe and perform the lessee's covenants in the Lease;
- (e) providing the Landlord with any bank guarantee, security deposit, guarantee or indemnity or other security that the Landlord reasonably requires with respect to the performance of its obligations as lessee under the Lease;
- (f) providing any other information or documentation or comfort the Landlord may reasonably require under the Lease;
- (g) by providing such information and documents as the Landlord may require from time to time under the Retail Law; and
- (h) if the Buyer is required to provide any other document or information to any person under the Retail Law or any other relevant retail leases legislation, providing such document or information within the time permitted under that legislation;

### **14.4 Transfer**

- (a) The Buyer must properly execute and stamp any necessary transfer of lease form and ensure that the transfer of lease form is lodged with the relevant land titles office promptly after Completion and use all reasonable endeavours to obtain registration of the transfer of lease form, at the sole cost of the Buyer.
  - (b) The Buyer must provide the Sellers with evidence of registration of the transfer of lease form no later than the date that is 1 month after Completion.
-

## **15. Employees**

### **15.1 Offer of employment**

- (a) On or as soon as practicable after the Agreement Date but before the Completion Date, the Buyer may make offers of employment to the Employees provided such offers are conditional upon Completion occurring.
- (b) The Buyer will confirm with the Administrators when the offers of employment are made to the Employees and on what terms as soon as practicable after making such offers.
- (c) The Sellers will use reasonable endeavours to encourage those Employees that are offered employment by the Buyer under clause 15.1(a) to accept the offers of employment provided to them by the Buyer.
- (d) The parties agree and acknowledge that the Employees who do not become Transferring Employees, remain the responsibility of the relevant Seller and the Buyer will have no responsibility whatsoever for any Liability relating to those employees.

### **15.2 Terms and conditions of employment**

Each offer to the Employees must be:

- (a) conditional on Completion occurring and effective on and from Completion;
- (b) irrevocable before the day that is 2 Business Days after the Sunset Date;
- (c) conditional on the Employee resigning from his or her employment with the Seller, effective immediately before commencement of employment with the Buyer; and
- (d) otherwise, be on terms acceptable to the Sellers.

### **15.3 Buyer's obligations**

On and from Completion, the Buyer is responsible for, and indemnifies the Sellers against all Employee Entitlements and Leave Entitlements that accrue to Transferring Employees in respect of the period on or after Completion, including all remuneration and entitlements, relating to their actual employment by the Buyer.

### **15.4 Sellers' obligations**

At or within 10 Business Days after Completion, the Sellers must provide the Buyer with details of the superannuation fund(s) (to the extent that they are available to the Seller) to which the relevant Seller was contributing on behalf of the Transferring Employees before Completion so as to enable the Buyer to continue making contributions to those funds in accordance with applicable Laws.

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## **16. Debtors and Creditors**

### **16.1 Debts incurred prior to the Completion Date**

- (a) Subject to clause 16.2(b), the Sellers are solely responsible for all debts and Liabilities incurred before Completion in respect of the Businesses and the Assets.
- (b) All Prepayments must be reimbursed by the Buyer to the Sellers as an adjustment to the Purchase Price in accordance with clause 9.2.

### **16.2 Debts incurred after the Completion Date**

- (a) The Buyer is solely responsible for all debts and Liabilities incurred on or after Completion in respect of the Assets and the Businesses and must indemnify and keep indemnified the Sellers and the Administrators against any Loss or Claim in relation to those debts and Liabilities.
- (b) For the avoidance of doubt, the Buyer's liability under clause 16.2(a) includes all debts and Liabilities in relation to any orders placed by the Sellers in respect of the Businesses prior to Completion for which goods or services have not yet been provided prior to Completion.
- (c) All Accruals must be paid for by the Sellers to the Buyer as an adjustment to the Purchase Price in accordance with clause 9.2.

### **16.3 Entitlement to income**

- (a) The parties acknowledge and agree that the Sellers are entitled to income derived from conducting the Businesses before Completion and the Buyer is entitled to income derived from conducting the Businesses on and from Completion.
- (b) Without limiting clause 16.3(a), the Book Debts remain the property of the Sellers and after Completion the Buyer must promptly account to the Sellers in respect of any moneys received by the Buyer in part or full payment of any of the Book Debts.
- (c) The Sellers and the Buyer must keep each other regularly informed as to moneys received by either of them contrary to the principles in clauses 16.3(a) and 16.3(b).

## **17. Indemnity in relation to transferred contracts**

The Buyer accepts responsibility for the performance of any contract, document, Authorisation or arrangement that is assigned or transferred to the Buyer under or in connection with this Agreement on and from the time of assignment or transfer (including any obligation for the payment of any money), but only for the period after Completion and must indemnify and keep indemnified the Sellers and the Administrators against any Loss or Claim arising from or in connection with any breach or non-performance of any such contract, document, Authorisation or arrangement by the Buyer.

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## 18. Personal Property Securities regime

### 18.1 PPSA further steps

- (a) If in the Sellers' opinion:
- (i) any of the Transaction Documents contains or any of the Transactions creates a PPSA Security Interest for the purposes of the PPS Law; or
  - (ii) the PPS Law does or could affect the Seller's rights or obligations under or in connection with any Transaction Document,
- (each a **PPSA Event**), the Sellers may, in its absolute discretion, do any of the following:
- (iii) register or give any notification in connection with any relevant PPSA Security Interest and exercise rights in connection with the PPSA Security Interest; and
  - (iv) give notice to the Buyer requiring it to do anything at its expense that the Sellers require for the purposes of the relevant PPSA Event including, but not limited to, amending any of the Transaction Documents, executing any new document or agreement, obtaining consents and supplying information.
- (b) The Buyer must comply with any notice received pursuant to clause 18.1(a) within the time stipulated in the notice.

### 18.2 Sellers' right to terminate the Agreement

If:

- (a) any action referred to in clause 18.1 is not taken to the Sellers' satisfaction; or
- (b) despite such action the Sellers determine that its rights or obligations under or in connection with the Transactions or any of the Transaction Documents have been or will be materially adversely affected,

then the Sellers may give notice to the Buyer terminating this Agreement or any other document in connection with the Transactions and requiring:

- (c) full repayment of all outstanding monies (if any); and
- (d) the return of all of the Sellers' property within the control of the Buyer (if any),

within 10 days after the date of notification. Upon the giving of that notice, each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions or under this clause 18.2.

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### 18.3 General

- (a) The Buyer irrevocably and unconditionally waives its right to receive from the Sellers any notice under the PPS Law (including notice of a verification statement) unless required by the PPS Law and if the notice cannot be excluded.
- (b) The Buyer must not register a PPSA Security Interest against the Sellers without their prior written consent.
- (c) The Buyer must notify the Sellers immediately of any change in its name, address, and any other information provided to the Sellers to enable the Sellers to register a financing change statement under the PPS Law if required.
- (d) The parties agree that the subject matter referred to in section 275(1) of the PPS Law is confidential and each party must not disclose any such information to a third party (other than their professional advisers and financiers or to enforce a right under or in connection with this Agreement).

### 18.4 Contracting out

- (a) The following provisions of the PPS Law do not apply and, for the purposes of section 115 are "contracted out" of these terms, namely sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.
- (b) The parties agree that the Sellers have the power to retain, deal with or dispose of any property seized by it in the manner specified in sections 123, 125, 126, 128, 129 and 134(1) of the PPS Law and in any other manner it deems fit.

### 18.5 Survival

The parties agree that the provisions of this clause 18 survive any completion, expiry or termination of this Agreement.

## 19. Confidentiality

### 19.1 Obligations of confidentiality

- (a) The Receiving Party acknowledges that the Disclosing Party's Confidential Information is the property of and confidential to, or a trade secret of, the Disclosing Party. Subject to clause 19.2, the Receiving Party must:
  - (i) keep the Disclosing Party's Confidential Information confidential and not directly or indirectly disclose, divulge or communicate that Confidential Information to, or otherwise place that Confidential Information at the disposal of, any other person without the prior written approval of the Disclosing Party;
  - (ii) take all reasonable steps to secure and keep secure all of the Disclosing Party's Confidential Information coming into its possession or control; and

- (iii) not memorise, use, modify, reverse engineer or make copies, notes or records of the Disclosing Party's Confidential Information for any purpose other than in connection with the performance by the Receiving Party of its obligations under this Agreement or any Law.
- (b) For the avoidance of doubt, the parties agree not to disclose the terms of this Agreement or its subject matter including, without limitation, the fact that Completion has occurred.

## 19.2 Exceptions

The obligations of confidentiality under clause 19.1 do not apply to any information that:

- (a) is generally available to the public (other than by reason of a breach of this Agreement);
- (b) is disclosed with the prior written approval of the Disclosing Party;
- (c) is disclosed to the Office of Liquor Gaming & Racing or the Independent Liquor and Gaming Authority in relation to the Liquor Licence Transfer;
- (d) is disclosed to the Landlord for the purposes of satisfying the Conditions Precedent;
- (e) is disclosed to a professional adviser, banker or financial adviser of the Receiving Party or to a person whose consent or approval is required under or in connection with this Agreement;
- (f) is required in order for the Administrators to comply with their obligations as administrators or liquidators of the Sellers;
- (g) Chanticleer is required to disclose to the Securities Exchange Commission under the Securities Exchange Act of 1934 and Securities Act of 1933;
- (h) is required to be disclosed by any applicable Law; or
- (i) is disclosed by a party in order to enforce any of its rights under or in connection with this Agreement.

## 19.3 Survival

The obligations imposed by this clause 19 survive any completion, expiry or termination of this Agreement.

## 20. Termination

- (a) If at any time on or before the Completion Date:
  - (i) a Condition Precedent becomes incapable of being fulfilled and has not otherwise been waived;
  - (ii) the Buyer breaches any of its obligations under the Transaction Documents; or

- (iii) an Insolvency Event occurs in relation to the Buyer or the Guarantor,

then the Sellers or the Administrators may terminate this Agreement (without prejudice to the Seller's or the Administrators' other rights and remedies) by notice to the Buyer, whereupon the Sellers and the Administrators will be released from all of their obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (if any) under clause 3.3. For the avoidance of doubt, if an Insolvency Event occurs in relation to the Buyer or the Guarantor, the Buyer shall be deemed to have breached this Agreement.

- (b) If at any time on or before the Completion Date:
  - (i) a Condition Precedent becomes incapable of being fulfilled and it has not otherwise been waived; or
  - (ii) the Sellers breach any of their obligations under the Transaction Documents; or

then the Buyer may terminate this Agreement (without prejudice to the Buyer's other rights and remedies) by notice to the Seller, whereupon the Buyer will be released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose.

## **21. Administrators' capacity and liability**

### **21.1 Administrators acting as agent**

- (a) All references to the Administrators in this Agreement are references to the Administrators in their capacity as administrators of the Sellers.
- (b) Each of the Buyer and the Guarantors acknowledges and agrees that:
  - (i) the Buyer is contracting with the Sellers for the purchase of the Assets and the Businesses under this Agreement and not the Administrators;
  - (ii) by entering into this Agreement, the Administrators are acting not in a personal capacity but as agents of the Sellers; and
  - (iii) any Information provided in connection with this Agreement to the Buyer by the Administrators or the Administrators' Representatives is provided on behalf of the Sellers.
- (c) If either of the Sellers enters into liquidation at any time prior to Completion, this Agreement and the Transaction Documents shall continue to operate as if references to the Administrators includes the Administrators in their capacity as liquidators of the relevant Seller.

### **21.2 No personal liability of Administrators**

For the avoidance of doubt, the parties agree that in connection with the negotiation, execution and completion of this Agreement, the Administrators are acting as the agent of the Sellers and to the maximum extent permitted by Law:

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- (a) neither the Administrators nor the Administrators' Representatives are personally liable under:
  - (i) this Agreement;
  - (ii) the transactions contemplated by this Agreement;
  - (iii) any act, matter or thing arising out of or in connection with this Agreement; or
  - (iv) under any other deed, instrument or document entered into, under or in connection with this Agreement;
- (b) any Loss or Claim the Buyer or the Guarantors may have resulting from a breach of an implied or express term of this Agreement or in connection with the Assets or the Businesses must be made solely against the relevant Seller;
- (c) each of the Buyer and the Guarantors releases the Administrators and the Administrators' Representatives from liability to the Buyer or the Guarantors for any Loss or Claim on any ground in connection with this Agreement, the Assets or the Businesses or under any other deed, instrument or document entered into, under or in connection with this Agreement; and
- (d) each Administrator is entitled to enforce his rights under this Agreement independently of each other Administrator.

### **21.3 Survival**

The parties agree that the provisions of this clause 21 survive any completion, expiry or termination of this Agreement.

## **22. No warranties**

### **22.1 Buyer's acknowledgments**

Each of the Buyer and the Guarantors acknowledge and agree that:

- (a) to the maximum extent permitted by Law, the Sellers and the Administrators make no statements or representations nor give any warranties in respect of the sale of the Assets and the Businesses or about the quality or condition of the Assets or the Business or the Relevant Items nor do they make or give any other representations or warranties except those expressly set out in this Agreement;
  - (b) without limiting clause 22.1(a), the Sellers and the Administrators do not make any statements or representations nor give any warranties about:
    - (i) the physical state, quality or condition of any of the Assets or the Businesses or the Relevant Items;
    - (ii) the standing, validity or enforceability of, or compliance by the Sellers with, any Intellectual Property Rights or the Relevant Items;
    - (iii) any rights of the Sellers (including title) in respect of the Assets or the Businesses or the Relevant Items;
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- (iv) the Assets being free of any Encumbrance;
  - (v) the value of the Assets or the Businesses or the Relevant Items;
  - (vi) the accuracy of the description of the Assets or the Businesses or the Relevant Items;
  - (vii) the purposes for which the Assets or the Businesses or the Relevant Items can legally and physically be used;
  - (viii) the ability of the Buyer to negotiate agreements with, or enter into arrangements, with any Third Party that owns or supplied:
    - (A) those items of plant and equipment listed in Part 3 of Schedule 1;
    - (B) any customer contracts for electricity, gas, telephone, internet or any other services or assets provided by Third Parties which are not stated to form part of the Assets;
  - (ix) compliance of the Assets or the Businesses or the Relevant Items with any Laws;
  - (x) whether all licences, approvals, permits, consents, certificates or authorities required for the use of the Assets or the Businesses or the Relevant Items are held by the Seller;
  - (xi) whether the Sellers have complied with all licences, approvals, permits, consents, certificates or authorities granted in respect of any of the Assets or the Businesses or the Relevant Items;
  - (xii) whether the Sellers have complied with all obligations imposed on it by statutes, orders, regulations, industrial instruments (including enterprise agreements and modern awards) relevant to conditions of service;
  - (xiii) the profitability or financial performance of the Assets or the Businesses or the Relevant Items;
  - (xiv) the future viability or profitability of the Assets or the Businesses or the Relevant Items;
  - (xv) the truth, accuracy or completeness of any information or statements contained within any information memoranda, due diligence or other materials provided to the Buyer in relation to the state, condition or sale of the Assets or the Businesses or the Relevant Items;
  - (xvi) the fitness or suitability of the Assets or the Businesses or the Relevant Items for any purpose (including any purpose expressly or impliedly disclosed by the Buyer to the Sellers, the Administrators or the Administrators' Representatives);
  - (xvii) the suitability of the Business Premises for the Businesses or any other purpose;
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- (xviii) the fixtures and fittings at the Business Premises;
  - (xix) the likelihood of the Liquor Licence Transfer being approved;
  - (xx) the terms or conditions of any contract, document, Authorisation or arrangement to which any Seller is a party;
  - (xxi) the standing, validity or enforceability of any contract, document, Authorisation or arrangement to which any Seller is a party;
  - (xxii) the standing, validity or enforceability of any actual or proposed assignment, novation or transfer of any contract, document, Authorisation or arrangement to which any Seller is a party; or
  - (xxiii) any counterparty to any contract, document, Authorisation or arrangement to which any Seller is a party (including the landlord);
- (c) to the maximum extent permitted by Law, all warranties, representations and statements which may have been made or given by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators, whether express, implied, written or oral, other than those expressly contained in this Agreement, are excluded and the Sellers and the Administrators disclaim all liability in relation to these;
  - (d) each of the Buyer and the Guarantors do not rely on any statement, representation, warranty, condition or other conduct in relation to the Businesses or Assets or the Relevant Items which may have been made or given by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators and declares that it would have entered into this Agreement on the same terms and conditions irrespective of any such statement, representation, warranty, condition or other conduct;
  - (e) the Buyer has agreed to purchase the Assets and the Businesses for a price calculated to take into account the risk to the Buyer represented by the fact that all parties believe that the exclusions and limitations contained in this Agreement would be recognised by the courts as fully effective;
  - (f) each of the Buyer and the Guarantors has received independent professional advice in relation to the purchase of the Assets and the Businesses and in relation to the Relevant Items and has investigated all material matters that a reasonably prudent intending buyer of the Assets and the Businesses would investigate and has (to the extent it has had access to the Assets or Businesses or the Relevant Items) satisfied itself about anything arising from its investigation;
  - (g) each of the Buyer and the Guarantor relies on its own investigations and professional advice received and does not rely on any statement, representation, assurance, warranty, condition or other conduct in relation to the Assets or the Businesses or the Relevant Items which may have:
    - (i) been made or given; or
    - (ii) failed to have been made or given,
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- by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators;
- (h) each Asset and the Businesses and each Relevant Item is purchased by the Buyer as a result of the independent exercise of the Buyer's own skill and judgment after due inspection and investigation;
  - (i) each Asset and the Businesses and each Relevant Item is purchased by the Buyer on an "as is where is" basis with all existing patent and latent defects and irregularities; and
  - (j) the Administrators have not:
    - (i) conducted any due diligence investigation, other investigation or enquiries in relation to the Assets or the Businesses or the Relevant Items; or
    - (ii) verified, audited, examined or reviewed any information provided by the Sellers to the Buyer as to its truth, accuracy or completeness.

## 22.2 Limitations

- (a) Each of the Buyer and the Guarantors may not claim against the Sellers, the Administrators or the Administrators' Representatives for any Loss or Claim arising from or relating to any statement, representation, warranty, promise or agreement in connection with the sale of any of the Assets or the Businesses or the Relevant Items:
    - (i) made or implied; or
    - (ii) failed to have been made or given,

by the Sellers, the Administrators, the Administrators' Representatives or any representative or other person purporting to act on behalf of any of them, except to the extent that the right to make such a claim is:

    - (iii) expressly set out in this Agreement; or
    - (iv) a right that by Law cannot be excluded or modified.
  - (b) All warranties, conditions, promises, representations and statements which may have been made or given by the Sellers, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Sellers or the Administrators, whether express, implied, written or oral, statutory or otherwise other than those expressly contained in this Agreement, are excluded to the maximum extent permitted by Law.
  - (c) To the maximum extent permitted by Law, each of the Buyer and the Guarantors may not object to, rescind, cancel or terminate this Agreement, in any way whatsoever delay Completion, deduct, withhold or set-off any amount from the Purchase Price or claim compensation for damages from the Sellers, because of the status of any matter described in clause 22.1.
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## **23. Party as trustee**

### **23.1 Capacity**

If the Buyer or the Guarantor (**Trustee**) enters into this Agreement in the capacity as trustee of any trust (**Trust**) under any trust deed, deed of settlement or other instrument (**Trust Deed**), and whether or not any other party has notice of the Trust, then the Trustee enters into this Agreement both as trustee of the Trust and in its personal capacity.

### **23.2 Trustee's warranties**

The Trustee represents and warrants that:

- (a) it is the only trustee of the Trust and no action has been taken or is proposed to remove it as trustee of the Trust;
- (b) the Trustee has power under the Trust Deed and, in the case of a corporation, under its constitution, to enter into and execute this Agreement and to perform the obligations imposed under this Agreement as Trustee;
- (c) all necessary resolutions have been passed as required by the Trust Deed and, in the case of a corporate Trustee, by its constitution, in order to make this Agreement fully binding on the Trustee;
- (d) the execution of this Agreement is for the benefit of the beneficiaries of the Trust;
- (e) the Trustee is not, and has never been, in default under the Trust Deed;
- (f) it has a right to be fully indemnified out of the Trust assets in respect of obligations incurred by it under this Agreement and the assets of the Trust are sufficient to satisfy that right of indemnity;
- (g) there is not now, and the Trustee will not do anything by virtue of which there will be in the future, any restriction or limitation on the right of the Trustee to be indemnified out of the assets of the Trust; and
- (h) there is no material fact or circumstance relating to the assets, matters or affairs of the Trust that might, if disclosed, be expected to affect the decision of the other parties to enter into this Agreement.

### **23.3 Repetition**

The representations and warranties set out in clause 23.2 are repeated on each day from and including the Agreement Date to and including the Completion Date with reference to the facts and circumstances then subsisting.

## **24. Guarantee and indemnity**

### **24.1 Guarantee of Buyer's performance**

- (a) In consideration of the Sellers agreeing to sell the Businesses and the Assets to the Buyer on the terms of this Agreement, the Guarantors guarantee to the
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Sellers and the Administrators the punctual performance by the Buyer of the Buyer's obligations under this Agreement, including its obligations to pay money.

