

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM501334

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Happy Joe's Pizza and Ice Cream Parlor, Inc.		10/24/2017	Corporation: IOWA
RECEIVING PARTY DATA			
Name:	Dynamic Restaurant Acquisition, Inc.		
Street Address:	2705 Happy Joe Drive		
City:	Bettendorf		
State/Country:	IOWA		
Postal Code:	52722		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	86767693	CRUNCHCRUST	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Email:	tmadmin@reinhartlaw.com		
Correspondent Name:	Daniel E. Kattman		
Address Line 1:	1000 N. Water Street		
Address Line 4:	Milwaukee, WISCONSIN 53202		
NAME OF SUBMITTER:	Heidi R. Thole		
SIGNATURE:	/hrt/		
DATE SIGNED:	12/10/2018		
Total Attachments: 12			
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ASSET AND STOCK PURCHASE AGREEMENT
BY AND AMONG
HJ DYNAMIC HOLDINGS, LLC, DYNAMIC RESTAURANT ACQUISITION, INC.,
DYNAMIC RESTAURANT FRANCHISING, INC.
HAPPY JOE'S PIZZA AND ICE CREAM PARLOR, INC.
HAPPY JOE'S FRANCHISING, INC., WHITTY LEASING COMPANY
AND THE SHAREHOLDERS OF HAPPY JOE'S PIZZA AND ICE CREAM PARLOR, INC.

October 24, 2017

THIS ASSET AND STOCK PURCHASE AGREEMENT (this “Agreement”) is made and entered into as of October 24, 2017, by and among HJ DYNAMIC HOLDINGS, LLC, a Delaware limited liability company (“Holdings”), DYNAMIC RESTAURANT ACQUISITION, INC., a Delaware corporation and wholly owned subsidiary of Holdings (“Asset Buyer”), DYNAMIC RESTAURANT FRANCHISING, INC., a Delaware corporation and