- (b) The Guarantors must:
- (i) pay to the Sellers any amount that the Buyer fails to pay the Sellers on or by the due date for payment as prescribed by this Agreement; and
  - (ii) comply with any of the Buyer's obligations that the Buyer fails to comply with on or by the due date for compliance as prescribed by this Agreement,
- whether or not demand has been made by the Sellers or the Administrators on the Buyer.
- (c) The aggregate amount payable under the guarantee provided by the Guarantors pursuant to this Agreement is limited to the amount of the Purchase Price.

#### **24.2 Indemnity**

The Guarantors indemnify and must keep indemnified the Sellers and the Administrators against any Loss or Claim that may be brought against the Sellers or the Administrators or which the Sellers or the Administrators may pay, sustain or incur as a direct or indirect result of any breach or non-performance of this Agreement by the Buyer. The Sellers or the Administrators may enforce this right of indemnity at any time, including before it has incurred the liability, loss or costs.

#### **24.3 Continuing obligation**

The guarantee and indemnity given under this clause 24 is a continuing obligation which:

- (a) continues after Completion and after the parties' other obligations under this Agreement terminate; and
- (b) is not discharged by any one payment.

#### **24.4 Obligations and rights not affected by certain matters**

The Guarantors' obligations and the rights of the Sellers and the Administrators under this guarantee and indemnity are not affected by anything which might otherwise affect them at Law including:

- (a) any concession (such as extra time) being given to any person, including the Guarantors or the Buyer;
  - (b) the failure or delay of the Sellers or the Administrators in taking action or asserting a right, or any other act, omission or mistake by the Sellers or the Administrators;
  - (c) the assignment, novation or transfer of a right or obligation of the Sellers or the Administrators;
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- (d) this Agreement (or any agreement entered into in order to perform this Agreement) being varied; or
- (e) an obligation or liability of any person being invalid or unenforceable.

#### **24.5 Guarantors' rights suspended**

The Guarantors must not do any of the following, without the consent of the Sellers and the Administrators, until all money payable to the Sellers or the Administrators (as the case may be) in connection with this Agreement is fully and finally paid:

- (a) exercise a right of contribution or indemnity as against the Sellers or the Administrators;
- (b) take a step to enforce a right against the Sellers or the Administrators in connection with money the Guarantors pay to the Sellers or the Administrators under this guarantee and indemnity;
- (c) claim a share of any money the Sellers receives in connection with this Agreement;
- (d) claim the benefit of (for example, by subrogation), or seek the transfer of, a guarantee, indemnity or security the Sellers or the Administrators hold in connection with this Agreement;
- (e) try to reduce its liability under this guarantee and indemnity through set-off or counterclaim; or
- (f) prove in competition with the Sellers or the Administrators if the Buyer is unable to pay its debts as and when they fall due.

#### **24.6 Reinstating the Seller's and the Administrators' rights**

If a claim is made (such as a claim under the Law relating to insolvency) that a payment or transfer to the Sellers in connection with this Agreement is void or voidable and that claim is upheld, conceded or compromised, then the Sellers or the Administrators (as the case may be) are immediately entitled to the rights the Sellers or the Administrators had against the Buyer and the Guarantors before the payment or transfer was made.

#### **24.7 Reimbursing the Sellers and the Administrators for costs**

The Guarantors must pay or reimburse the Sellers and the Administrators on demand for:

- (a) the Sellers' and the Administrators' costs in connection with enforcing or deciding whether to enforce this guarantee and indemnity; and
- (b) all Tax payable in connection with this guarantee and indemnity or any transaction, including a payment, contemplated by it.

#### **24.8 Applying money paid by the Guarantors**

The Sellers or the Administrators may apply amounts it receives from the Guarantors under this guarantee and indemnity in any manner or order it chooses.

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## **25. Interest on overdue payments**

### **25.1 Payment of default interest**

If a party fails to pay on the due date any amount that the party is obliged to pay under this Agreement, the party must pay interest on that amount. The interest:

- (a) must be paid on written demand (or if no demand is made, on Completion) given to that party by the party or parties to whom the amount is payable;
- (b) is calculated from and including the day on which it falls due to but excluding the day on which it is paid in full; and
- (c) accrues each day at the Prescribed Rate.

Each of the Buyer and the Guarantors acknowledges and agrees that interest at the Prescribed Rate is a genuine pre-estimate of the liquidated damages likely to be suffered by the Seller.

### **25.2 Other rights not affected**

A party's right to require payment of interest under clause 25.1 does not affect any other rights or remedies it may have in respect of a failure to pay an amount due under this Agreement.

## **26. Goods and services tax (GST)**

### **26.1 Definitions**

In this clause:

- (a) the expressions **Consideration**, **GST**, **Input Tax Credit**, **Recipient**, **Supply**, **Supply of a Going Concern**, **Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the GST Act;
- (b) **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (as amended); and
- (c) **Supplier** means any party treated by the GST Act as making a Supply under this Agreement.

### **26.2 Price is GST exclusive**

Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST.

### **26.3 Supply of a going concern**

The Supplier and Recipient agree that the supply of the Assets and the Businesses under this Agreement constitutes the Supply of a Going Concern under which the Supplier:

- (a) is supplying to the Recipient all of the things that are necessary for the continued operation of an enterprise; and
-

- (b) carries on and will carry on, the enterprise until the day of the Supply (whether or not as a part of a larger enterprise carried on by the Supplier).

#### **26.4 Recipient registered for GST**

The Recipient warrants that on the day of the Supply it will be registered or required to be registered under the GST Act.

#### **26.5 Consequences if parties mistaken as to sale of a going concern**

If the Supply made under this Agreement does not satisfy the requirements of section 38-325 of the GST Act, then:

- (a) the Recipient must pay to the Supplier an additional amount equal to the GST payable on the Taxable Supply and any penalties or interest that may be imposed in respect of the GST payable; and
- (b) the additional amount is payable immediately after the Supplier provides a valid Tax Invoice to the Recipient in respect of the Supply.

### **27. Access to Documents Before and After Completion**

#### **27.1 Before Completion**

The Sellers have, and will give the Buyer or its representatives reasonable access, during normal business hours, to the Business Premises until the Completion Date and the Sellers will make available to the Buyer and its accountants and lawyers (at the Buyer's cost), all relevant books, books of account, records, contracts, registers, and any other documents relating to the Assets as the Buyer, its accountants or lawyers may reasonably request and the Buyer its accountants or lawyers may take copies thereof, provided that in exercising its rights under this clause the Buyer must, and must cause its representatives to, comply with the Sellers' reasonable directions and not cause unreasonable interference or disturbance to the Sellers or the Businesses.

#### **27.2 After Completion**

- (a) The Buyer grants to the Sellers and the Administrators the right to access and take copies (at the Sellers' cost) of records belonging to or in the possession or control of the Buyer after Completion, to the extent those records relate in any way to the Assets in respect of any period before Completion.
  - (b) Where it is proposed to exercise the rights under clause 27.2(a), the Sellers will provide reasonable notice to the Buyer.
  - (c) The rights under clause 27.2(a) may be exercised at any time from Completion until the date that is 90 days from the Completion Date.
  - (d) Nothing in this clause limits or restricts any other rights of access any party may have independently of this Agreement whether under the Corporations Act or otherwise.
-



## **28. General**

### **28.1 Nature of obligations**

- (a) Any provision in this Agreement which binds more than one person binds all of those persons jointly and each of them severally.
- (b) Each obligation imposed on a party by this Agreement in favour of another is a separate obligation.

### **28.2 Entire understanding**

- (a) This Agreement contains the entire understanding between the parties concerning the subject matter of the Agreement and supersedes, terminates and replaces all prior agreements and communications between the parties.
- (b) Each party acknowledges that, except as expressly stated in this Agreement, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of this Agreement.

### **28.3 No adverse construction**

This Agreement, and any provision of this Agreement, is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

### **28.4 Further assurances**

A party, at its own expense and within a reasonable time of being requested by another party to do so, must do all things and execute all documents that are reasonably necessary to give full effect to this Agreement.

### **28.5 No waiver**

- (a) A failure, delay, relaxation or indulgence by a party in exercising any power or right conferred on the party by this Agreement does not operate as a waiver of the power or right.
- (b) A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Agreement.
- (c) A waiver of a breach does not operate as a waiver of any other breach.
- (d) A provision of, or right under, this Agreement may only be waived by the party that has the benefit of that provision or right in writing.

### **28.6 Severability**

Any provision of this Agreement which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
  - (b) be severed from this Agreement in any other case,
-

without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.

**28.7 Successors and assigns**

This Agreement binds and benefits the parties and their respective successors and permitted assigns under clause 28.8.

**28.8 No assignment**

A party cannot assign or otherwise transfer or deal with the benefit of this Agreement without the prior written consent of each other party.

**28.9 Consents and approvals**

Where anything depends on the consent or approval of a party then, unless this Agreement provides otherwise, that consent or approval may be given conditionally or unconditionally or withheld, in the absolute discretion of that party.

**28.10 No variation**

This Agreement cannot be amended or varied except in writing signed by the parties.

**28.11 Costs**

Each party must pay its own legal costs of and incidental to the preparation and completion of this Agreement.

**28.12 Duty**

- (a) Any Stamp Duty payable in respect of this Agreement or any instrument created in connection with it must be paid by the Buyer.
- (b) The Buyer undertakes to keep the Sellers and the Administrators indemnified against all liability relating to such Stamp Duty.

**28.13 Governing law and jurisdiction**

- (a) This Agreement is governed by and must be construed in accordance with the laws in force in New South Wales.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.

**28.14 Notices**

Any notice or other communication to or by a party under this Agreement:

- (a) may be given by personal service, post or facsimile;
- (b) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:
  - (i) If to the Sellers or the Administrators:

Address: c/- Deloitte Touche Tohmatsu, Eclipse Tower, Level  
19, 60 Station Street, Parramatta NSW 2150  
Attention: Neil Cussen  
Facsimile: +61 (0)2 9840 7001

(ii) If to the Buyer and/or the Guarantors:

Address: c/- Harris Freidman Lawyers  
Level 10, 25 Bligh Street, Sydney NSW 2000  
Attention: Fiona McLay  
Facsimile: 02 9233 3527

or to any other address last notified by the party to the sender by notice given in accordance with this clause;

(c) must be signed:

- (i) in the case of a corporation registered in Australia, by its administrator, any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or
- (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and

(d) is deemed to be given by the sender and received by the addressee:

- (i) if delivered in person, when delivered to the addressee;
- (ii) if posted within Australia, at 9.00 am on the second Business Day after the date of posting to the addressee whether delivered or not; or
- (iii) if sent by facsimile transmission, on the date and time shown on the transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety and in legible form to the facsimile number of the addressee notified for the purposes of this clause,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

#### **28.15 Counterparts**

If this Agreement consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

#### **28.16 No merger**

A term or condition of, or act done in connection with, this Agreement does not operate as a merger of any of the rights or remedies of the parties under this Agreement and those rights and remedies continue unchanged.

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**28.17 Operation of indemnities**

Unless this Agreement expressly provides otherwise:

- (a) each indemnity in this Agreement survives the completion, expiry or termination of this Agreement; and
- (b) a party may recover a payment under an indemnity in this Agreement before it makes the payment in respect of which the indemnity is given.

**28.18 No right of set-off**

Unless this Agreement expressly provides otherwise, a party has no right of set-off against a payment due to another party.

**28.19 Relationship of parties**

Unless this Agreement expressly provides otherwise, nothing in this Agreement may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

**28.20 Reasonable endeavours**

Any provision of this Agreement that requires the Sellers or the Administrators to use reasonable endeavours, or any similar provision, in no way requires the Sellers or the Administrators to rectify any breach, to incur any obligations, to pay any moneys, to grant any waiver or to accept any unreasonable or unusual conditions or requirements imposed by Third Parties.

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**Schedule 1 – Sellers**

**Hoot Gold Coast Pty Ltd ACN 162 597 864 (Administrators Appointed)**

**Hoot Townsville Pty Limited ACN 162 596 152 (Administrators Appointed)**



**Schedule 2 – Plant and Equipment**

**(Clause 1.1)**

**Part 1 – Plant and Equipment**



Hoot Gold Coast Pty Ltd (Administrators Appointed)  
2893 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF # | FINANCIER | ACCT # | LOCATION                 | QTY | ITEM              | MAKE | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|-----------|--------|--------------------------|-----|-------------------|------|-------|-----|---|------------|
| 4-1   | -         | -      | Indoor Dining Area & Bar | 5   | Dining Table      | -    | -     | -   | Timber Laminate, Approx. 1000mm (L) x 1000mm (W)  | -          |
| 4-2   | -         | -      | Indoor Dining Area & Bar | 8   | Dining Table      | -    | -     | -   | Timber Laminate, Approx. 1600mm (L) x 800mm (W)   | -          |
| 4-3   | -         | -      | Indoor Dining Area & Bar | 115 | Dining Chair      | -    | -     | -   | Timber Laminate, Orange Vinyl Upholstered   | -          |
| 4-4   | -         | -      | Indoor Dining Area & Bar | 20  | Bar Stool         | -    | -     | -   | Timber Laminate, Orange Vinyl Upholstered, With Back                                      | -          |
| 4-5   | -         | -      | Indoor Dining Area & Bar | 40  | Bar Stool         | -    | -     | -   | Timber Laminate, No Back  | -          |
| 4-6   | -         | -      | Indoor Dining Area & Bar | 1   | Dining Table      | -    | -     | -   | Timber Laminate, Approx. ø2000mm  | -          |
| 4-7   | -         | -      | Indoor Dining Area & Bar | 1   | Bar Table         | -    | -     | -   | Timber Laminate, Shark Shape, Approx. 2000mm (L)  | -          |
| 4-8   | -         | -      | Indoor Dining Area & Bar | 8   | Bar Table         | -    | -     | -   | Timber Laminate, Approx. 1600mm (L) x 800mm (W)   | -          |
| 4-9   | -         | -      | Indoor Dining Area & Bar | 12  | Television        | LG   | -     | -   | 55 Inch, HD, LCD, Wall & Roof Mounted   | -          |
| 4-10  | -         | -      | Indoor Dining Area & Bar | 15  | Television        | LG   | -     | -   | 42 Inch, LCD, Roof Mounted  | -          |
| 4-11  | -         | -      | Indoor Dining Area & Bar | 4   | Television        | -    | -     | -   | 42 Inch, LCD, Wall Mounted, 4 Piece Set For One Large Screen                              | -          |
| 4-12  | -         | -      | Indoor Dining Area & Bar | 2   | Counter           | -    | -     | -   | Timber Laminate, Fitted With 4 Tier, 2 Drawer   | -          |
| 4-13  | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench | -    | -     | -   | Commercial, Stainless Steel, Fitted With Tray Shelf Under, Cutler Bin, Approx. 1300mm (L) | -          |
| 4-14  | -         | -      | Indoor Dining Area & Bar | 1   | Counter           | -    | -     | -   | Timber Laminate, 2 Continuous Bay, Fitted With 8 Tier, 4 Drawer                           | -          |

TOTAL ->

Hoot Gold Coast Pty Ltd (Administrators Appointed)  
2893 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF #             | FINANCIER | ACCT # | LOCATION                 | QTY | ITEM               | MAKE                      | MODEL          | YOM  | EXTRA DESCRIPTION   | SERIAL NO. |
|-------------------|-----------|--------|--------------------------|-----|--------------------|---------------------------|----------------|------|---|------------|
| 4-15              | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench  | -                         | -              | -    | Commercial, Stainless Steel, Fitted With 9 x Tray Shelf, 2 x Spill Station, 3 x Basin With Tap, Ice Bin, Approx. 9000mm (L) | -          |
| 4-16              | -         | -      | Indoor Dining Area & Bar | 1   | Blender            | Hamilton Beach Commercial | -              | -    | Commercial, Single Phase  | -          |
| 4-17              | -         | -      | Indoor Dining Area & Bar | 1   | Espresso Machine   | Conti                     | Essika         | -    | Commercial, Stainless Steel, 2 Group, With Steamer  | -          |
| 4-18              | -         | -      | Indoor Dining Area & Bar | 1   | Coffee Grinder     | Eureka                    | -              | -    | Commercial, Black Steel, With Hopper  | -          |
| 4-19              | -         | -      | Indoor Dining Area & Bar | 1   | Ice Maker          | Manitowoc                 | A570           | -    | Commercial, Stainless Steel, With Hooters Signage   | 310253948  |
| 4-20              | -         | -      | Indoor Dining Area & Bar | 1   | Preparation Bench  | -                         | -              | -    | Commercial, Stainless Steel, Fitted With Esky Drink Display, 2 Tier Shelf, Splashback, Mounted To Wall, Approx. 5000mm (L)  | -          |
| 4-21              | -         | -      | Indoor Dining Area & Bar | 1   | Glass Washer       | Eswood                    | Smartwash 400  | 2014 | Commercial, s/s   | 2783809    |
| 4-22              | -         | -      | Indoor Dining Area & Bar | 1   | Glass Washer       | Eswood                    | Smartwash 400  | 2014 | Commercial, s/s   | 2783810    |
| 4-23              | -         | -      | Indoor Dining Area & Bar | 1   | Under Bench Fridge | Williams                  | HCS2JGDCCB-B00 | -    | Steel, 2 Door, Compressor To Side   | 68244      |
| 4-24              | -         | -      | Indoor Dining Area & Bar | 1   | Under Bench Fridge | Williams                  | HCS3JGDCCB-B00 | -    | Steel, 3 Door, Compressor To Side   | 68245      |
| 4-25              | -         | -      | Outdoor Dining Area      | 1   | Outdoor Heater     | Maxiheat                  | CH200M         | 2012 | Steel, Gas, Mobile  | -          |
| 4-26              | -         | -      | Outdoor Dining Area      | 16  | Dining Table       | -                         | -              | -    | Timber Laminate, Bolted To Ground, Approx. 1600mm (L) x 800mm (W)   | -          |
| 4-27              | -         | -      | Outdoor Dining Area      | 6   | Booth Seat         | -                         | -              | -    | Timber Laminate, Orange Vinyl Upholstered, 2 Seater, Double Sided, Bolted To Ground   | -          |
| 4-28              | -         | -      | Outdoor Dining Area      | 6   | Booth Seat         | -                         | -              | -    | Timber Laminate, Orange Vinyl Upholstered, 2 Seater, Single Sided, Bolted To Ground   | -          |
| <b>TOTAL &gt;</b> |           |        |                          |     |                    |                           |                |      |   |            |



Hot Gold Coast Pty Ltd (Administrators Appointed)  
2893 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF # | FINANCIER | ACCT # | LOCATION            | QTY | ITEM                    | MAKE      | MODEL    | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|-----------|--------|---------------------|-----|-------------------------|-----------|----------|-----|---|------------|
|       |           |        |                     |     |                         |           |          |     |   | TOTAL→     |
| 4-29  | -         | -      | Outdoor Dining Area | 3   | Bar Table               | -         | -        | -   | Timber Laminate, Approx. 1600mm (L) x 800mm (W)   | -          |
| 4-30  | -         | -      | Outdoor Dining Area | 18  | Bar Stool               | -         | -        | -   | Timber Laminate, No Back  | -          |
| 4-31  | -         | -      | Food Dispatch Area  | 4   | Baby Chair              | -         | -        | -   | Timber Laminate   | -          |
| 4-32  | -         | -      | Food Dispatch Area  | 1   | Credenza                | -         | -        | -   | Timber Laminate, 6 Door, With Stainless Steel Top   | -          |
| 4-33  | -         | -      | Coolroom One        | 1   | Coolroom & Freezer Room | -         | -        | -   | White Sandwich Panel Construction, Approx. 2500mm (L) x 2500mm (W) x 2800mm (H), Completed With Kirby Fan FDC | -          |
| 4-34  | -         | -      | Kitchen             | 1   | Chest Fridge            | -         | -        | -   | Commercial, Stainless Steel, 2 x PVC Sliding Door, 2 Door Under, Compressor To Side                           | -          |
| 4-35  | -         | -      | Kitchen             | 2   | Shelf                   | -         | -        | -   | Commercial, Stainless Steel, 2 Tier, Wall Mounted, Approx. 3000mm (L)   | -          |
| 4-36  | -         | -      | Kitchen             | 1   | Preparation Bench       | -         | -        | -   | Commercial, Stainless Steel, L-Shape, Fitted With Single Basin, Tap, Tub Holder Frame, Approx. 5000mm (L)     | -          |
| 4-37  | -         | -      | Kitchen             | 1   | Under Bench Freezer     | -         | -        | -   | Commercial, Stainless Steel, 2 Door, Compressor To Side   | -          |
| 4-38  | -         | -      | Kitchen             | 1   | Under Bench Fridge      | -         | -        | -   | Commercial, Stainless Steel, 3 Door, Compressor To Side   | -          |
| 4-39  | -         | -      | Kitchen             | 1   | Bain Marie              | Birko     | -        | -   | Commercial, Stainless Steel, 6 Tray, With Hot Water Dispenser, Electric                                       | -          |
| 4-40  | -         | -      | Kitchen             | 1   | Sandwich Press          | Woodson   | -        | -   | Commercial, Stainless Steel, Electric   | -          |
| 4-41  | -         | -      | Kitchen             | 1   | Salamander              | Goldstein | SA-38E   | -   | Commercial, Stainless Steel, Gas  | 75886NG    |
| 4-42  | -         | -      | Kitchen             | 1   | Microwave Oven          | Bonn      | CM-1300T | -   | Commercial, Stainless Steel, 1300 Watt  | -          |

Hoot Gold Coast Pty Ltd (Administrators Appointed)  
2853 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF # | FINANCIER | ACCT # | LOCATION | QTY | ITEM                | MAKE        | MODEL | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-----------|--------|----------|-----|---------------------|-------------|-------|-----|--|------------|
| 4-43  | -         | -      | Kitchen  | 1   | Pizza Make-Up Bench | Williams    | -     | -   | Steel, 3 Door Under, Compressor To Side, Fitted With Stainless Steel Cold Food Station To Top                | -          |
| 4-44  | -         | -      | Kitchen  | 4   | Shelf               | -           | -     | -   | Commercial, Stainless Steel, 2 Tier, Wall Mounted, Approx. 1600mm (L)  | -          |
| 4-45  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, 2 Tier, Approx. 2200mm (L)  | -          |
| 4-46  | -         | -      | Kitchen  | 1   | Pizza Oven          | Mighty Chef | CXT   | -   | Commercial, Stainless Steel, With Key Pad Controls   | -          |
| 4-47  | -         | -      | Kitchen  | 3   | Shelf Unit          | -           | -     | -   | Steel Frame, 4 Tier, Approx. 1500mm (L) x 1800mm (H)   | -          |
| 4-48  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, U-Shape, Fitted With 3 x Basin, 2 x Tap, Food Disposal Hole, Approx. 5000mm (L) | -          |
| 4-49  | -         | -      | Kitchen  | 1   | Under Bench Freezer | -           | -     | -   | Commercial, Stainless Steel, 2 Door, Compressor To Side  | -          |
| 4-50  | -         | -      | Kitchen  | 4   | Deep Fryer          | NSF         | -     | -   | Commercial, Stainless Steel, Gas, 3 Basket   | -          |
| 4-51  | -         | -      | Kitchen  | 1   | Chip Heater         | -           | -     | -   | Commercial, Stainless Steel, Electric  | -          |
| 4-52  | -         | -      | Kitchen  | 2   | Griddle Plate       | MagiKitch'n | -     | -   | Commercial, Stainless Steel, Gas, 10 Burner  | -          |
| 4-53  | -         | -      | Kitchen  | 2   | Freezer Drawer      | Adade       | -     | -   | Commercial, Stainless Steel, Single Drawer, Compressor To Side   | -          |
| 4-54  | -         | -      | Kitchen  | 2   | Range Hood          | -           | -     | -   | Commercial, Stainless Steel, Double Sided, 8 Fan, Approx. 3000mm (L)   | -          |
| 4-55  | -         | -      | Kitchen  | 1   | Preparation Bench   | -           | -     | -   | Commercial, Stainless Steel, Fitted With 2 Tier Shelf Under, 3 Basin, 2 Tap, Approx. 3500mm (L)              | -          |
| 4-56  | -         | -      | Kitchen  | 1   | Shelf               | -           | -     | -   | Commercial, Stainless Steel, Wall Mounted, Approx. 2200mm (L)  | -          |

Hoot Gold Coast Pty Ltd (Administrators Appointed)  
2893 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF #    | FINANCIER | ACCT # | LOCATION     | QTY | ITEM                    | MAKE      | MODEL          | YOM  | EXTRA DESCRIPTION   | SERIAL NO. |
|----------|-----------|--------|--------------|-----|-------------------------|-----------|----------------|------|---|------------|
| 4-57     | -         | -      | Kitchen      | 1   | Char Grill              | Southbend | 4363D          | -    | Commercial, Stainless Steel, Gas, 6 Burner  | 13C63934   |
| 4-58     | -         | -      | Kitchen      | 1   | Range Hood              | -         | -              | -    | Commercial, Stainless Steel, Double Sided, 6 Fan, Approx. 2000mm (L)  | -          |
| 4-59     | -         | -      | Kitchen      | 1   | Tray Trolley            | -         | -              | -    | Stainless Steel, Mobile, 15 Tier  | -          |
| 4-60     | -         | -      | Kitchen      | 1   | First Aid Kit           | -         | -              | -    | Wall Mounted, With Contents   | -          |
| 4-61     | -         | -      | Kitchen      | 1   | Platform Scale          | AE Adam   | GFK150H        | -    | 150KG   | AE82015    |
| 4-62     | -         | -      | Kitchen      | 1   | Utensils                | -         | -              | -    | Allowance For All Assorted Commercial Kitchen Utensils Through-Out Consisting Of: Pots, Pans, Trays, Bowls, Etc.    | -          |
| 4-63     | -         | -      | Wash-Up Area | 1   | Pass Through Dishwasher | Eswood    | Smart Wash 900 | 2013 | Commercial, Stainless Steel, 3 Wash Cycle Option, 6 Minute Scrub Cycle  | 4265471    |
| 4-64     | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -         | -              | -    | Commercial, Stainless Steel, L-Shape, 2 Tier, Fitted With 2 x Basin, Flexible Hose, Splashback                      | -          |
| 4-65     | -         | -      | Wash-Up Area | 2   | Shelf                   | -         | -              | -    | Commercial, Stainless Steel, Wall Mounted, Approx. 1200mm (L)   | -          |
| 4-66     | -         | -      | Wash-Up Area | 1   | Preparation Bench       | -         | -              | -    | Commercial, Stainless Steel, Fitted With Basin, Tap   | -          |
| 4-67     | -         | -      | Wash-Up Area | 1   | Stationary Cabinet      | -         | -              | -    | 2 Door  | -          |
| 4-68     | -         | -      | Wash-Up Area | 1   | Step Ladder             | -         | -              | -    | Steel, 3 Rung   | -          |
| 4-69     | -         | -      | Coolroom Two | 1   | Coolroom & Freezer Room | -         | -              | -    | White Sandwich Panel Construction, Approx. 5500mm (L) x 2500mm (W) x 2800mm (H), Completed With 2 x Kirby 2 Fan FDC | -          |
| 4-70     | -         | -      | Coolroom Two | 8   | Shelf Unit              | -         | -              | -    | Steel Frame, 4 Tier, Approx. 1500mm (L) x 1800mm (H)  | -          |
| TOTAL -> |           |        |              |     |                         |           |                |      |   |            |

Hoot Gold Coast Pty Ltd (Administrators Appointed)  
2893 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF #   | FINANCIER | ACCT # | LOCATION            | QTY | ITEM                                   | MAKE     | MODEL       | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|---------|-----------|--------|---------------------|-----|--|----------|-------------|-----|--|------------|
| 4-71    | -         | -      | Office              | 1   | Safe                                   | -        | -           | -   | Fitted With Single Door, Single Drawer, Dial Combination Lock  | -          |
| 4-72    | -         | -      | Office              | 1   | Multi-Function Centre                  | Samsung  | CLX-6280FW  | -   | Colour, Inkjet   | -          |
| 4-73    | -         | -      | Office              | 1   | Pedestal Drawer                        | -        | -           | -   | Steel, 3 Drawer  | -          |
| 4-74    | -         | -      | Office              | 1   | Cordless Drill                         | Rockwell | RD2859K21   | -   | 18 Volt, With Carry Case   | -          |
| 4-75    | -         | -      | Office              | 1   | Desktop Computer                       | Lenovo   | ThinkCentre | -   | Core i3 Processor, 27 Inch Built-In Monitor  | -          |
| 4-76    | -         | -      | Office              | 1   | Communications Rack                    | -        | -           | -   | Steel  | -          |
| 4-77    | -         | -      | Office              | 1   | Surround System                        | -        | -           | -   | Consisting Of: 5 x Audio & Modulation Level; Zektor Proaudio 16 DSP Audio Matrix; 6 x Assorted Australia Monitor Amplifier; 2 x Avue IS-18 Speaker; Avue IS-15 Speaker; 4 x Built-In Speaker; Samsung 20 Inch LCD Monitor; iPad; Acer Core i5 Processor Desktop Built-In Monitor | -          |
| 4-78    | -         | -      | Office              | 1   | Digital Television Distribution System | -        | -           | -   | Consisting Of: NextWave Digital THM4290; Avaya IP Office 500V2 Control Centre; Eaton SP1150; 3 x Inovonde Integrated Digital Modulator; RTI XP-8s; DVD Player  | -          |
| 4-79    | -         | -      | Office              | 1   | Security System                        | -        | -           | -   | Consisting Of: 10 x Cameras Throughout, Recording Device   | -          |
| 4-80    | -         | -      | Office              | 1   | Communications Rack                    | -        | -           | -   | Steel, Fitted With 2 x 24 Port Patch Panel, 2 x 24 Port Switch, 2 x Neigear Profile GS75ZTSP   | -          |
| 4-81    | -         | -      | Throughout Premises | 1   | Cutlery & Crockery                     | -        | -           | -   | Allowance For All Assorted Cutlery And Crockery Consisting Of: Knives, Spoons, Forks, Plates; Glasses; Etc.  | -          |
| 4-82    | -         | -      | Throughout Premises | 1   | Point Of Sale System                   | -        | -           | -   | Consisting Of: 5 x HP Terminal; Order Monitors; Receipt Printers; Cash Drawers   | -          |
| TOTAL-> |           |        |                     |     |  |          |             |     |  | -          |



Accountancy | Valuation | Business Management | Construction | Insurance

Hot Gold Coast Pty Ltd (Administrators Appointed)  
2833 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF #   | FINANCIER | ACCT # | LOCATION            | QTY | ITEM    | MAKE | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|---------|-----------|--------|---------------------|-----|---------|------|-------|-----|---|------------|
| 4-83    | -         | -      | Throughout Premises | 1   | Fit-Out | -    | -     | -   | Allowance For Fit-Out Throughout Premises Including: Timber Floors; Assorted Internal Cladding To Walls; Bar; Built-In Mirrors; Booth Tables, Booth Partitions, External Wall Cladding, Signage, Electrical Fittings, Gas Fittings, Air Conditioning Fittings, Outdoor Veranda, Display Cabinets, Change Room, Etc. | -          |
| TOTAL-> |           |        |                     |     |         |      |       |     |   |            |



Hoot Townsville Pty Ltd (Administrators Appointed)  
2-12 Hervey Range Rd, Thuringowa Central QLD 4817

| REF # | Financier Registered<br>24 Jun 2015 | Financier Registered<br>13 May 2015 | Financier Floating<br>Not Registered | LOCATION                 | QTY | ITEM               | MAKE     | MODEL           | YOIR | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-------------------------------------|-------------------------------------|--------------------------------------|--------------------------|-----|--------------------|----------|-----------------|------|--|------------|
| 5-1   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 16  | Dining Table       | -        | -               | -    | Timber Laminat, Approx. 1000mm (L) x 1000mm (W)          | -          |
| 5-2   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 108 | Dining Chair       | -        | -               | -    | Timber Laminat, Grey Vinyl Upholstered                   | -          |
| 5-3   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 6   | Bar Table          | -        | -               | -    | Timber Laminat, Approx. 1600mm (L) x 800mm (W)           | -          |
| 5-4   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 48  | Bar Stool          | -        | -               | -    | Timber Laminat, Grey Vinyl Upholstered, With Back        | -          |
| 5-5   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 41  | Bar Stool          | -        | -               | -    | Timber Laminat, Grey Vinyl Upholstered, With Back        | -          |
| 5-6   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 3   | Dining Table       | -        | -               | -    | Timber Laminat, Approx. 1600mm (L) x 800mm (W)           | -          |
| 5-7   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 11  | Bar Table          | -        | -               | -    | Timber Laminat, Approx. 1200mm (L) x 800mm (W)           | -          |
| 5-8   | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 7   | Dining Table       | -        | -               | -    | Timber Laminat, Approx. 1200mm (L) x 800mm (W)           | -          |
| 5-12  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Counter            | -        | -               | -    | Timber Laminat, Fitted With 3 Tier Shelf Under, 2 Drawer | -          |
| 5-13  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Espresso Maching   | Beoma    | -               | -    | Commercial, Stainless Steel, 2 Group, With Steamer       | -          |
| 5-14  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Coffee Grinder     | Mazzer   | Super Jolly AUT | -    | Commercial, Stainless Steel, With Hopper                 | 1505782    |
| 5-15  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Blender            | Vitamix  | Barboss Advance | -    | comm, With Hopper  | -          |
| 5-19  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Glass Washer       | Washtech | XG              | -    | Commercial, Stainless Steel                              | 139939     |
| 5-20  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Glass Washer       | Washtech | XG              | -    | Commercial, Stainless Steel                              | 139937     |
| 5-21  | -                                   | -                                   | -                                    | Indoor Dining Area & Bar | 1   | Under Bench Fridge | Williams | -               | -    | Steel, Stainless Steel Top, 3 Door, Compressor To Side   | -          |

Hood Townsville Pty Ltd (Administrators Appointed)  
2-12 Henvey Range Rd, Thuringowa Central QLD 4817

| REF # | Financier Registered<br>24 June 2015 | Financier Registered<br>18 May 2015 | Financier Fixed<br>Not Registered | LOCATION                 | QTY | ITEM                      | MAKE                    | MODEL          | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|--------------------------------------|-------------------------------------|-----------------------------------|--------------------------|-----|---------------------------|-------------------------|----------------|-----|---|------------|
| 5-22  | -                                    | -                                   | -                                 | Indoor Dining Area & Bar | 1   | Slushie Machine           | Elmecco                 | FC3            | -   | Commercial, Stainless Steel, 3 Section  | -          |
| 5-25  | -                                    | -                                   | -                                 | Food Dispatch Area       | 1   | Ice Maker                 | Icematic                | N402M          | -   | Commercial, Stainless Steel   | -          |
| 5-31  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Toaster                   | Prince Castle Worldwide | -              | -   | Commercial, Stainless Steel   | -          |
| 5-32  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Sandwich Press            | Birko                   | 1002102        | -   | Commercial, Stainless Steel, 2400 Watt  | -          |
| 5-33  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Under Bench Freezer       | Hoshizaki               | -              | -   | Commercial, Stainless Steel, 3 Door Compressor To Side, Fitted With Tub Tray Holder, Approx. 2000mm (L) | -          |
| 5-34  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Under Bench Fridge        | Williams                | -              | -   | Commercial, Stainless Steel, 2 Door, Compressor To Side, Fitted With Cold Food Station                  | -          |
| 5-35  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Under Bench Fridge        | Centaur                 | -              | -   | Commercial, Stainless Steel, 2 Door Compressor To Side, Fitted With Cold Food Station                   | -          |
| 5-38  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Pass Through Dishwasher   | Washlech                | M2             | -   | Commercial, Stainless Steel   | -          |
| 5-40  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Hot Plate                 | Waldorf                 | -              | -   | Commercial, Stainless Steel, Gas, 2 Burner  | -          |
| 5-41  | -                                    | -                                   | -                                 | Kitchen                  | 2   | Freezer Drawer            | -                       | -              | -   | Commercial, Stainless Steel, Single Drawer, Compressor To Side  | -          |
| 5-42  | -                                    | -                                   | -                                 | Kitchen                  | 2   | Griddle Plate             | Waldorf                 | -              | -   | Commercial, Stainless Steel, Gas, 3 Burner  | -          |
| 5-43  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Salamander                | Waldorf                 | -              | -   | Commercial, Stainless Steel, Gas, 3 Burner  | -          |
| 5-44  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Bain Marie / Hot Cupboard | Culinaire               | -              | -   | Commercial, Stainless Steel, 4 Tray Bain Marie To Top, 2 Sliding Door Hot Cupboard Under                | -          |
| 5-45  | -                                    | -                                   | -                                 | Kitchen                  | 2   | Deep Fryer                | Henry Penny             | Compuiron 1000 | -   | Commercial, Stainless Steel, 3 x 2 Basket, Gas, Mobile  | -          |
| 5-49  | -                                    | -                                   | -                                 | Kitchen                  | 1   | Upright Freezer           | Hoshizaki               | HFE-70B        | -   | Commercial, Stainless Steel, 631 Litre  | E00857D    |

Hoot Townsville Pty Ltd (Administrators Appointed)  
2-12 Hervey Range Rd, Thuringowa Central QLD 4817

| REF # | Financier Registered<br>24 June 2015 | Financier Registered<br>18 May 2015 | Financier<br>Fluxent<br>Not Registered | LOCATION            | QTY | ITEM                    | MAKE    | MODEL            | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|--------------------------------------|-------------------------------------|--|---------------------|-----|-------------------------|---------|------------------|-----|---|------------|
| 5-51  | -                                    | -                                   | -                                      | Kitchen             | 1   | Char Grill / Oven Under | Waldorf | -                | -   | Commercial, Stainless Steel, Gas, 6 Burner  | -          |
| 5-56  | -                                    | -                                   | -                                      | Storage Room One    | 1   | Platform Scale          | A&D     | FG-150KAL        | -   | 150KG Maximum   | K300917    |
| 5-59  | -                                    | -                                   | -                                      | Office              | 1   | Desktop Computer        | AMD     | A4-6210          | -   | A4 Processor, 1.8GHz, 4.00GB Ram, 450GB HDD   | -          |
| 5-60  | -                                    | -                                   | -                                      | Office              | 1   | Multi-Function Centre   | HP      | LaserJet Pro 200 | -   | Colour, Laser   | -          |
| 5-67  | -                                    | -                                   | -                                      | Office              | 1   | Pedestal Drawer         | -       | -                | -   | Steel, 3 Drawer   | -          |
| 5-68  | -                                    | -                                   | -                                      | Office              | 1   | Dining Chair            | -       | -                | -   | Timber Laminate, Grey Vinyl Upholstered   | -          |
| 5-69  | -                                    | -                                   | -                                      | Office              | 1   | Safe                    | -       | -                | -   | Fitted With Single Door, Single Drawer, Dial Combination Lock   | -          |
| 5-70  | -                                    | -                                   | -                                      | Throughout Premises | 1   | Cutlery & Crockery      | -       | -                | -   | Allowance For All Assorted Cutlery And Crockery Consisting Of: Knives, Spoons, Forks, Plates; Glasses; Etc.   | -          |
| 5-71  | -                                    | -                                   | -                                      | Throughout Premises | 1   | Point Of Sale System    | -       | -                | -   | Consisting Of: 3 x HP Terminal; 3 x Order Monitor; Receipt Printer; Cash Drawers  | -          |
| 5-72  | -                                    | -                                   | -                                      | Throughout Premises | 1   | Fit-Out                 | -       | -                | -   | Allowance For Fit-Out Throughout Premises Including: Timber Floors; Assorted Internal Cladding To Walls; Bar; Built-In Mirrors; Booth Tables, Booth Partitions, External Wall Cladding, Signage, Electrical Fittings, Gas Fittings, Air Conditioning Fittings, Outdoor Veranda, Display Cabinets, Change Room, Etc. | -          |



**Part 2 – Escrow Assets**



Hoot Townsville Pty Ltd (Administrators Appointed)  
 2-12 Hervey Range Rd, Thuringowa Central QLD 4817

| REF # | Financier Registered<br>24 June 2015 | Financier Registered<br>18 May 2015 | Financier Flexirent<br>Not Registered | LOCATION                 | QTY | ITEM                  | MAKE      | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|--------------------------------------|-------------------------------------|---------------------------------------|--------------------------|-----|-----------------------|-----------|-------|-----|---|------------|
| 5-9   | Classic                              | -                                   | -                                     | Indoor Dining Area & Bar | 24  | Television            | LG        | -     | -   | 55 Inch, HD, LCD, Wall & Roof Mounted   | -          |
| 5-10  | Classic                              | -                                   | -                                     | Indoor Dining Area & Bar | 6   | Television            | -         | -     | -   | 42 Inch, LCD, Wall Mounted, 4 Piece Set For One Large Screen  | -          |
| 5-11  | Classic                              | -                                   | -                                     | Indoor Dining Area & Bar | 8   | Television            | LG        | -     | -   | 32 Inch, LCD, Wall Mounted  | -          |
| 5-16  | Classic                              | Technology Leasing                  | Flexirent                             | Indoor Dining Area & Bar | 1   | Preparation Bench     | -         | -     | -   | Commercial, Stainless Steel, Fitted With 4 x Door, 2 Spill Station, Splashback, Shelf Under, 4 Tray Shelf Under, Ice Bin, Approx. 11000mm (L) | -          |
| 5-17  | Classic                              | -                                   | Flexirent                             | Indoor Dining Area & Bar | 2   | Open Glass Top Fridge | -         | -     | -   | Commercial, Stainless Steel, Single Door  | -          |
| 5-18  | Classic                              | Technology Leasing                  | Flexirent                             | Indoor Dining Area & Bar | 2   | Preparation Bench     | -         | -     | -   | Commercial, Stainless Steel, Fitted With Basin, Tap, 2 x 3 Tier Shelf, Approx. 4000mm (L)   | -          |
| 5-23  | Classic                              | Technology Leasing                  | Flexirent                             | Indoor Dining Area & Bar | 2   | Sink                  | -         | -     | -   | Commercial, Stainless Steel, Single Basin, Fitted To Wall   | -          |
| 5-24  | Classic                              | -                                   | Flexirent                             | Food Dispatch Area       | 1   | Ice Maker             | Manitowoc | A670  | -   | Commercial, Stainless Steel, With Hooters Signage   | 310253948  |
| 5-26  | Classic                              | Technology Leasing                  | Flexirent                             | Food Dispatch Area       | 1   | Preparation Bench     | -         | -     | -   | Commercial, Stainless Steel, Fitted With Food Disposal Hole, 2 x Door, 3 x Tray Shelf Under, Splashback, Approx. 2500mm (L)                   | -          |
| 5-27  | Classic                              | Technology Leasing                  | Flexirent                             | Food Dispatch Area       | 1   | Preparation Bench     | -         | -     | -   | Commercial, Stainless Steel, Fitted With Food Disposal Hole, 2 x Door, 3 x Tray Shelf Under, Splashback, Approx. 3000mm (L)                   | -          |
| 5-28  | Classic                              | Technology Leasing                  | Flexirent                             | Kitchen                  | 1   | Pizza Make-Up Bench   | Williams  | -     | -   | Steel, 3 Door Under, Compressor To Side, Fitted With Stainless Steel Cold Food Station To Top   | -          |
| 5-29  | Classic                              | Technology Leasing                  | Flexirent                             | Kitchen                  | 3   | Shelf                 | -         | -     | -   | Commercial, Stainless Steel, 2 Tier, Approx. 2500mm (L)   | -          |
| 5-30  | Classic                              | Technology Leasing                  | Flexirent                             | Kitchen                  | 1   | Preparation Bench     | -         | -     | -   | Commercial, Stainless Steel, Approx. 3200mm (L)   | -          |
| 5-36  | Classic                              | Technology Leasing                  | Flexirent                             | Kitchen                  | 3   | Shelf Unit            | -         | -     | -   | Green Steel Frame, 5 Tier   | -          |

Hood Townsville Pty Ltd (Administrators Appointed)  
2-12 Harvey Range Rd, Thuringowa Central QLD 4817

| REF # | Financier Registered<br>24 Jun 2015 | Financier Flexirent<br>Not Registered | LOCATION         | QTY | ITEM                    | MAKE | MODEL | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-------------------------------------|---------------------------------------|------------------|-----|-------------------------|------|-------|-----|--|------------|
| 5-37  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Preparation Bench       | -    | -     | -   | Commercial, Stainless Steel, Fitted With 2 x Basin, Flexible Hose, Splashback, Approx. 2000mm (L)  | -          |
| 5-39  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Preparation Bench       | -    | -     | -   | Commercial, Stainless Steel, L-Shape, Fitted With 2 x Basin, Flexible Hose, Shelf Above, 2 Tier Under, Approx. 3000mm (L)  | -          |
| 5-46  | Classic                             | Technology Leasing                    | Kitchen          | 2   | Shelf                   | -    | -     | -   | Commercial, Stainless Steel, Wall Mounted, Approx. 3000mm (L)  | -          |
| 5-47  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Range Hood              | -    | -     | -   | Commercial, Stainless Steel, Double Sided, 14 Fan, Approx. 5000mm (L)  | -          |
| 5-48  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Range Hood              | -    | -     | -   | Commercial, Stainless Steel, Double Sided, 8 Fan, Approx. 3000mm (L)   | -          |
| 5-50  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Preparation Bench       | -    | -     | -   | Commercial, Stainless Steel, Fitted With 2 x Basin, Tap, Shelf Under, Approx. 3000mm (L)   | -          |
| 5-52  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Preparation Bench       | -    | -     | -   | Commercial, Stainless Steel, Fitted With Basin, Tap, Shelf Under, Approx. 1200mm (L)   | -          |
| 5-53  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Sink                    | -    | -     | -   | Commercial, Stainless Steel, Single Basin, Wall Mounted  | -          |
| 5-54  | Classic                             | Technology Leasing                    | Kitchen          | 1   | Range Hood              | -    | -     | -   | Commercial, Stainless Steel, 3 Fan, Approx. 2500mm (L)   | -          |
| 5-55  | Classic                             | Technology Leasing                    | Storage Room One | 3   | Shelf Unit              | -    | -     | -   | Green Steel Frame, 5 Tier  | -          |
| 5-57  | Classic                             | Technology Leasing                    | Coolroom         | 1   | Coolroom & Freezer Room | -    | -     | -   | White Sandwich Panel Construction, Elevated Floor, Approx. 9000mm (L) x 2500mm (W) x 2800mm (H), Completed With 2 x Buffalo Trident 3 Fan FDC, Buffalo Trident 2 Fan | -          |
| 5-58  | Classic                             | Technology Leasing                    | Coolroom         | 6   | Shelf Unit              | -    | -     | -   | Green Steel Frame, 5 Tier  | -          |
| 5-61  | Classic                             | Technology Leasing                    | Office           | 1   | Security System         | -    | -     | -   | Consisting Of: 22 Inch LCD Monitor, 9 Camera   | -          |
| 5-62  | Classic                             | Technology Leasing                    | Office           | 1   | Communications Rack     | -    | -     | -   | Steel  | -          |

Hoot Townsville Pty Ltd (Administrators Appointed)  
2,12 Hervey Range Rd, Thuringowa Central QLD 4817

| REF # | Financier Registered<br>24 June 2015 | Financier Registered<br>18 May 2015 | Financier<br>Flexirent<br>Not Registered | LOCATION | QTY | ITEM                                   | MAKE | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|-------|--------------------------------------|-------------------------------------|--|----------|-----|--|------|-------|-----|---|------------|
| 5-63  | Classic                              | Technology Leasing                  | -  | Office   | 1   | Surround System                        | -    | -     | -   | Consisting Of: 2 x Biema Speaker, 10 x Built-In Speakers, iPad; 4 x Audio & Modulation Level; BJ's Lighting & Sound Control Box; 2 Redback A40728 Amplifier   | -          |
| 5-64  | Classic                              | Technology Leasing                  | -  | Office   | 1   | Digital Television Distribution System | -    | -     | -   | Consisting Of: 6 x Digital HD3300; DVD Player; RTI XP-8s Advance Control Processor; Every Focus espD; Resi-Link Digi Mod HD-4001DM; 24 Inch LCD Viano Monitor | -          |
| 5-65  | Classic                              | Technology Leasing                  | -  | Office   | 1   | Communications Rack                    | -    | -     | -   | Steel, With D-Link PGS-1024D 24 Port Switch   | -          |
| 5-66  | Classic                              | Technology Leasing                  | -  | Office   | 1   | Communications Rack                    | -    | -     | -   | Steel, Wall Mounted, With 24 Port Switch, 24 Port Patch Panel   | -          |

**Part 3 – Excluded Assets**



Hoot Gold Coast Pty Ltd (Administrators Appointed)  
2893 Gold Coast Hwy, Surfers Paradise QLD 4217

| REF #              | FINANCIER             | ACCT # | LOCATION                 | QTY | ITEM                     | MAKE                  | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. |
|--------------------|-----------------------|--------|--------------------------|-----|--------------------------|-----------------------|-------|-----|---|------------|
| 11-1               | Complete ATM Services | -      | Indoor Dining Area & Bar | 1   | ATM                      | Complete ATM Services | -     | -   | LCD Screen, Key Pad   | -          |
| 11-2               | Anadale               | -      | Coolroom One             | 1   | Beer Reticulation System | -                     | -     | -   | Consisting Of: 8 x Key Spikes; Lancer Chiller Unit, 2 x 4 Post Tap                                | -          |
| 11-3               | Scanline              | -      | Kitchen                  | 1   | Oil Storage Tank         | -                     | -     | -   | Stainless Steel, Mobile, Approx. 400 Litre  | -          |
| 11-4               | OZ Tank               | -      | Loading Dock             | 1   | Chemical Storage Tank    | -                     | -     | -   | Stainless Steel, Mobile, Approx. 500 Litre  | -          |
| 11-5               | Cadbury Schwepps      | -      | Downstairs Storage       | 1   | Post Mix System          | -                     | -     | -   | Consisting Of: 8 Spike, 2 x Taps; Lancer Chiller Unit   | -          |
| 11-6               | Alisco                | -      | Throughout Premises      | 1   | Miscellaneous            | -                     | -     | -   | Allowance For Assorted Items Consisting Of: Mat; Qty of Glass Cloths; Blue Food Wipes; Tea Towels | -          |
| <b>TOTAL -&gt;</b> |                       |        |                          |     |                          |                       |       |     |   | -          |

Plant Equipment  
Asset Register



Encumbered - Mobiles - Managers - Locations - Assets

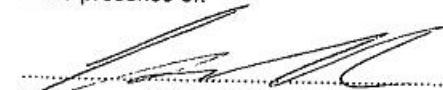
Hoot Townsville Pty Ltd (Administrators Appointed)  
2-12 Honey Range Rd, Thuringowa Central QLD 4817

| REF #              | FINANCIER                   | ACCT # | LOCATION            | QTY | ITEM                      | MAKE    | MODEL | YOM  | EXTRA DESCRIPTION  | SERIAL NO.             |
|--------------------|-----------------------------|--------|---------------------|-----|---------------------------|---------|-------|------|--|------------------------|
| 12-1               | Cadbury Schweppes           | -      | Storage Room Two    | 1   | Post Mix System           | -       | -     | -    | Consisting Of: 6 Spike, 4 x Taps; Lancer Chiller Unit  | -                      |
| 12-2               | Property Of Others          | -      | Coolroom            | 1   | Beer Reticulation System  | -       | -     | -    | Consisting Of: x Key Spikes; Lancer Chiller Unit, 2 x 4 Post Tap                                   | -                      |
| 12-3               | Stallards                   | -      | Loading Dock        | 1   | Portable Coolroom         | -       | -     | -    | White Sandwich Panel Construction, Approx. 3000mm (L) x 2000mm (W) x 3000mm (H)                    | -                      |
| 12-4               | Dema's Mobile Coolroom Hire | -      | Loading Dock        | 1   | Portable Coolroom Trailer | Unknown | -     | 1990 | REG: AE2194 (Exp. 06/04/2016)<br>White Sandwich Panel Construction                                 | VIN: 6D9T20RTAM2039101 |
| 12-5               | Cookers                     | -      | Throughout Premises | 4   | Oil Storage Tank          | -       | -     | -    | Stainless Steel, Mobile  | -                      |
| 12-6               | Alisco                      | -      | Throughout Premises | 1   | Miscellaneous             | -       | -     | -    | Allowance For Assorted Items Consisting Of: Mat; Qty of Glass Clothes; Blue Food Wipes; Tea Towels | -                      |
| 12-7               | Cookers                     | -      | Throughout Premises | 4   | Oil Storage Tank          | -       | -     | -    | Stainless Steel, Mobile  | -                      |
| <b>TOTAL -&gt;</b> |                             |        |                     |     |                           |         |       |      |  | -                      |



Executed as an agreement.

Signed for and on behalf of Hoot Gold Coast  
Pty Ltd ACN 162 597 864 (Administrators  
Appointed) by its joint and several administrator  
in the presence of:

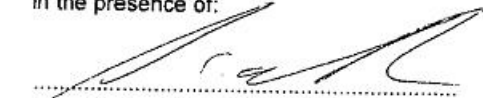
  
Signature of witness


  
Signature of administrator

Cary Wall  
Name of witness  
(please print)

Neil Robert Cussen  
Name of administrator

Signed for and on behalf of Hoot Townsville  
Pty Limited ACN 162 596 152 (Administrators  
Appointed) by its joint and several administrator  
in the presence of:

  
Signature of witness

  
Signature of administrator

Cary Wall  
Name of witness  
(please print)

Name of administrator



Signed by David John Frank Lombe in the presence of:

)  
)  
)  
)

.....  
Signature of witness

.....  
Signature of administrator

**David John Frank Lombe**

.....  
Name of witness  
(please print)

Signed by Neil Robert Cussen in the presence of:

)  
)  
)  
)

.....  
Signature of witness

.....  
Signature of administrator

**Neil Robert Cussen**

.....  
*Cue Wall*  
Name of witness  
(please print)

**Executed by HOTR Australia Pty Ltd ACN** )  
**605 907 097** in accordance with section 127(1) )  
of the *Corporations Act 2001 (Cth)*: )  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)

**Executed by P.C.S. Investments Pty Ltd ACN** )  
**074 130 751** in accordance with section 127(1) )  
of the *Corporations Act 2001 (Cth)*: )  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)

**Executed by Chanticleer Holdings Inc.:** )  
)  
)  
)  
)

.....  
Signature of director

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

.....  
Name (please print)





## **Business Sale Agreement Hooters Parramatta**

Hoot Parramatta Pty Ltd (Administrators Appointed)  
(Seller)

and

HOTR Australia Pty Ltd  
(Buyer)

and

P.C.S. Investments Pty Ltd

and

Chanticleer Holdings Inc


and

David John Frank Lombe and Neil Robert Cussen  
(Administrators)

Upper Ground, Trafalgar Square,  
230 Clarence Street Sydney NSW 2000  
GPO Box 97 Sydney NSW 2001  
phone: +61 2 9925 3222

[www.williamjameslaw.com.au](http://www.williamjameslaw.com.au)

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Legal practitioners employed by William James Pty Ltd are members of the scheme



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# Business Sale Agreement

## Date

## Parties

1. **Hoot Parramatta Pty Ltd ACN 147 622 348** (administrators appointed)(**Seller**)
2. **HOTR Australia Pty Ltd ACN 608 907 097** of 8 Parramatta Road, Clyde, NSW (**Buyer**)
3. **P.C.S. Investments Pty Ltd ACN 074 130 751** of 8 Parramatta Road, Clyde, NSW (**P.C.S.**)
4. **Chanticleer Holdings Inc.** a Delaware corporation of Suite 414, 7621 Little Avenue, Charlotte, North Carolina (**Chanticleer**)
5. **David John Frank Lombe** and **Neil Robert Cussen** care of Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150 Australia in their capacity as the joint and several administrators of the Seller (**Administrators**)

## Background

- A. The Administrators were appointed as the joint and several administrators of the Seller, on 14 July 2015 pursuant to section 436A of the *Corporations Act 2001 (Cth)*.
- B. The Seller has agreed to sell to the Buyer, and the Buyer has agreed to buy from the Seller, the Assets and the Business on the terms of this Agreement.
- C. The Guarantors have agreed to guarantee the performance of the Buyer's obligations under this Agreement.

## Agreed terms

### 1. Definitions and interpretation

#### 1.1 Definitions

In this Agreement:

**Accruals** means all periodic or recurring outgoings and expenses in respect of or relating to the Assets and the Business including (if and as applicable) rent, rates, tax(es), including gaming tax(es), electricity, gas, telephone, internet, salaries, wages, lease payments, hiring charges, employer superannuation contributions and other similar amounts unpaid by the Seller as at the Completion Date but only to the extent they relate to the period before the Completion Date;

**Administrators' Representatives** means the Firm and the partners, employees, agents, advisers, contractors and consultants of the Firm or the Administrators;

**AEST** means Australian Eastern Standard Time;

**Agreement** means this agreement including the background, any schedules and any annexures;

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**Agreement Date** means the date of this Agreement;

**ASIC** means the Australian Securities and Investments Commission;

**Assets** means such right, title and interest as the Seller has in the following assets:

- (a) the Plant and Equipment;
- (b) the Stock;
- (c) the Records;
- (d) the rights and benefits of the Seller under any contract, document or arrangement that is, or is to be, assigned, novated or transferred to the Buyer under or in connection with this Agreement;
- (e) the Franchise Agreements;
- (f) the Business Name; and
- (g) Goodwill,

but excluding the Excluded Assets;

**Authorisation** means:

- (a) an authorisation, consent, right, certificate, licence, permit, declaration, exemption, notarisation or waiver, however described (including any renewal or partial renewal); and
- (b) any authorisation or consent regarded as given by a Government Agency where, in relation to something that can be prohibited or restricted by law if the Government Agency takes action within a specified period, that period expires without that action being taken;

**Book Debts** means the trade debts and other receivables owing to the Seller in connection with the Business set out in the books of the Business as at close of business on the day before the Completion Date;

**Business** means the restaurant and bar business carried on by the Seller at the Business Premises;

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

**Business Name** means the registered business name Hooters of Parramatta registration number BN98622250;

**Business Premises** means the premises located at 132 James Ruse Drive, Granville NSW;

**Completion** means the completion of the sale and purchase of the Assets and the Business in accordance with clause 7;

**Completion Date** means the date on which Completion occurs;

---

**Conditions Precedent** means the conditions precedent set out in clause 5.1;

**Confidential Information** means:

- (a) the terms of this Agreement and its subject matter, including Information submitted or disclosed by a party during negotiations, discussions and meetings relating to this Agreement;
- (b) Information that at the time of disclosure by a Disclosing Party is identified to the Receiving Party as being confidential; and
- (c) all other Information belonging or relating to a Disclosing Party, or any Related Entity of that Disclosing Party, that is not generally available to the public at the time of disclosure other than by reason of a breach of this Agreement or which the Receiving Party knows, or ought reasonably to be expected to know, is confidential to that Disclosing Party or any Related Entity of that Disclosing Party;

**Controller** means, in relation to a person:

- (a) a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) of that person or that person's property or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity; or
- (b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that person's property to enforce an Encumbrance;

**Corporations Act** means the *Corporations Act 2001 (Cth)*;

**Date for Completion** means the date that Completion is to occur as set out in clause 7.1 or such other date agreed by the Seller and the Buyer in writing;

**Deposit** means the sum of \$19,500;

**Disclosing Party** means the party to whom Information belongs or relates;

**Dispose**, in relation to an Asset, means to sell, transfer, assign, surrender, convey, lease, licence or otherwise dispose of any legal, equitable or economic interest in the Asset or declare any trust in respect of it;

**Employees** means the employees of the Seller who are providing services to the Business;

**Employee Entitlements** means all unpaid amounts and benefits to which each Employee is entitled by Law or under an award, enterprise agreement, industrial instrument or other agreement or arrangement, in respect of salaries, wages, allowances, commission, bonuses, and any other rights and benefits accrued or arising in respect of each Employee for the period of their service in the relevant Business (or any predecessor of the Seller in any part of the Business) including in relation to the termination of their service in the Business (including notice and redundancy payments), but excludes any Leave Entitlement;

**Encumbrance** means:

- (a) any:
  - (i) legal or equitable interest or power created, arising in or reserved in or over an interest in any property or asset; or
  - (ii) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or retention of title arrangement, right of set-off, assignment of income, garnishee order, monetary claim or flawed asset arrangement);
- (b) any thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons with respect to any property or asset,
- (c) a security interest as defined in the PPSA; or
- (d) any agreement or arrangement (whether legally binding or not) to grant or create anything referred to in paragraph (a), (b) or (c);

**Excluded Assets** means any right, title or interest of the Seller in:

- (a) any cash at bank, on hand or on deposit as at the Completion Date;
- (b) the assets listed in Part 2 of Schedule 1;
- (c) the Book Debts;
- (d) any cause of action or claim, in each case including any proceeds;
- (e) any insurance policy including any proceeds;
- (f) the Excluded Records;
- (g) any bank guarantee, security deposit or other lease security provided by the Seller to the Landlord; and
- (h) any other asset or right of the Seller not expressly listed in the definition of "Assets";

**Excluded Records** means any Record which:

- (a) does not relate exclusively to the Business and which the Seller must retain to carry on any other business it carries on;
- (b) the Seller or the Administrators are required to retain for the purposes of the administration or other external administration of the Seller; or
- (c) the Seller or the Administrators must retain by Law;

**Expert** means a person:

- (a) having appropriate qualifications and experience relevant to determining the dispute or disagreement in question;
-

- (b) who is agreed by the parties or, failing agreement within [5] Business Days, is nominated at the request of any party by Australian Commercial Disputes Centre (**ACDC**) in accordance with the ACDC Rules for Expert Determination; and
- (c) who does not act, or whose firm does not act, generally for any party;

**Firm** means Deloitte Touche Tohmatsu, Eclipse Tower, Level 19, 60 Station Street, Parramatta NSW 2150;

**Franchise Agreements** means any agreements or rights pursuant to which the Seller uses and operates the Business as part of the "Hooters" franchise system;

**Goodwill** means the goodwill of the Business arising from the conduct of the Business by the Seller before Completion, including the Buyer's right to represent itself on and from Completion as carrying on the Business as the successor of the Seller;

**Government Agency** means any government or any public, statutory, governmental (including a local government), semi-governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

**GST** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999*;

**Guarantors** means P.C.S. and Chanticleer;

**Information** means any information, whether oral, graphic, electronic, written or in any other form, including:

- (a) forms, memoranda, letters, specifications, processes, procedures, statements, formulae, technology, inventions, trade secrets, research and development information, know how, designs, plans, photographs, microfiche, business records, notes, accounting procedures or financial information, sales and marketing information, names and details of customers, suppliers and agents, employee details, reports, drawings and data;
- (b) copies and extracts made of or from that information and data, whether translated from the original form, recompiled, partially copied, modified, updated or otherwise altered; and
- (c) samples or specimens (if any) disclosed either before or after execution of this Agreement;

**Insolvency Event** means, in respect of a party, any one or more of the following events or circumstances:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration, bankruptcy or becoming an insolvent under administration (as defined in section 9 of the Corporations Act);
  - (b) having a Controller or analogous person appointed to it or any of its property;
  - (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other Law;
-

- (d) seeking protection from its creditors under any Law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any Law;

unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the other parties (which approval is not to be unreasonably withheld or delayed);

**Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing, including:

- (a) patents, inventions, designs, copyright, trade marks, brand names, product names, domain names, rights in circuit layouts, plant breeder's rights, know how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
- (b) any application or right to apply for registration of any of these rights;
- (c) any registration of any of those rights or any registration of any application referred to in paragraph (b); and
- (d) all renewals and extensions of these rights;

**Landlord** means the current owner of the Business Premises;

**Law** means:

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations, orders or by-laws of the Commonwealth of Australia, any State or Territory of the Commonwealth of Australia or a Government Agency;
- (c) requirements and approvals (including conditions) of the Commonwealth of Australia, any State or Territory of the Commonwealth of Australia or a Government Agency that have the force of law; and
- (d) laws and rules applying to a United States public reporting company traded on a NASDAQ;

**Leave Entitlement** means an Employee's entitlement due by Law or under any award, enterprise agreement, industrial instrument or other agreement or arrangement, for long service leave, personal leave or annual leave or leave loading or any of them which has accrued in respect of the period of their service in the relevant Business (or any predecessor of the Seller in any part of the Business) but which has not yet been taken and remains unpaid;

**Liability** includes all liabilities, losses, damages, costs, interest, fees, penalties, fines, assessments, forfeiture and expenses of whatever description (whether actual, contingent or prospective);

**Loss or Claim** means, in relation to any person:

- (a) a damage, loss, cost (including legal costs on a full indemnity basis), expense, penalty, fine, forfeiture or liability incurred or suffered by the person; or
- (b) a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment or award made against the person,

however arising and whether present or future, fixed or unascertained, actual or contingent, based in contract, tort, equity or statute and whether involving a Third Party or a party to this Agreement or otherwise;

**New Lease** means a lease of the Business Premises between the Landlord (as lessor) and the Buyer (as lessee) commencing on and from Completion;

**Notice to Complete** has the meaning given in clause 6;

**Plant and Equipment** means all the plant, equipment (including computer equipment), machinery, furniture, fixtures and fittings owned by the Seller in connection with the relevant Business and located at the relevant Business Premises, including each item set out in Part 1 of Schedule 1;

**PPSA** means the *Personal Property Securities Act 2009 (Cth)*;

**PPSA Security Interest** means a security interest as defined in the PPSA;

**PPS Law** means the PPSA and any amendment made at any time to any other law as a consequence of the PPSA and any regulations issued in respect of the PPSA;

**Prepayments** means all periodic or recurring outgoings and expenses in respect of or relating to the Assets and the Business including (if and as applicable) rent, rates, tax(es), including gaming tax(es), electricity, gas, telephone, internet, salaries, wages, lease payments, hiring charges, employer superannuation contributions and other similar amounts paid by the Seller as at the Completion Date but only to the extent they relate to the period on or after the Completion Date;

**Prescribed Rate** means the rate of 10% per annum;

**Purchase Price** means the sum of \$195,000 (which includes the Deposit) and taking into account any adjustments to the Purchase Price under this Agreement;

**Receiver** means Schon Gregory Condon of Condon Associates purportedly appointed by Minmxt Pty Ltd to the assets and undertakings of the Seller;

**Receiving Party** means the party to whom Information is disclosed or who possesses or otherwise acquires Information belonging or relating to a Disclosing Party;

**Records** means all of the Seller's original or copy records, sale brochures and catalogues, sale and purchasing records, lists of clients, suppliers and customers, documents, books, files, reports, correspondence, accounts, financial records, trading records, employment records, plans and all other material relating to or used in connection with the Assets or the Business (whether in written, electronic or other form);

**Related Body Corporate** has the meaning given to that term in the Corporations Act;

**Related Entity** has the meaning given to that term in the Corporations Act;

**Relevant Items** means each of:

- (a) the Business Premises;
- (b) the Franchise Agreements; and
- (c) any other contract, document or arrangement that is, or is to be, assigned, novated or transferred to the Buyer under or in connection with this Agreement;

**Retail Law** means the *Retail Leases Act 1994* (NSW);

**Specified Exceptions** means the clauses, matters and things referred to in clause 5.4(b);

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above but excludes any goods and services tax;

**Stock** means all inventory owned by the Seller, located at the Business Premises and used or intended for use in connection with the Business as at close of business on the day before the Date for Completion, including all stocks of food, alcoholic, non-alcoholic beverages and merchandise, and including goods in transit, goods on consignment with a Third Party and stock ordered and paid for by the Seller but not received by close of business on the day before the Date for Completion and all other general stock of a bar or restaurant used or intended for use in connection with the Business;

**Sunset Date** means, subject to any extension under clause 5.5 of this Agreement, the date that is 60 days after the Agreement Date or such other date as the Seller and the Buyer agree in writing;

**Tax, Taxes or Taxation** means all forms of present and future taxes, excise, stamp or other duties, imposts, deductions, charges, withholdings, rates, levies or other governmental impositions imposed, assessed or charged by any Government Agency, together with all interest, penalties, fines, expenses and other additional statutory charges relating to any of them, imposed or withheld by a Government Agency;

**Tax Law** means any Law relating to Tax;

**Third Party** means a person who is not a party to this Agreement;

**Transaction** means any transaction contemplated by or in connection with any Transaction Document;

**Transaction Documents** means:

- (a) this Agreement;
  - (b) the New Lease;
  - (c) any document or agreement that the parties agree in writing is to be a Transaction Document for the purposes of this Agreement;
  - (d) any document or written agreement that is entered into under or related to any of the above; and
  - (e) any written undertaking by or to a party or its lawyers that is given under or related to any of the above; and
-

**Transferring Employee** means an Employee who before Completion accepts the Buyer's offer of employment referred to in clause 11.

## 1.2 Interpretation

In this Agreement, headings are used for convenience only and do not affect the interpretation of this Agreement and unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a document includes the document as modified from time to time and any document replacing it;
- (e) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (f) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (g) the word "month" means calendar month and the word "year" means 12 months;
- (h) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (i) a reference to a thing includes a part of that thing;
- (j) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (k) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)";
- (l) money amounts are stated in Australian currency unless otherwise specified; and
- (m) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (defunct body), means the agency or body that performs most closely the functions of the defunct body.

## 2. Agreement to buy and sell Assets and the Business

### 2.1 Sale and purchase

On and subject to the terms of this Agreement, the Seller agrees to sell and the Buyer agrees to purchase such right, title and interest as the Seller may have in the Assets and the Business at Completion for the Purchase Price and on the other terms of this Agreement.

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## **2.2 Title and risk**

The title to and the risk of the Assets and the Business in clause 2.1 passes from the Seller to the Buyer on and from Completion.

## **2.3 Items excluded from sale**

In respect of any customer contracts for electricity, gas, telephone, internet or any other services or assets provided by Third Parties which are not stated to form part of the Assets, the Buyer must, if it wishes to retain the use of those items, assets or services (as applicable) in connection with the Business, make its own arrangements with the Third Parties that own or supplied those items, assets or services (as applicable) to the Seller and the Seller makes no warranty or representation about the Buyer's ability to enter into agreements with or negotiate such arrangements with the relevant Third Parties.

## **3. Purchase Price**

### **3.1 Payment of the Purchase Price**

In consideration of the Seller agreeing to sell the Assets and the Business to the Buyer, the Buyer must pay the Purchase Price as follows:

- (a) by payment of the Deposit to the Seller on the Agreement Date in accordance with clause 3.2; and
- (b) by payment of the balance of the Purchase Price to the Seller on Completion, subject to any adjustments under this Agreement.

### **3.2 Deposit**

- (a) The Buyer must pay the Deposit to the Seller immediately on signing this Agreement.
- (b) The Seller may (but is not obliged to) invest the Deposit.
- (c) The Seller must hold and apply the Deposit in accordance with this Agreement.
- (d) On Completion the Deposit and any accrued interest will vest in the Seller absolutely.

### **3.3 No Completion – Deposit**

- (a) The Buyer agrees that, if Completion does not occur, the Deposit paid to the Seller by the Buyer under clause 3.2 is to be applied in accordance with this clause 3.3.
  - (b) If Completion does not occur on or before the Sunset Date in circumstances where the Buyer and the Guarantors are not in breach of any of its obligations under the Transaction Documents, then the Seller must pay the Deposit plus any accrued interest (if any) to the Buyer, which will vest in the Buyer absolutely.
  - (c) If this Agreement is lawfully rescinded or terminated then, in addition to any other rights, powers or remedies provided by law:
-

- (i) each party is released from its obligations under this agreement other than the obligations set out in clause 5.4(b); and
  - (ii) each party retains the rights it has against any other party in connection with any breach or claim that has arisen before rescission or termination.
- (d) For the avoidance of doubt, if Completion does not occur on or before the Sunset Date in circumstances (including as a result of the termination of this Agreement) where the Buyer or the Guarantors breach of any of its obligations under the Transaction Documents, the Deposit plus any accrued interest will vest in the Seller absolutely, time being of the essence.

### 3.4 Apportionment of Purchase Price

The Purchase Price is apportioned as follows:

| <b>Asset</b>                          | <b>Purchase Price apportionment</b> |
|---------------------------------------|-------------------------------------|
| Stock                                 | \$15,000                            |
| the remaining Assets other than Stock | \$180,000                           |

### 3.5 Manner of payment

All payments of any nature to or for the benefit of the Seller under this Agreement must be made by bank cheque, electronic transfer to an account or accounts nominated by the Seller or the Administrators or otherwise in cleared funds.

## 4. Period before Completion

- (a) In the period between the Agreement Date and the Completion Date, the Seller must:
- (i) not Dispose of any Assets other than in the ordinary course of business;
  - (ii) not acquire an asset other than in the ordinary course of business;
- except with the Buyer's prior written consent.
- (b) The Seller is not required to undertake any acts or obligations that would not normally be undertaken by an administrator trading the Business as agent for the Seller with a view to selling it as a going concern. For the avoidance of doubt nothing in this Agreement required the Seller or the Administrators to continue trading the Business.

## 5. Conditions precedent to Completion

### 5.1 Conditions precedent

Completion is conditional on:

- (a) the Landlord granting a New Lease; and
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- (b) the New South Wales Independent Liquor and Gaming Authority advising the Buyer that a liquor licence in relation to the Business Premises will be granted from Completion.

## **5.2 Duties in relation to Conditions Precedent**

The Buyer must, in relation to the Conditions Precedent:

- (a) use their best endeavours to ensure that the Conditions Precedent are fulfilled as soon as possible;
- (b) keep the other parties informed of any circumstances which may result in any of the Conditions Precedent not being, or becoming incapable of being, fulfilled;
- (c) not take any action that would, or would be likely to, prevent or hinder the fulfilment of any Conditions Precedent; and
- (d) promptly notify the other parties in writing if it becomes aware that any of the Conditions Precedent has been fulfilled or has become incapable of being fulfilled.

## **5.3 Waiver**

The Conditions Precedent may only be waived if the Administrators and the Buyer agree in writing.

## **5.4 Failure of Condition**

- (a) The Administrators or the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement at any time after the Sunset Date by giving written notice to each other party at any time before Completion if:
    - (i) any of the Conditions Precedent are not fulfilled or waived before 5pm (AEST) on the Sunset Date;
    - (ii) any of the Conditions Precedent having been fulfilled, that Condition Precedent does not remain fulfilled in all respects at all times until Completion; or
    - (iii) Completion has not occurred by 5pm (AEST) on the Sunset Date.
  - (b) On termination under this clause, each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights):
    - (i) under clause 3.3 (No Completion - Deposit);
    - (ii) under clause 15 (Confidentiality);
    - (iii) under clause 17 (Administrators' capacity and liability);
    - (iv) under clause 20 (Guarantee and Indemnity);
    - (v) under clause 22 (Goods and services tax (GST));
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- (vi) under clause 24.12 (Duty); and
- (vii) in connection with any Loss or Claim of the Seller or the Administrators that arose before termination.

## 5.5 Administrators' Rights if Prevented from Completion

- (a) If the Seller or the Administrators are:
  - (i) restrained or prevented from completing this Agreement by injunction, court proceedings, any enforcement action by a secured creditor, claims by Third Parties, caveat, requisition or otherwise;
  - (ii) unable to secure the removal of the Receiver (either by retirement, court order or otherwise);
  - (iii) unable to obtain the consent of the Receiver to the sale pursuant to this Agreement; or
  - (iv) unable to obtain court orders otherwise approving the sale pursuant to this Agreement,

(each an **Impediment**), the Administrators may (but are not obliged) to do any or all of the following:

  - (A) delay Completion until the Impediment is removed, in which case Completion shall occur at the time and place referred to in clause 7.1 on the day that is 2 Business Days following written notice from the Administrators that the Impediment has been removed;
  - (B) on or prior to the Sunset Date, extend the Sunset Date to a date which is up to 60 days after the Sunset Date (**Extended Sunset Date**) by notice to the Buyer; or
  - (C) if after exercising its rights under clause 5.5(a)(iv)(B) the Administrators determine in their absolute discretion that they are unable to remove the Impediment, terminate this Agreement by notice in writing to the Buyer.
- (b) The Buyer will have no claim against the Seller or the Administrators in respect of any delay in Completion or termination of this Agreement caused by the Administrators exercising their rights under clause 5.5(a) and will not be entitled to take any action against the Seller or the Administrators to complete this Agreement prior to removal of the Impediment except as provided for in clause 5.5(c).
- (c) If the Administrators:
  - (i) are unable to procure the removal of the Impediment; or
  - (ii) fails to serve on the Buyer notice confirming the removal of the Impediment,

by the Extended Sunset Date, then the Buyer (if the Buyer is not otherwise in breach of the Transaction Documents) may terminate this Agreement by serving a notice of termination on the other parties.

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- (d) If this Agreement is terminated under this clause, then each party is released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions.

## 6. Notice to Complete

- (a) If Completion has not been effected on or before the date contemplated in clause 7.1 the Buyer or the Administrators, not being in default under this Agreement, may give to the other fourteen (14) days notice in writing (**Notice to Complete**) to complete and making time of the essence of this Agreement. The party to whom such notice is given will not be entitled to object to the sufficiency or adequacy of the period of such notice.
- (b) If the Buyer does not comply with a Notice to Complete then the Administrators may, by notice in writing served upon the Buyer, either:
  - (i) terminate this Agreement and seek damages against the Buyer and/or the Guarantors on behalf of the Seller and/or in its own right; and/or
  - (ii) enforce against the Buyer and/or the Guarantors, without further notice, any other rights and remedies available to the Seller or the Administrators.
- (c) If the Seller does not comply with a Notice to Complete within fourteen (14) days, the Buyer may, by notice in writing served upon the Seller or Administrators, terminate this Agreement whereupon the deposit will be immediately returned to the Buyer.

## 7. Completion

### 7.1 Time and place

Subject to clause 5.5, Completion must take place at the office of William James, Upper Ground Floor, Trafalgar Square, 230 Clarence Street, Sydney at 10am 2 Business Days after the satisfaction of the Conditions Precedent or such other time or place agreed by the parties in writing.

### 7.2 Seller's obligations at Completion

At Completion, the Seller must:

- (a) make available to the Buyer for collection, such of the Assets capable of passing by delivery, at the respective places where they are located;
  - (b) to the extent that they are available at Completion, deliver to the Buyer the original Records (other than the Excluded Records) in relation to the Assets and the Business; and
  - (c) provide a consent to transfer number reference provided by ASIC for the Business Name that will entitle the Purchaser to register the Business Name after Completion,
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provided that the Seller shall not be obliged to do so unless and until the Buyer has complied with its obligations under clause 7.3(a) concerning payment of the balance of the Purchase Price.

### **7.3 Buyer's obligations at Completion**

At Completion the Buyer must:

- (a) pay the Purchase Price or that part of the Purchase Price as is required to be paid at Completion to the Seller in accordance with clauses 3.1 and 9.2, subject to any adjustments under this Agreement;
- (b) take possession of each Asset;
- (c) accept all the documents and other items specified in clause 7.2 which the Seller gives the Buyer under that clause; and
- (d) do all other acts and execute all other documents that this Agreement requires the Buyer to do or execute at Completion.

## **8. Adjustments to the Purchase Price**

### **8.1 Seller to provide statement**

On the day before Completion, the Seller must provide to the Buyer a written statement setting out:

- (a) the amount of all Accruals and Prepayments; and
- (b) any amount to be paid by either the Buyer or the Seller to the other of them, under clause 8.2.

### **8.2 Difference between Accruals and Prepayments**

If:

- (a) Prepayments exceed Accruals, the Buyer must pay an amount equal to the difference to the Seller; or
- (b) Accruals exceed Prepayments, the Seller must pay an amount equal to the difference to the Buyer,

in accordance with clause 9.2, as an adjustment to the Purchase Price.

## **9. Final payment**

### **9.1 Final payment certificate**

On or before the Completion Date, the Seller must prepare and deliver to the Buyer a final payment certificate (**Final Payment Certificate**) setting out the balance of the Purchase Price payable by the Buyer, after taking into account:

- (a) any payments already made or to be made by the Buyer on Completion under this Agreement;
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- (b) any amounts owed by the Buyer or the Guarantors under any Transaction Document, which for the avoidance of doubt the parties agree shall be treated as an increase to the Purchase Price;
- (c) amounts payable by either the Buyer or the Seller under clause 8.2; and
- (d) any security deposits provided by the Seller under any contract, document or arrangement that is being assigned, novated or transferred to the Buyer under or in connection with this Agreement where that security deposit has not been refunded to the Seller and is being held for the benefit of the Buyer as at Completion (which amounts are to be taken as an increase in the Purchase Price).

## **9.2 Payment of balance of Purchase Price**

Subject to clause 9.3 on Completion the Buyer must pay to the Seller the balance of the Purchase Price set out in the Final Payment Certificate.

## **9.3 Disputes over value of Adjustments**

If the Buyer, acting in good faith, disagrees with the statement delivered under clause 8.1 or the Final Payment Certificate delivered under clause 9.1 and the parties cannot reach agreement by the Completion Date, then:

- (a) on Completion, the Buyer must pay to the Seller the balance of the Purchase Price set out in the Final Payment Certificate;
- (b) the Buyer and the Seller must use their reasonable endeavours to reach agreement as soon as possible;
- (c) if the Buyer and the Seller are unable to reach agreement within 5 Business Days after Completion, the Buyer and the Seller must refer the disagreement to an Expert for determination under clauses 9.4 to 9.7 (inclusive); and
- (d) the Buyer and the Seller must, within 5 Business Days after receipt of the Expert's determination, account to each other, as appropriate, in accordance with the Expert's determination.

## **9.4 Role of Expert**

The Expert acts as an expert and not as an arbitrator. The parties must accept the determination of the Expert as final and binding, except in the case of manifest error.

## **9.5 Process**

The Expert:

- (a) must conduct its determination in accordance with the ACDC Rules for Expert Determination, which Rules are taken to be incorporated into this Agreement;
  - (b) may proceed in the manner the Expert thinks most appropriate and is not bound to follow the rules of natural justice or the rules of evidence;
  - (c) must take into account all information and submissions provided to the Expert by the parties relating to the matter to be determined;
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- (d) must determine the matter in a manner that has regard to, and is consistent with, the terms of this Agreement; and
- (e) must promptly give each of the parties a written determination that includes the reasons for the determination.

## **9.6 Information**

The Seller and the Buyer must:

- (a) give the Expert access to any records that are relevant to the matter to be determined;
- (b) use reasonable endeavours to make available to the Expert all information relevant to the dispute and which the Expert reasonably requires in order to resolve the dispute; and
- (c) provide to the Expert any other assistance reasonably requested by the Expert.

## **9.7 Costs**

Each party must pay its own costs of complying with clauses 9.4 to 9.7 (inclusive). Unless the Expert otherwise determines, having regard to all the circumstances, the costs of the Expert and any other costs must be shared equally by the parties.

## **10. New Lease**

### **10.1 Landlord's costs**

- (a) Despite any other clause in this Agreement, the Buyer is responsible for and must pay to the Landlord or reimburse to the Seller any costs charged by the Landlord, including costs incurred for:
  - (i) drafting, negotiating and finalising the New Lease;
  - (ii) approving the Buyer;
  - (iii) obtaining any consents the Landlord must get before giving any approvals; and
  - (iv) any other document concerning the New Lease.
- (b) The Buyer is responsible for any registration fees and stamp duty payable in connection with the New Lease.

### **10.2 Buyer's obligations**

The Buyer must use all reasonable endeavours to procure that the Landlord enters into a New Lease commencing from Completion, including by:

- (a) providing all financial information required by the Landlord;
  - (b) providing all information required by the Landlord in relation to the Buyer's retailing skills;
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- (c) providing the Landlord with any bank guarantee, security deposit, guarantee or indemnity or other security that the Landlord reasonably requires with respect to the performance of its obligations as lessee under the New Lease;
- (d) providing any other information or documentation or comfort the Landlord may reasonably require under the New Lease;
- (e) by providing such information and documents as the Landlord may require from time to time under the Retail Law; and
- (f) if the Buyer is required to provide any other document or information to any person under the Retail Law or any other relevant retail leases legislation, providing such document or information within the time permitted under that legislation.

## **11. Employees**

### **11.1 Offer of employment**

- (a) On or as soon as practicable after the Agreement Date but before the Completion Date, the Buyer may make offers of employment to the Employees provided such offers are conditional upon Completion occurring.
- (b) The Buyer will confirm with the Administrators when the offers of employment are made to the Employees and on what terms as soon as practicable after making such offers.
- (c) The Seller will use reasonable endeavours to encourage those Employees that are offered employment by the Buyer under clause 11.1(a) to accept the offers of employment provided to them by the Buyer.
- (d) The parties agree and acknowledge that the Employees who do not become Transferring Employees, remain the responsibility of the Seller and the Buyer will have no responsibility whatsoever for any Liability relating to those employees.

### **11.2 Terms and conditions of employment**

Each offer to the Employees must be:

- (a) conditional on Completion occurring and effective on and from Completion;
- (b) irrevocable before the day that is 2 Business Days after the Sunset Date;
- (c) conditional on the Employee resigning from his or her employment with the Seller, effective immediately before commencement of employment with the Buyer; and
- (d) otherwise, be on terms acceptable to the Seller.

### **11.3 Buyer's obligations**

On and from Completion, the Buyer is responsible for, and indemnifies the Seller against all Employee Entitlements and Leave Entitlements that accrue to Transferring

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Employees in respect of the period on or after Completion, including all remuneration and entitlements, relating to their actual employment by the Buyer.

#### **11.4 Seller's obligations**

At or within 10 Business Days after Completion, the Seller must provide the Buyer with details of the superannuation fund(s) (to the extent that they are available to the Seller) to which the Seller was contributing on behalf of the Transferring Employees before Completion so as to enable the Buyer to continue making contributions to those funds in accordance with applicable Laws.

### **12. Debtors and Creditors**

#### **12.1 Debts incurred prior to the Completion Date**

- (a) Subject to clause 12.2(b), the Seller is solely responsible for all debts and Liabilities incurred before Completion in respect of the Business and the Assets.
- (b) All Prepayments must be reimbursed by the Buyer to the Seller as an adjustment to the Purchase Price in accordance with clause 8.2.

#### **12.2 Debts incurred after the Completion Date**

- (a) The Buyer is solely responsible for all debts and Liabilities incurred on or after Completion in respect of the Assets and the Business and must indemnify and keep indemnified the Seller and the Administrators against any Loss or Claim in relation to those debts and Liabilities.
- (b) For the avoidance of doubt, the Buyer's liability under clause 12.2(a) includes all debts and Liabilities in relation to any orders placed by the Seller in respect of the Business prior to Completion for which goods or services have not yet been provided prior to Completion.
- (c) All Accruals must be paid for by the Seller to the Buyer as an adjustment to the Purchase Price in accordance with clause 8.2.

#### **12.3 Entitlement to income**

- (a) The parties acknowledge and agree that the Seller is entitled to income derived from conducting the Business before Completion and the Buyer is entitled to income derived from conducting the Business on and from Completion.
- (b) Without limiting clause 12.3(a), the Book Debts remain the property of the Seller and after Completion the Buyer must promptly account to the Seller in respect of any moneys received by the Buyer in part or full payment of any of the Book Debts.
- (c) The Seller and the Buyer must keep each other regularly informed as to moneys received by either of them contrary to the principles in clauses 12.3(a) and 12.3(b).

### **13. Indemnity in relation to transferred contracts**

The Buyer accepts responsibility for the performance of any contract, document, Authorisation or arrangement that is assigned or transferred to the Buyer under or in

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connection with this Agreement on and from the time of assignment or transfer (including any obligation for the payment of any money), but only for the period after Completion, and must indemnify and keep indemnified the Seller and the Administrators against any Loss or Claim arising from or in connection with any breach or non-performance of any such contract, document, Authorisation or arrangement by the Buyer.

## **14. Personal Property Securities regime**

### **14.1 PPSA further steps**

- (a) If in the Seller's opinion:
- (i) any of the Transaction Documents contains or any of the Transactions creates a PPSA Security Interest for the purposes of the PPS Law; or
  - (ii) the PPS Law does or could affect the Seller's rights or obligations under or in connection with any Transaction Document,
- (each a **PPSA Event**), the Seller may, in its absolute discretion, do any of the following:
- (iii) register or give any notification in connection with any relevant PPSA Security Interest and exercise rights in connection with the PPSA Security Interest; and
  - (iv) give notice to the Buyer requiring it to do anything at its expense that the Seller requires for the purposes of the relevant PPSA Event including, but not limited to, amending any of the Transaction Documents, executing any new document or agreement, obtaining consents and supplying information.
- (b) The Buyer must comply with any notice received pursuant to clause 14.1(a) within the time stipulated in the notice.

### **14.2 Administrators' right to terminate the Agreement**

If:

- (a) any action referred to in clause 14.1 is not taken to the Administrators' satisfaction; or
- (b) despite such action the Administrators determine that the Seller's rights or obligations under or in connection with the Transactions or any of the Transaction Documents have been or will be materially adversely affected,

then the Administrators may give notice to the Buyer terminating this Agreement or any other document in connection with the Transactions and requiring:

- (c) full repayment of all outstanding monies (if any); and
- (d) the return of all of the Seller's property within the control of the Buyer (if any),

within 10 days after the date of notification. Upon the giving of that notice, each party is released from all of its obligations and liabilities under this Agreement, regardless of

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when those obligations and liabilities arose, except for obligations and liabilities (and the corresponding rights) referred to in the Specified Exceptions or under this clause 14.2.

### **14.3 General**

- (a) The Buyer irrevocably and unconditionally waives its right to receive from the Seller any notice under the PPS Law (including notice of a verification statement) unless required by the PPS Law and if the notice cannot be excluded.
- (b) The Buyer must not register a PPSA Security Interest against the Seller without their prior written consent.
- (c) The Buyer must notify the Seller immediately of any change in its name, address, and any other information provided to the Seller to enable the Seller to register a financing change statement under the PPS Law if required.
- (d) The parties agree that the subject matter referred to in section 275(1) of the PPS Law is confidential and each party must not disclose any such information to a third party (other than their professional advisers and financiers or to enforce a right under or in connection with this Agreement).

### **14.4 Contracting out**

- (a) The following provisions of the PPS Law do not apply and, for the purposes of section 115 are "contracted out" of these terms, namely sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.
- (b) The parties agree that the Seller has the power to retain, deal with or dispose of any property seized by it in the manner specified in sections 123, 125, 126, 128, 129 and 134(1) of the PPS Law and in any other manner it deems fit.

### **14.5 Survival**

The parties agree that the provisions of this clause 14 survive any completion, expiry or termination of this Agreement.

## **15. Confidentiality**

### **15.1 Obligations of confidentiality**

- (a) The Receiving Party acknowledges that the Disclosing Party's Confidential Information is the property of and confidential to, or a trade secret of, the Disclosing Party. Subject to clause 15.2, the Receiving Party must:
    - (i) keep the Disclosing Party's Confidential Information confidential and not directly or indirectly disclose, divulge or communicate that Confidential Information to, or otherwise place that Confidential Information at the disposal of, any other person without the prior written approval of the Disclosing Party;
    - (ii) take all reasonable steps to secure and keep secure all of the Disclosing Party's Confidential Information coming into its possession or control; and
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- (iii) not memorise, use, modify, reverse engineer or make copies, notes or records of the Disclosing Party's Confidential Information for any purpose other than in connection with the performance by the Receiving Party of its obligations under this Agreement or any Law.
- (b) For the avoidance of doubt, the parties agree not to disclose the terms of this Agreement or its subject matter including, without limitation, the fact that Completion has occurred.

## 15.2 Exceptions

The obligations of confidentiality under clause 15.1 do not apply to any information that:

- (a) is generally available to the public (other than by reason of a breach of this Agreement);
- (b) is disclosed with the prior written approval of the Disclosing Party;
- (c) is disclosed to the Landlord for the purposes of satisfying the Conditions Precedent;
- (d) is disclosed to a professional adviser, banker or financial adviser of the Receiving Party or to a person whose consent or approval is required under or in connection with this Agreement;
- (e) is required in order for the Administrators to comply with their obligations as administrators or liquidators of the Seller;
- (f) Chanticleer is required to disclose to the Securities Exchange Commission under the Securities Exchange Act of 1934 and Securities Act of 1933;
- (g) is required to be disclosed by any applicable Law; or
- (h) is disclosed by a party in order to enforce any of its rights under or in connection with this Agreement.

## 15.3 Survival

The obligations imposed by this clause 15 survive any completion, expiry or termination of this Agreement.

## 16. Termination

- (a) If at any time on or before the Completion Date:
  - (i) any of the Conditions Precedent become incapable of being fulfilled or has not otherwise been waived;
  - (ii) the Buyer breaches any of its obligations under the Transaction Documents; or
  - (iii) an Insolvency Event occurs in relation to the Buyer or the Guarantor,

then the Administrators may terminate this Agreement (without prejudice to the Seller's or the Administrators' other rights and remedies) by notice to the Buyer,

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whereupon the Seller and the Administrators will be released from all of their obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose, except for obligations and liabilities (if any) under clause 3.3. For the avoidance of doubt, if an Insolvency Event occurs in relation to the Buyer or the Guarantor, the Buyer shall be deemed to have breached this Agreement.

- (b) If at any time on or before the Completion Date:
  - (i) any of the Conditions Precedent become incapable of being fulfilled and it has not otherwise been waived; or
  - (ii) the Seller breaches any of their obligations under the Transaction Documents; or

then the Buyer may terminate this Agreement (without prejudice to the Buyer's other rights and remedies) by notice to the Seller, whereupon the Buyer will be released from all of its obligations and liabilities under this Agreement, regardless of when those obligations and liabilities arose.

## **17. Administrators' capacity and liability**

### **17.1 Administrators acting as agent**

- (a) All references to the Administrators in this Agreement are references to the Administrators in their capacity as administrators of the Seller.
- (b) Each of the Buyer and the Guarantors acknowledges and agrees that:
  - (i) the Buyer is contracting with the Seller for the purchase of the Assets and the Business under this Agreement and not the Administrators;
  - (ii) by entering into this Agreement, the Administrators are acting not in a personal capacity but as agents of the Seller; and
  - (iii) any Information provided in connection with this Agreement to the Buyer by the Administrators or the Administrators' Representatives is provided on behalf of the Seller.
- (c) If the Seller enters into liquidation at any time prior to Completion, this Agreement and the Transaction Documents shall continue to operate as if references to the Administrators includes the Administrators in their capacity as liquidators of the Seller.

### **17.2 No personal liability of Administrators**

For the avoidance of doubt, the parties agree that in connection with the negotiation, execution and completion of this Agreement, the Administrators are acting as the agent of the Seller and to the maximum extent permitted by Law:

- (a) neither the Administrators nor the Administrators' Representatives are personally liable under:
  - (i) this Agreement;

- (ii) the transactions contemplated by this Agreement;
  - (iii) any act, matter or thing arising out of or in connection with this Agreement; or
  - (iv) under any other deed, instrument or document entered into, under or in connection with this Agreement;
- (b) any Loss or Claim the Buyer or the Guarantors may have resulting from a breach of an implied or express term of this Agreement or in connection with the Assets or the Business must be made solely against the Seller;
  - (c) each of the Buyer and the Guarantors releases the Administrators and the Administrators' Representatives from liability to the Buyer or the Guarantors for any Loss or Claim on any ground in connection with this Agreement, the Assets or the Business or under any other deed, instrument or document entered into, under or in connection with this Agreement; and
  - (d) each Administrator is entitled to enforce his rights under this Agreement independently of each other Administrator.

### **17.3 Survival**

The parties agree that the provisions of this clause 17 survive any completion, expiry or termination of this Agreement.

## **18. No warranties**

### **18.1 Buyer's acknowledgments**

Each of the Buyer and the Guarantors acknowledge and agree that:

- (a) to the maximum extent permitted by Law, the Seller and the Administrators make no statements or representations nor give any warranties in respect of the sale of the Assets and the Business or about the quality or condition of the Assets or the Business or the Relevant Items nor do they make or give any other representations or warranties except those expressly set out in this Agreement;
  - (b) without limiting clause 18.1(a), the Seller and the Administrators do not make any statements or representations nor give any warranties about:
    - (i) the physical state, quality or condition of any of the Assets or the Business or the Relevant Items;
    - (ii) the standing, validity or enforceability of, or compliance by the Seller with, any Intellectual Property Rights or the Relevant Items;
    - (iii) any rights of the Seller (including title) in respect of the Assets or the Business or the Relevant Items;
    - (iv) the Assets being free of any Encumbrance;
    - (v) the value of the Assets or the Business or the Relevant Items;
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- (vi) the accuracy of the description of the Assets or the Business or the Relevant Items;
  - (vii) the purposes for which the Assets or the Business or the Relevant Items can legally and physically be used;
  - (viii) the ability of the Buyer to negotiate agreements with, or enter into arrangements, with any Third Party that owns or supplied:
    - (A) those items of plant and equipment listed in Part 2 of Schedule 1; or
    - (B) any customer contracts for electricity, gas, telephone, internet or any other services or assets provided by Third Parties which are not stated to form part of the Assets;
  - (ix) compliance of the Assets or the Business or the Relevant Items with any Laws;
  - (x) whether all licences, approvals, permits, consents, certificates or authorities required for the use of the Assets or the Business or the Relevant Items are held by the Seller;
  - (xi) whether the Seller has complied with all licences, approvals, permits, consents, certificates or authorities granted in respect of any of the Assets or the Business or the Relevant Items;
  - (xii) whether the Seller has complied with all obligations imposed on it by statutes, orders, regulations, industrial instruments (including enterprise agreements and modern awards) relevant to conditions of service;
  - (xiii) the profitability or financial performance of the Assets or the Business or the Relevant Items;
  - (xiv) the future viability or profitability of the Assets or the Business or the Relevant Items;
  - (xv) the truth, accuracy or completeness of any information or statements contained within any information memoranda, due diligence or other materials provided to the Buyer in relation to the state, condition or sale of the Assets or the Business or the Relevant Items;
  - (xvi) the fitness or suitability of the Assets or the Business or the Relevant Items for any purpose (including any purpose expressly or impliedly disclosed by the Buyer to the Seller, the Administrators or the Administrators' Representatives);
  - (xvii) the suitability of the Business Premises for the Business or any other purpose;
  - (xviii) the fixtures and fittings at the Business Premises;
  - (xix) the terms or conditions of any contract, document, Authorisation or arrangement to which the Seller is a party;
-



- (xx) the standing, validity or enforceability of any contract, document, Authorisation or arrangement to which the Seller is a party;
  - (xxi) the standing, validity or enforceability of any actual or proposed assignment, novation or transfer of any contract, document, Authorisation or arrangement to which the Seller is a party; or
  - (xxii) any counterparty to any contract, document, Authorisation or arrangement to which the Seller is a party (including the landlord);
- (c) to the maximum extent permitted by Law, all warranties, representations and statements which may have been made or given by the Seller, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Seller or the Administrators, whether express, implied, written or oral, other than those expressly contained in this Agreement, are excluded and the Seller and the Administrators disclaim all liability in relation to these;
- (d) each of the Buyer and the Guarantors do not rely on any statement, representation, warranty, condition or other conduct in relation to the Business or Assets or the Relevant Items which may have been made or given by the Seller, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Seller or the Administrators and declares that it would have entered into this Agreement on the same terms and conditions irrespective of any such statement, representation, warranty, condition or other conduct;
- (e) the Buyer has agreed to purchase the Assets and the Business for a price calculated to take into account the risk to the Buyer represented by the fact that all parties believe that the exclusions and limitations contained in this Agreement would be recognised by the courts as fully effective;
- (f) each of the Buyer and the Guarantors has received independent professional advice in relation to the purchase of the Assets and the Business and in relation to the Relevant Items and has investigated all material matters that a reasonably prudent intending buyer of the Assets and the Business would investigate and has (to the extent it has had access to the Assets or Business or the Relevant Items) satisfied itself about anything arising from its investigation;
- (g) each of the Buyer and the Guarantor relies on its own investigations and professional advice received and does not rely on any statement, representation, assurance, warranty, condition or other conduct in relation to the Assets or the Business or the Relevant Items which may have:
- (i) been made or given; or
  - (ii) failed to have been made or given,
- by the Seller, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Seller or the Administrators;
- (h) each Asset and the Business and each Relevant Item is purchased by the Buyer as a result of the independent exercise of the Buyer's own skill and judgment after due inspection and investigation;
-

- (i) each Asset and the Business and each Relevant Item is purchased by the Buyer on an "as is where is" basis with all existing patent and latent defects and irregularities; and
- (j) the Administrators have not:
  - (i) conducted any due diligence investigation, other investigation or enquiries in relation to the Assets or the Business or the Relevant Items; or
  - (ii) verified, audited, examined or reviewed any information provided by the Seller to the Buyer as to its truth, accuracy or completeness.

## 18.2 Limitations

- (a) Each of the Buyer and the Guarantors may not claim against the Seller, the Administrators or the Administrators' Representatives for any Loss or Claim arising from or relating to any statement, representation, warranty, promise or agreement in connection with the sale of any of the Assets or the Business or the Relevant Items:
  - (i) made or implied; or
  - (ii) failed to have been made or given,
    - by the Seller, the Administrators, the Administrators' Representatives or any representative or other person purporting to act on behalf of any of them, except to the extent that the right to make such a claim is:
    - (iii) expressly set out in this Agreement; or
    - (iv) a right that by Law cannot be excluded or modified.
- (b) All warranties, conditions, promises, representations and statements which may have been made or given by the Seller, the Administrators, the Administrators' Representatives or any person purporting to act on behalf of the Seller or the Administrators, whether express, implied, written or oral, statutory or otherwise other than those expressly contained in this Agreement, are excluded to the maximum extent permitted by Law.
- (c) To the maximum extent permitted by Law, each of the Buyer and the Guarantors may not object to, rescind, cancel or terminate this Agreement, in any way whatsoever delay Completion, deduct, withhold or set-off any amount from the Purchase Price or claim compensation for damages from the Seller, because of the status of any matter described in clause 18.1.

## 19. Party as trustee

### 19.1 Capacity

If the Buyer or the Guarantor (**Trustee**) enters into this Agreement in the capacity as trustee of any trust (**Trust**) under any trust deed, deed of settlement or other instrument (**Trust Deed**), and whether or not any other party has notice of the Trust, then the Trustee enters into this Agreement both as trustee of the Trust and in its personal capacity.

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## 19.2 Trustee's warranties

The Trustee represents and warrants that:

- (a) it is the only trustee of the Trust and no action has been taken or is proposed to remove it as trustee of the Trust;
- (b) the Trustee has power under the Trust Deed and, in the case of a corporation, under its constitution, to enter into and execute this Agreement and to perform the obligations imposed under this Agreement as Trustee;
- (c) all necessary resolutions have been passed as required by the Trust Deed and, in the case of a corporate Trustee, by its constitution, in order to make this Agreement fully binding on the Trustee;
- (d) the execution of this Agreement is for the benefit of the beneficiaries of the Trust;
- (e) the Trustee is not, and has never been, in default under the Trust Deed;
- (f) it has a right to be fully indemnified out of the Trust assets in respect of obligations incurred by it under this Agreement and the assets of the Trust are sufficient to satisfy that right of indemnity;
- (g) there is not now, and the Trustee will not do anything by virtue of which there will be in the future, any restriction or limitation on the right of the Trustee to be indemnified out of the assets of the Trust; and
- (h) there is no material fact or circumstance relating to the assets, matters or affairs of the Trust that might, if disclosed, be expected to affect the decision of the other parties to enter into this Agreement.

## 19.3 Repetition

The representations and warranties set out in clause 19.2 are repeated on each day from and including the Agreement Date to and including the Completion Date with reference to the facts and circumstances then subsisting.

## 20. Guarantee and indemnity

### 20.1 Guarantee of Buyer's performance

- (a) In consideration of the Seller agreeing to sell the Business and the Assets to the Buyer on the terms of this Agreement, the Guarantors guarantee to the Seller and the Administrators the punctual performance by the Buyer of the Buyer's obligations under this Agreement, including its obligations to pay money.
  - (b) The Guarantor must:
    - (i) pay to the Seller any amount that the Buyer fails to pay the Seller on or by the due date for payment as prescribed by this Agreement; and
    - (ii) comply with any of the Buyer's obligations that the Buyer fails to comply with on or by the due date for compliance as prescribed by this Agreement,
-

whether or not demand has been made by the Seller or the Administrators on the Buyer.

- (c) The aggregate amount payable under the guarantee provided by the Guarantors pursuant to this Agreement is limited to the amount of the Purchase Price.

## **20.2 Indemnity**

The Guarantors indemnify and must keep indemnified the Seller and the Administrators against any Loss or Claim that may be brought against the Seller or the Administrators or which the Seller or the Administrators may pay, sustain or incur as a direct or indirect result of any breach or non-performance of this Agreement by the Buyer. The Seller or the Administrators may enforce this right of indemnity at any time, including before it has incurred the liability, loss or costs.

## **20.3 Continuing obligation**

The guarantee and indemnity given under this clause 20 is a continuing obligation which:

- (a) continues after Completion and after the parties' other obligations under this Agreement terminate; and
- (b) is not discharged by any one payment.

## **20.4 Obligations and rights not affected by certain matters**

The Guarantors' obligations and the rights of the Seller and the Administrators under this guarantee and indemnity are not affected by anything which might otherwise affect them at Law including:

- (a) any concession (such as extra time) being given to any person, including the Guarantors or the Buyer;
- (b) the failure or delay of the Seller or the Administrators in taking action or asserting a right, or any other act, omission or mistake by the Seller or the Administrators;
- (c) the assignment, novation or transfer of a right or obligation of the Seller or the Administrators;
- (d) this Agreement (or any agreement entered into in order to perform this Agreement) being varied; or
- (e) an obligation or liability of any person being invalid or unenforceable.

## **20.5 Guarantors' rights suspended**

The Guarantors must not do any of the following, without the consent of the Seller and the Administrators, until all money payable to the Seller or the Administrators (as the case may be) in connection with this Agreement is fully and finally paid:

- (a) exercise a right of contribution or indemnity as against the Seller or the Administrators;
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- (b) take a step to enforce a right against the Seller or the Administrators in connection with money the Guarantors pay to the Seller or the Administrators under this guarantee and indemnity;
- (c) claim a share of any money the Seller receives in connection with this Agreement;
- (d) claim the benefit of (for example, by subrogation), or seek the transfer of, a guarantee, indemnity or security the Seller or the Administrators hold in connection with this Agreement;
- (e) try to reduce its liability under this guarantee and indemnity through set-off or counterclaim; or
- (f) prove in competition with the Seller or the Administrators if the Buyer is unable to pay its debts as and when they fall due.

#### **20.6 Reinstating the Seller's and the Administrators' rights**

If a claim is made (such as a claim under the Law relating to insolvency) that a payment or transfer to the Seller in connection with this Agreement is void or voidable and that claim is upheld, conceded or compromised, then the Seller or the Administrators (as the case may be) are immediately entitled to the rights the Seller or the Administrators had against the Buyer and the Guarantors before the payment or transfer was made.

#### **20.7 Reimbursing the Seller and the Administrators for costs**

The Guarantors must pay or reimburse the Seller and the Administrators on demand for:

- (a) the Seller's and the Administrators' costs in connection with enforcing or deciding whether to enforce this guarantee and indemnity; and
- (b) all Tax payable in connection with this guarantee and indemnity or any transaction, including a payment, contemplated by it.

#### **20.8 Applying money paid by the Guarantors**

The Seller or the Administrators may apply amounts it receives from the Guarantors under this guarantee and indemnity in any manner or order it chooses.

### **21. Interest on overdue payments**

#### **21.1 Payment of default interest**

If a party fails to pay on the due date any amount that the party is obliged to pay under this Agreement, the party must pay interest on that amount. The interest:

- (a) must be paid on written demand (or if no demand is made, on Completion) given to that party by the party or parties to whom the amount is payable;
  - (b) is calculated from and including the day on which it falls due to but excluding the day on which it is paid in full; and
  - (c) accrues each day at the Prescribed Rate.
-

Each of the Buyer and the Guarantors acknowledges and agrees that interest at the Prescribed Rate is a genuine pre-estimate of the liquidated damages likely to be suffered by the Seller.

## **21.2 Other rights not affected**

A party's right to require payment of interest under clause 21.1 does not affect any other rights or remedies it may have in respect of a failure to pay an amount due under this Agreement.

## **22. Goods and services tax (GST)**

### **22.1 Definitions**

In this clause:

- (a) the expressions **Consideration, GST, Input Tax Credit, Recipient, Supply, Supply of a Going Concern, Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the GST Act;
- (b) **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (as amended); and
- (c) **Supplier** means any party treated by the GST Act as making a Supply under this Agreement.

### **22.2 Price is GST exclusive**

Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST.

### **22.3 Supply of a going concern**

The Supplier and Recipient agree that the supply of the Assets and the Business under this Agreement constitutes the Supply of a Going Concern under which the Supplier:

- (a) is supplying to the Recipient all of the things that are necessary for the continued operation of an enterprise; and
- (b) carries on and will carry on, the enterprise until the day of the Supply (whether or not as a part of a larger enterprise carried on by the Supplier).

### **22.4 Recipient registered for GST**

The Recipient warrants that on the day of the Supply it will be registered or required to be registered under the GST Act.

### **22.5 Consequences if parties mistaken as to sale of a going concern**

If the Supply made under this Agreement does not satisfy the requirements of section 38-325 of the GST Act, then:

- (a) the Recipient must pay to the Supplier an additional amount equal to the GST payable on the Taxable Supply and any penalties or interest that may be imposed in respect of the GST payable; and
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- (b) the additional amount is payable immediately after the Supplier provides a valid Tax Invoice to the Recipient in respect of the Supply.

## **23. Access to Documents Before and After Completion**

### **23.1 Before Completion**

The Seller has, and will give the Buyer or its representatives reasonable access, during normal business hours, to the Business Premises until the Completion Date and the Seller will make available to the Buyer and its accountants and lawyers (at the Buyer's cost), all relevant books, books of account, records, contracts, registers, and any other documents relating to the Assets as the Buyer, its accountants or lawyers may reasonably request and the Buyer its accountants or lawyers may take copies thereof, provided that in exercising its rights under this clause the Buyer must, and must cause its representatives to, comply with the Seller's reasonable directions and not cause unreasonable interference or disturbance to the Seller or the Business.

### **23.2 After Completion**

- (a) The Buyer grants to the Seller and the Administrators the right to access and take copies (at the Seller's cost) of records belonging to or in the possession or control of the Buyer after Completion, to the extent those records relate in any way to the Assets in respect of any period before Completion.
- (b) Where it is proposed to exercise the rights under clause 23.2(a), the Seller will provide reasonable notice to the Buyer.
- (c) The rights under clause 23.2(a) may be exercised at any time from Completion until the date that is 90 days from the Completion Date.
- (d) Nothing in this clause limits or restricts any other rights of access any party may have independently of this Agreement whether under the Corporations Act or otherwise.

## **24. General**

### **24.1 Nature of obligations**

- (a) Any provision in this Agreement which binds more than one person binds all of those persons jointly and each of them severally.
- (b) Each obligation imposed on a party by this Agreement in favour of another is a separate obligation.

### **24.2 Entire understanding**

- (a) This Agreement contains the entire understanding between the parties concerning the subject matter of the Agreement and supersedes, terminates and replaces all prior agreements and communications between the parties.
  - (b) Each party acknowledges that, except as expressly stated in this Agreement, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of this Agreement.
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**24.3 No adverse construction**

This Agreement, and any provision of this Agreement, is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

**24.4 Further assurances**

A party, at its own expense and within a reasonable time of being requested by another party to do so, must do all things and execute all documents that are reasonably necessary to give full effect to this Agreement.

**24.5 No waiver**

- (a) A failure, delay, relaxation or indulgence by a party in exercising any power or right conferred on the party by this Agreement does not operate as a waiver of the power or right.
- (b) A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Agreement.
- (c) A waiver of a breach does not operate as a waiver of any other breach.
- (d) A provision of, or right under, this Agreement may only be waived by the party that has the benefit of that provision or right in writing.

**24.6 Severability**

Any provision of this Agreement which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Agreement in any other case,

without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.

**24.7 Successors and assigns**

This Agreement binds and benefits the parties and their respective successors and permitted assigns under clause 24.8.

**24.8 No assignment**

A party cannot assign or otherwise transfer or deal with the benefit of this Agreement without the prior written consent of each other party.

**24.9 Consents and approvals**

Where anything depends on the consent or approval of a party then, unless this Agreement provides otherwise, that consent or approval may be given conditionally or unconditionally or withheld, in the absolute discretion of that party.

**24.10 No variation**

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This Agreement cannot be amended or varied except in writing signed by the parties.

#### **24.11 Costs**

Each party must pay its own legal costs of and incidental to the preparation and completion of this Agreement.

#### **24.12 Duty**

- (a) Any Stamp Duty payable in respect of this Agreement or any instrument created in connection with it must be paid by the Buyer.
- (b) The Buyer undertakes to keep the Seller and the Administrators indemnified against all liability relating to such Stamp Duty.

#### **24.13 Governing law and jurisdiction**

- (a) This Agreement is governed by and must be construed in accordance with the laws in force in New South Wales.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.

#### **24.14 Notices**

Any notice or other communication to or by a party under this Agreement:

- (a) may be given by personal service, post or facsimile;
- (b) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:
  - (i) If to the Seller or the Administrators:

Address: c/- Deloitte Touche Tohmatsu, Eclipse Tower, Level  
19, 60 Station Street, Parramatta NSW 2150  
Attention: Neil Cussen  
Facsimile: +61 (0)2 9840 7001

- (ii) If to the Buyer and/or the Guarantors:

Address: c/- Harris Freidman Lawyers  
Level 10, 25 Bligh Street, Sydney NSW 2000  
Attention: Fiona McLay  
Facsimile: 02 9233 3527

or to any other address last notified by the party to the sender by notice given in accordance with this clause;

- (c) must be signed:
  - (i) in the case of a corporation registered in Australia, by its administrator, any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or

- (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and
- (d) is deemed to be given by the sender and received by the addressee:
  - (i) if delivered in person, when delivered to the addressee;
  - (ii) if posted within Australia, at 9.00 am on the second Business Day after the date of posting to the addressee whether delivered or not; or
  - (iii) if sent by facsimile transmission, on the date and time shown on the transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety and in legible form to the facsimile number of the addressee notified for the purposes of this clause,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

#### **24.15 Counterparts**

If this Agreement consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

#### **24.16 No merger**

A term or condition of, or act done in connection with, this Agreement does not operate as a merger of any of the rights or remedies of the parties under this Agreement and those rights and remedies continue unchanged.

#### **24.17 Operation of indemnities**

Unless this Agreement expressly provides otherwise:

- (a) each indemnity in this Agreement survives the completion, expiry or termination of this Agreement; and
- (b) a party may recover a payment under an indemnity in this Agreement before it makes the payment in respect of which the indemnity is given.

#### **24.18 No right of set-off**

Unless this Agreement expressly provides otherwise, a party has no right of set-off against a payment due to another party.

#### **24.19 Relationship of parties**

Unless this Agreement expressly provides otherwise, nothing in this Agreement may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

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**24.20 Reasonable endeavours**

Any provision of this Agreement that requires the Seller or the Administrators to use reasonable endeavours, or any similar provision, in no way requires the Seller or the Administrators to rectify any breach, to incur any obligations, to pay any moneys, to grant any waiver or to accept any unreasonable or unusual conditions or requirements imposed by Third Parties.

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**Schedule 1 – Plant and Equipment**

**(Clause 1.1)**

**Part 1 – Plant and Equipment**



Hoof Paramatta Pty Ltd (Administrators Appointed)  
132 James Ruse Dr, Rosehill NSW 2142

| REF# | FRANCHISER | ACCT# | LOCATION                 | QTY | ITEM              | MAKE  | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. | FLY     |       | FMWCU |        |
|------|------------|-------|--------------------------|-----|-------------------|-------|-------|-----|---|------------|---------|-------|-------|--------|
|      |            |       |                          |     |                   |       |       |     |   |            | TOTAL-> | \$    |       | 22,120 |
| 3-1  | -          | -     | Indoor Dining Area & Bar | 6   | Dining Table      | -     | -     | -   | Timber Laminate, Approx. ø1400mm  | -          | \$      | 60    | \$    | 360    |
| 3-2  | -          | -     | Indoor Dining Area & Bar | 23  | Bar Stool         | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered, With Back  | -          | \$      | 230   | \$    | 1,380  |
| 3-3  | -          | -     | Indoor Dining Area & Bar | 118 | Bar Stool         | -     | -     | -   | Timber Laminate, No Back  | -          | \$      | 590   | \$    | 2,360  |
| 3-4  | -          | -     | Indoor Dining Area & Bar | 12  | Bar Table         | -     | -     | -   | Timber Laminate, Oval Shape, Approx. 2200mm (L) x 800mm (W)   | -          | \$      | 120   | \$    | 720    |
| 3-5  | -          | -     | Indoor Dining Area & Bar | 17  | Dining Table      | -     | -     | -   | Timber Laminate, Bolted To Floor, Approx. 1600mm (L) x 800mm (W)  | -          | \$      | 170   | \$    | 1,020  |
| 3-6  | -          | -     | Indoor Dining Area & Bar | 9   | Booth Seat        | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered, 3 Seater, Double Sided   | -          | \$      | 135   | \$    | 1,350  |
| 3-7  | -          | -     | Indoor Dining Area & Bar | 8   | Booth Seat        | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered, 3 Seater   | -          | \$      | 120   | \$    | 1,000  |
| 3-8  | -          | -     | Indoor Dining Area & Bar | 55  | Dining Chair      | -     | -     | -   | Timber Laminate, Orange Vinyl Upholstered   | -          | \$      | 275   | \$    | 1,100  |
| 3-9  | -          | -     | Indoor Dining Area & Bar | 15  | Dining Table      | -     | -     | -   | Timber Laminate, Approx. 1000mm (L) x 1000mm (W)  | -          | \$      | 75    | \$    | 600    |
| 3-10 | -          | -     | Indoor Dining Area & Bar | 3   | Bar Table         | -     | -     | -   | Timber Laminate, Approx. 1000mm (L) x 1000mm (W)  | -          | \$      | 30    | \$    | 150    |
| 3-11 | -          | -     | Indoor Dining Area & Bar | 28  | Television        | Vivo  | -     | -   | 55 Inch, LCD, Roof Mounted  | -          | \$      | 2,800 | \$    | 12,600 |
| 3-12 | -          | -     | Indoor Dining Area & Bar | 7   | Television        | Vivo  | -     | -   | 42 Inch, LCD, Roof Mounted  | -          | \$      | 525   | \$    | 2,100  |
| 3-13 | -          | -     | Indoor Dining Area & Bar | 16  | Television        | Sonic | -     | -   | 32 Inch, LCD, Wall Mounted  | -          | \$      | 800   | \$    | 2,800  |
| 3-14 | -          | -     | Indoor Dining Area & Bar | 1   | Preparation Bench | -     | -     | -   | Commercial, Stainless Steel, Fitted With Basin, 2 Tray Shelf Under, Approx. 2400mm (L)  | -          | \$      | 200   | \$    | 600    |
| 3-15 | -          | -     | Indoor Dining Area & Bar | 1   | Decorations       | -     | -     | -   | Allowance For Decorations Through-Out Area Consisting Of: Hooder Basket Hoop; LED Bud Light / Hooders Sign; Hooders Surfboard; Assorted Signage; 2 x LED Monster Sign; LED Budweiser Sign; Etc. | -          | \$      | 150   | \$    | 600    |
| 3-16 | -          | -     | Indoor Dining Area & Bar | 1   | Preparation Bench | -     | -     | -   | Commercial, Stainless Steel, Oval Shape, Fitted With 7 x Tray Shelf Under, 5 x Spill Station, 3 x Basin, 2 x Tap, Shelving Under, Approx. 13000mm (L)   | -          | \$      | 300   | \$    | 2,500  |

Hoot Paramatta Pty Ltd (Administrators Appointed)  
132 James Ruse Dr, Rosehill NSW 2142

| REF# | FRANCHISER | ACCT# | LOCATION                 | QTY | ITEM               | MAKE             | MODEL  | YOM  | EXTRA DESCRIPTION   | SERIAL NO. | FLY     |     | FMWCU |        |
|------|------------|-------|--------------------------|-----|--------------------|------------------|--------|------|---|------------|---------|-----|-------|--------|
|      |            |       |                          |     |                    |                  |        |      |   |            | TOTAL-> | \$  |       | 22,120 |
| 3-17 | -          | -     | Indoor Dining Area & Bar | 1   | Glass Washer       | Eswood           | IW-3   | -    | Commercial, Stainless Steel   | 32942      | \$      | 350 | \$    | 750    |
| 3-18 | -          | -     | Indoor Dining Area & Bar | 1   | Glass Washer       | Eswood           | B42GN  | -    | Commercial, Stainless Steel   | 44396      | \$      | 350 | \$    | 750    |
| 3-19 | -          | -     | Indoor Dining Area & Bar | 1   | Espresso Machine   | Conif            | Essika | -    | Commercial, Stainless Steel, 2 Group, With Steamer  | -          | \$      | 550 | \$    | 1,150  |
| 3-20 | -          | -     | Indoor Dining Area & Bar | 1   | Coffee Grinder     | Eureka           | -      | -    | Commercial, Black Steel, With Hopper  | -          | \$      | 50  | \$    | 125    |
| 3-21 | -          | -     | Indoor Dining Area & Bar | 1   | Under Bench Fridge | Cook-Rite        | -      | -    | Commercial, Stainless Steel, Double Sided Access, 12 Door, Compressor To Side   | -          | \$      | 700 | \$    | 2,100  |
| 3-22 | -          | -     | Food Dispatch Area       | 1   | Preparation Bench  | -                | -      | -    | Commercial, Stainless Steel, L-Shape, Fitted With Single Basin, Tap, Food Disposal Hole, Ice Bin, 4 xTray Shelf Under, Approx. 2000mm (L) x 700mm (D) | -          | \$      | 250 | \$    | 650    |
| 3-23 | -          | -     | Food Dispatch Area       | 5   | Baby Chair         | -                | -      | -    | Timber Laminate   | -          | \$      | 25  | \$    | 100    |
| 3-24 | -          | -     | Food Dispatch Area       | 4   | Bar Stool          | -                | -      | -    | Timber Laminate, No Back  | -          | \$      | 20  | \$    | 80     |
| 3-25 | -          | -     | Food Dispatch Area       | 1   | Bar Table          | -                | -      | -    | Timber Laminate, Oval Shape, Approx. 2200mm (L) x 800mm (W)   | -          | \$      | 10  | \$    | 60     |
| 3-26 | -          | -     | Kitchen                  | 1   | Preparation Bench  | -                | -      | -    | Commercial, Stainless Steel, Fitted With Shelving Above, 2 Continuous Bay, Tub Rack, Splashback, Approx. 9000mm (L) x 1200mm (W)                      | -          | \$      | 400 | \$    | 1,800  |
| 3-27 | -          | -     | Kitchen                  | 1   | Chest Fridge       | JD Refrigeration | -      | -    | Commercial, Stainless Steel, 2 x PVC Sliding Door, 2 Door Under, Compressor To Side   | -          | \$      | 100 | \$    | 350    |
| 3-28 | -          | -     | Kitchen                  | 1   | Preparation Bench  | -                | -      | -    | Commercial, Stainless Steel, 2 Tier, Approx. 800mm (L) x 800mm (D)  | -          | \$      | 50  | \$    | 150    |
| 3-29 | -          | -     | Kitchen                  | 2   | Under Bench Fridge | Williams         | -      | -    | Commercial, Stainless Steel, 4 Door, Compressor To Side   | -          | \$      | 600 | \$    | 1,400  |
| 3-30 | -          | -     | Kitchen                  | 1   | Food Warmer        | Thermodyne       | 700CT  | 2012 | Commercial, Stainless Steel, 2 Door, 4 Tier, Electric   | 11616      | \$      | 75  | \$    | 200    |
| 3-31 | -          | -     | Kitchen                  | 1   | Bain Marie         | Roband           | -      | -    | Commercial, Stainless Steel, Electric   | -          | \$      | 50  | \$    | 125    |
| 3-32 | -          | -     | Kitchen                  | 1   | Salamander         | Waldorf          | -      | -    | Commercial, Stainless Steel, Wall Mounted, Approx. 700mm (L)  | -          | \$      | 150 | \$    | 375    |

| REF# | FRANCHISER | ACCT# | LOCATION | QTY | ITEM                   | MAKE        | MODEL      | YOM | EXTRA DESCRIPTION   | SERIAL NO.     | TOTAL  |          |
|------|------------|-------|----------|-----|------------------------|-------------|------------|-----|---|----------------|--------|----------|
|      |            |       |          |     |                        |             |            |     |   |                | \$     | FMWCU    |
| 3-33 | -          | -     | Kitchen  | 1   | Pizza Oven             | Mighty Chef | CXT        | -   | Commercial, Stainless Steel, With Key Pad Controls, <i>Not In Working Condition</i>   | -              | \$ 10  | \$ 10    |
| 3-34 | -          | -     | Kitchen  | 1   | Pizza Make-Up Bench    | Williams    | -          | -   | Steel, 3 Door Under, Compressor To Side, Fitted With Stainless Steel Cold Food Station To Top                                 | -              | \$ 225 | \$ 625   |
| 3-35 | -          | -     | Kitchen  | 2   | Shelf                  | -           | -          | -   | Commercial, Stainless Steel, 2 Tier, Wall Mounted, Approx. 2200mm (L)   | -              | \$ 100 | \$ 300   |
| 3-36 | -          | -     | Kitchen  | 1   | Sink                   | -           | -          | -   | Commercial, Stainless Steel, Single Basin, Wall Mounted   | -              | \$ 20  | \$ 75    |
| 3-37 | -          | -     | Kitchen  | 1   | Ice Maker              | Ice O-Matic | ICE0605FA5 | -   | Commercial, Stainless Steel   | 14101280010547 | \$ 500 | \$ 1,500 |
| 3-38 | -          | -     | Kitchen  | 1   | Step Ladder            | Baley       | -          | -   | Aluminium, 5 Rung   | -              | \$ 30  | \$ 100   |
| 3-39 | -          | -     | Kitchen  | 3   | Tray Trolley           | Rubbermaid  | -          | -   | Black, 19 Tier  | -              | \$ 150 | \$ 375   |
| 3-40 | -          | -     | Kitchen  | 1   | Preparation Bench      | -           | -          | -   | Commercial, Stainless Steel, Approx. 1500mm (L) x 1000mm (D)  | -              | \$ 75  | \$ 200   |
| 3-41 | -          | -     | Kitchen  | 1   | Preparation Bench      | -           | -          | -   | Commercial, Stainless Steel, Fitted With 2 Tier Shelf Above, 3 x Tray Shelf Under, 2 x Basin, Approx. 4000mm (L) x 1500mm (D) | -              | \$ 400 | \$ 1,200 |
| 3-42 | -          | -     | Kitchen  | 1   | Shelf                  | -           | -          | -   | Steel, 4 Tier, Approx. 1200mm (L) x 1700mm (H)  | -              | \$ 10  | \$ 50    |
| 3-43 | -          | -     | Kitchen  | 1   | Free Standing Sink     | -           | -          | -   | Commercial, Stainless Steel, Fitted With Basin, Flexible Hose, Tap, Approx. 2000mm (L)  | -              | \$ 300 | \$ 1,000 |
| 3-44 | -          | -     | Kitchen  | 1   | Preparation Bench      | -           | -          | -   | Commercial, Stainless Steel, 2 Tier, Fitted With Single Basin, Approx. 4500mm (L) x 800mm (D)                                 | -              | \$ 500 | \$ 1,500 |
| 3-45 | -          | -     | Kitchen  | 1   | Shelf                  | -           | -          | -   | Commercial, Stainless Steel, Wall Mounted, Fitted With 6 x Tray Pigeon Hole, Approx. 4000mm (L)                               | -              | \$ 125 | \$ 400   |
| 3-46 | -          | -     | Kitchen  | 1   | Hot Plate / Oven Under | Goldstein   | PF24G20    | -   | Commercial, Stainless Steel, Gas, 2 Burner, <i>Not In Working Condition</i>   | 62169NG        | \$ 50  | \$ 50    |
| 3-47 | -          | -     | Kitchen  | 1   | Char Grill             | Comcater    | R90-6      | -   | Commercial, Stainless Steel, Gas, 6 Burner  | 0413081101     | \$ 400 | \$ 1,000 |
| 3-48 | -          | -     | Kitchen  | 1   | Range Hood             | -           | -          | -   | Commercial, Stainless Steel, Double Sided, 16 Fan, Approx. 4000mm (L)   | -              | \$ 600 | \$ 2,500 |
| 3-49 | -          | -     | Kitchen  | 1   | Hot Plate / Oven Under | Goldstein   | PF36S23    | -   | Commercial, Stainless Steel, Gas, 3 Burner  | 62170NG        | \$ 400 | \$ 1,000 |

Hoot Paramatta Pty Ltd (Administrators Appointed)  
132 James Ruse Dr, Rosehill NSW 2142

| REF# | FRANCHISER | ACCT# | LOCATION     | QTY | ITEM                    | MAKE       | MODEL      | YOM  | EXTRA DESCRIPTION   | SERIAL NO. | FLY     |       | FMWCU |        |
|------|------------|-------|--------------|-----|-------------------------|------------|------------|------|---|------------|---------|-------|-------|--------|
|      |            |       |              |     |                         |            |            |      |   |            | TOTAL-> | \$    |       | 22,120 |
| 3-50 | -          | -     | Kitchen      | 1   | Char Grill              | -          | -          | -    | Commercial, Stainless Steel, Gas, 3 Burner,<br><i>Not In Working Condition</i>                                  | -          | \$      | 50    | \$    | 50     |
| 3-51 | -          | -     | Kitchen      | 1   | Char Grill              | Goldsstein | P3A431     | 2014 | Commercial, Stainless Steel, Gas, 4 Burner  | -          | \$      | 600   | \$    | 2,000  |
| 3-52 | -          | -     | Kitchen      | 1   | Fry Holding Station     | Hatco      | -          | -    | Commercial, Stainless Steel, Electric, Hood Broken  | -          | \$      | 100   | \$    | 250    |
| 3-53 | -          | -     | Kitchen      | 1   | Deep Fryer              | -          | -          | -    | Commercial, Stainless Steel, Gas, 2 Basket,<br><i>Not In Working Condition</i>                                  | -          | \$      | 25    | \$    | 25     |
| 3-54 | -          | -     | Kitchen      | 2   | Deep Fryer              | Dean       | -          | -    | Commercial, Stainless Steel, Gas, 2 Basket  | -          | \$      | 250   | \$    | 600    |
| 3-55 | -          | -     | Kitchen      | 1   | Deep Fryer              | Dean       | -          | -    | Commercial, Stainless Steel, Gas, 2 Basket,<br><i>Not In Working Condition</i>                                  | -          | \$      | 25    | \$    | 25     |
| 3-56 | -          | -     | Kitchen      | 2   | Deep Fryer              | Goldsstein | -          | -    | Commercial, Stainless Steel, Gas, 2 Basket  | -          | \$      | 300   | \$    | 700    |
| 3-57 | -          | -     | Kitchen      | 1   | Deep Fryer              | Aust Heat  | 800 Series | -    | Commercial, Stainless Steel, Gas, 2 Basket,<br><i>Not In Working Condition</i>                                  | -          | \$      | 25    | \$    | 25     |
| 3-58 | -          | -     | Kitchen      | 1   | Range Hood              | -          | -          | -    | Commercial, Stainless Steel, 3 Fan, Approx. 2500mm (L)  | -          | \$      | 250   | \$    | 700    |
| 3-59 | -          | -     | Kitchen      | 1   | Range Hood              | -          | -          | -    | Commercial, Stainless Steel, 2 Fan, Approx. 2000mm (L)  | -          | \$      | 200   | \$    | 600    |
| 3-60 | -          | -     | Kitchen      | 1   | Utensils                | -          | -          | -    | Allowance For All Assorted Commercial Kitchen Utensils Through-Out Consisting Of Pots, Pans, Trays, Bowls, Etc. | -          | \$      | 150   | \$    | 400    |
| 3-61 | -          | -     | Wash-Up Area | 1   | Preparation Bench       | -          | -          | -    | Commercial, Stainless Steel, T-Shape, Fitted With 2 x Basin, Flexible Hose, Approx. 2500mm (L)                  | -          | \$      | 250   | \$    | 600    |
| 3-62 | -          | -     | Wash-Up Area | 1   | Pass Through Dishwasher | Washtech   | AL WAL0020 | -    | Commercial, Stainless Steel, With U-Shape Infeed Conveyor   | 138985     | \$      | 1,000 | \$    | 2,250  |
| 3-63 | -          | -     | Wash-Up Area | 1   | Range Hood              | -          | -          | -    | Commercial, Stainless Steel, Single Fan   | -          | \$      | 100   | \$    | 350    |
| 3-64 | -          | -     | Office       | 1   | Safe                    | CMI        | -          | -    | Key Pad Operated Entry, Approx. 800mm (L) x 1000mm (H)  | -          | \$      | 150   | \$    | 400    |
| 3-65 | -          | -     | Office       | 1   | Filing Cabinet          | -          | -          | -    | Steel, 2 Drawer   | -          | \$      | 15    | \$    | 40     |
| 3-66 | -          | -     | Office       | 1   | Safe                    | AMI        | -          | -    | Key Pad Operated Entry, Approx. 500mm (L) x 500mm (H)   | -          | \$      | 100   | \$    | 350    |



Hoot Paramatta Pty Ltd (Administrators Appointed)  
132 James Ruse Dr, Rosehill NSW 2142

| REF# | FRANCHISER | ACCT# | LOCATION            | QTY | ITEM                                   | MAKE    | MODEL       | YOM | EXTRA DESCRIPTION  | SERIAL NO. | TOTAL  |          |
|------|------------|-------|---------------------|-----|--|---------|-------------|-----|--|------------|--------|----------|
|      |            |       |                     |     |  |         |             |     |  |            | \$     | FMWU     |
| 3-67 | -          | -     | Office              | 1   | Multi-Function Centre                  | Brother | MFC-9330CDW | -   | Mono, Injet  | -          | \$ 10  | \$ 40    |
| 3-68 | -          | -     | Office              | 1   | Desktop Computer                       | Acer    | L4610G      | -   | Core i5 Processor, With 17 Inch LCD Monitor  | -          | \$ 75  | \$ 200   |
| 3-69 | -          | -     | Office              | 1   | Manager's Chair                        | -       | -           | -   | Red Vinyl Upholstered, Very Poor   | -          | \$ 5   | \$ 15    |
| 3-70 | -          | -     | Office              | 1   | Security System                        | -       | -           | -   | Consisting Of: 16 x Camera, SecureView Core i7 Processor   | -          | \$ 125 | \$ 1,500 |
| 3-71 | -          | -     | Communications Room | 1   | Communication Rack                     | -       | -           | -   | Steel  | -          | \$ 50  | \$ 125   |
| 3-72 | -          | -     | Communications Room | 1   | Surround System                        | -       | -           | -   | Consisting Of: 15 Inch LCD Monitor, 9 Built-In Speakers, 6 x Large Speakers, iPad, iPod Dock; Redback 4 x Assorted Redback Amplifier; Bose Panaray System Digital Controller II; 3 x Assorted Amplifier; Silverstone Antex 620 | -          | \$ 400 | \$ 5,000 |
| 3-73 | -          | -     | Communications Room | 1   | Digital Television Distribution System | -       | -           | -   | Consisting Of: Cloud DCM-1 Digital Control Mixer; Shuttle XPC; AMX NI-4100; Panasonic DVD Player; Beyonwiz; Kramer VB-3232V; Seitraa Video   | -          | \$ 600 | \$ 6,250 |
| 3-74 | -          | -     | Communications Room | 1   | Communication Rack                     | -       | -           | -   | Steel, With 24 Port Patch Panel, TP-Link 16 Port Switch  | -          | \$ 50  | \$ 125   |
| 3-75 | -          | -     | Communications Room | 1   | Server                                 | HP      | RR5800      | -   | Core i5 Processor, With 17 Inch LCD Monitor  | -          | \$ 75  | \$ 200   |
| 3-76 | -          | -     | Communications Room | 1   | Cordless Drill                         | Bosch   | PSR 14.42   | -   | 14 Volt, With Carry Case   | -          | \$ 40  | \$ 100   |
| 3-77 | -          | -     | Communications Room | 3   | Chain Block                            | -       | -           | -   | 1 Tonne S.W.L  | -          | \$ 30  | \$ 90    |
| 3-78 | -          | -     | Communications Room | 1   | Sander                                 | Ozito   | DSR-2100    | -   | 125 Watt   | -          | \$ 10  | \$ 30    |
| 3-79 | -          | -     | Communications Room | 1   | Filing Cabinet                         | -       | -           | -   | Steel, 4 Drawer  | -          | \$ 30  | \$ 80    |
| 3-80 | -          | -     | Communications Room | 3   | Outdoor Chair                          | -       | -           | -   | Chrome Frame, Wicker   | -          | \$ 15  | \$ 60    |
| 3-81 | -          | -     | Communications Room | 4   | Shelf Unit                             | -       | -           | -   | PVC Frame  | -          | \$ 20  | \$ 80    |

Hotel Paramount Pty Ltd (Administrators Appointed)  
132 James Ross Dr, Rosehill NSW 2152

| REF # | FINANCER | ACCT # | LOCATION            | QTY | ITEM                    | MAKE | MODEL | YOM | EXTRA DESCRIPTION   | SERIAL NO. | FLV      |           | FMVC U |
|-------|----------|--------|---------------------|-----|-------------------------|------|-------|-----|---|------------|----------|-----------|--------|
|       |          |        |                     |     |                         |      |       |     |   |            | TOTAL →  | \$        |        |
| 3-82  | -        | -      | Coolroom            | 1   | Coolroom & Freezer Room | -    | -     | -   | White Sandwich Panel Construction, Approx. 9500mm (L) x 2500mm (W) x 2800mm (H), Completed With Buffalo Trident 3 Fan FDC, Buffalo Trident 2 Fan FDC, Kirby Single Fan, Compressor  | -          | \$ 600   | \$ 5,500  |        |
| 3-83  | -        | -      | Coolroom            | 1   | Shelf Unit              | -    | -     | -   | PVC Frame, 3 Continuous Bay   | -          | \$ 20    | \$ 70     |        |
| 3-84  | -        | -      | Coolroom            | 1   | Shelf Unit              | -    | -     | -   | PVC Frame, 2 Continuous Bay   | -          | \$ 10    | \$ 50     |        |
| 3-85  | -        | -      | Change Room         | 1   | Locker                  | -    | -     | -   | Timber Laminats, 12 Door  | -          | \$ 30    | \$ 120    |        |
| 3-86  | -        | -      | Change Room         | 2   | Bar Stool               | -    | -     | -   | Timber Laminats, No Back  | -          | \$ 10    | \$ 40     |        |
| 3-87  | -        | -      | Change Room         | 1   | Dining Chair            | -    | -     | -   | Timber Laminats, Orange Vinyl Upholstered   | -          | \$ 5     | \$ 20     |        |
| 3-88  | -        | -      | Outdoor Dining Area | 16  | Dining Table            | -    | -     | -   | Timber Laminats, Chrome Base, Approx. 800mm (L) x 800mm (W)   | -          | \$ 80    | \$ 640    |        |
| 3-89  | -        | -      | Outdoor Dining Area | 45  | Outdoor Chair           | -    | -     | -   | Chrome Frame, Wicker  | -          | \$ 225   | \$ 900    |        |
| 3-90  | -        | -      | Outdoor Dining Area | 7   | Vase                    | -    | -     | -   | Black, With Plants  | -          | \$ 35    | \$ 175    |        |
| 3-91  | -        | -      | Outdoor Dining Area | 3   | Bar Stool               | -    | -     | -   | Timber Laminats, No Back  | -          | \$ 15    | \$ 60     |        |
| 3-92  | -        | -      | Outdoor Dining Area | 2   | Bar Table               | -    | -     | -   | Timber Laminats, Chrome Base, Approx. 800mm (L) x 800mm (W)   | -          | \$ 10    | \$ 80     |        |
| 3-93  | -        | -      | Throughout Premises | 1   | Cutlery & Crockery      | -    | -     | -   | Allowance For All Assorted Cutlery And Crockery Consisting Of: Knives, Spoons, Forks, Plates, Glasses, Etc.   | -          | \$ 250   | \$ 750    |        |
| 3-94  | -        | -      | Throughout Premises | 1   | Point Of Sale System    | -    | -     | -   | Consisting Of: 5 x AdvancPOS EP5530 Terminal; Order Monitors; Receipt Printers; Cash Drawers  | -          | \$ 1,500 | \$ 6,000  |        |
| 3-95  | -        | -      | Throughout Premises | 1   | Fit-Out                 | -    | -     | -   | Allowance For Fit-Out Throughout Premises Including: Timber Floors; Assorted Internal Cladding To Walls; Bar; Built-In Mirrors; Booth Tables, Booth Partitions, External Wall Cladding, Signage, Electrical Fittings, Gas Fittings, Air Conditioning Fittings, Outdoor Veranda, Display Cabinets, Change Room, Etc. | -          | NCV      | \$ 90,000 |        |

**Part 2 – Excluded Assets**



Hoot Parramatta Pty Ltd (Administrators Appointed)  
132 James Ruse Dr, Rose Hill NSW 2142

| REF # | FINANCER              | ACCT # | LOCATION                 | QTY | ITEM                     | MAKE                  | MODEL           | YOM | EXTRA DESCRIPTION  | SERIAL NO. |
|-------|-----------------------|--------|--------------------------|-----|--------------------------|-----------------------|-----------------|-----|--|------------|
|       |                       |        |                          |     |                          |                       |                 |     |  | TOTAL→     |
| 10-1  | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Billiards Table          | -                     | -               | -   | Timber Laminate, Coin Operated, With Cues & Balls, Approx. 2800mm (L) x 1200mm (W)                 | -          |
| 10-2  | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Arcade Game              | Raw Thrills           | Big Buck Pro 27 | -   | LCD Screen, Multi Player, Coin Operated  | BBS-01095  |
| 10-3  | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Sega                     | Daytona               | USA2            | -   | LCD Screen, Multi Player, Coin Operated  | 00592757   |
| 10-4  | Property Of Others    | -      | Indoor Dining Area & Bar | 1   | Photo Booth              | Lai                   | Snapshot        | -   | LCD Screen, Coin Operated  | -          |
| 10-5  | Complete ATM Services | -      | Indoor Dining Area & Bar | 1   | ATM                      | Complete ATM Services | -               | -   | LCD Screen, Key Pad  | -          |
| 10-6  | Property Of Others    | -      | Kitchen                  | 1   | Oil Storage Tank         | -                     | -               | -   | Stainless Steel, Mobile, Approx. 400 Litre   | -          |
| 10-7  | Property Of Others    | -      | Coolroom                 | 1   | Beer Reticulation System | -                     | -               | -   | Consisting Of: 4 x Key Spikes; Lancer Chiller Unit (Loading Dock); 2 x 2 Post Tap                  | -          |
| 10-8  | Cadbury Schwepps      | -      | Loading Dock             | 1   | Post Mix System          | -                     | -               | -   | Consisting Of: 9 Spike, 2 x Taps; 6 Post Tap; Lancer Chiller Unit                                  | -          |
| 10-9  | OZ Tank               | -      | Loading Dock             | 1   | Chemical Storage Tank    | -                     | -               | -   | Stainless Steel, Mobile, Approx. 500 Litre   | -          |
| 10-10 | AlSCO                 | -      | Throughout Premises      | 1   | Miscellaneous            | -                     | -               | -   | Allowance For Assorted Items Consisting Of: Mat; Qty of Glass Clothes; Blue Food Wipes; Tea Towels | -          |

Executed as an agreement.

**Signed** for and on behalf of **Hoot Parramatta Pty Ltd ACN 147 622 348** (Administrators Appointed) by its joint and several administrator in the presence of:

.....  
Signature of witness

.....  
Signature of administrator

.....  
Name of witness  
(please print)

.....  
Name of administrator

**Signed** by **David John Frank Lombe** in the presence of: )  
)  
)  
)

.....  
Signature of witness

.....  
Signature of administrator

**David John Frank Lombe**

.....  
Name of witness  
(please print)

**Signed** by **Neil Robert Cussen** in the presence of: )  
)  
)  
)

.....  
Signature of witness

.....  
Signature of administrator

**Neil Robert Cussen**

.....  
Name of witness  
(please print)



**Executed by HOTR Australia Pty Ltd ACN 605 907 097** in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*:  
)  
)  
)  
)  
)

.....  
Signature of director

.....  
Name (please print)

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

**Executed by P.C.S. Investments Pty Ltd ACN 074 130 751** in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*:  
)  
)  
)  
)  
)

.....  
Signature of director

.....  
Name (please print)

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)

**Executed by Chanticleer Holdings Inc.:**  
)  
)  
)  
)  
)

.....  
Signature of director

.....  
Name (please print)

.....  
Signature of director or company secretary\*  
\*delete whichever does not apply

.....  
Name (please print)





INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in these Registration Statements of Chanticleer Holdings, Inc. on Form S-3 (File Nos. 333-193144 and 333-195055) and on Form S-8 (File No. 333-193742) of our report dated April 14, 2015 with respect to our audit of the consolidated financial statements of Chanticleer Holdings, Inc. and Subsidiaries as of December 31, 2014 and for the year then ended appearing in this Annual Report on Form 10-K of Chanticleer Holdings, Inc. and Subsidiaries for the year ended December 31, 2015.

*/s/ Marcum llp*

Marcum llp  
New York, NY  
March 30, 2016

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the inclusion or incorporation by reference of our report, dated March 30, 2016, with respect to the consolidated balance sheet of Chanticleer Holdings, Inc. and subsidiaries (the "Company") as of December 31, 2015 and the related consolidated statements of operations and comprehensive loss, stockholders' equity and cash flows for the year then ended, in (i) the Company's Registration Statement on Form S-3 (File No. 333-193144 and 333-195055), and (ii) the Company's Registration Statement on Form S-8 (No. 333-193742), which report is included in this Annual report on Form 10-K of Chanticleer Holdings, Inc. and subsidiaries as of December 31, 2015 and for the year then ended.

*/s/ Cherry Bekaert LLP*

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Charlotte, North Carolina  
March 30, 2016

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**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Michael D. Pruitt, certify that:

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

Date: March 30, 2016

/s/ Michael D. Pruitt

Michael D. Pruitt  
President, Chief Executive Officer  
(Principal Executive Officer)

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**CERTIFICATION OF THE CHIEF FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Eric S. Lederer, certify that:

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

Date: March 30, 2016

/s/ Eric S. Lederer

Eric S. Lederer  
Chief Financial Officer  
(Principal Financial Officer)

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**CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael D. Pruitt, certify that:

1. I am the Chief Executive Officer of Chanticleer Holdings, Inc. (the "Issuer").
2. Attached to this certification is the Annual Report on Form 10-K for the fiscal year ended December 31, 2015 (the "Report") filed by the Issuer with the Securities Exchange Commission pursuant to Section 13(a) or 15(d) of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), which contains financial statements.
3. I hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:
  - The Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
  - The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Issuer.

March 30, 2016

*/s/ Michael D. Pruitt*

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Michael D. Pruitt  
President, Chief Executive Officer  
(Principal Executive Officer)

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**CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS  
ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Eric S. Lederer, certify that:

1. I am the Chief Financial Officer of Chanticleer Holdings, Inc. (the "Issuer").
2. Attached to this certification is the Annual Report on Form 10-K for the fiscal year ended December 31, 2015 (the "Report") filed by the Issuer with the Securities Exchange Commission pursuant to Section 13(a) or 15(d) of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), which contains financial statements.
3. I hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:
  - The Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
  - The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Issuer.

March 30, 2016

*/s/ Eric S. Lederer*

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Eric S. Lederer  
Chief Financial Officer  
(Principal Financial Officer)

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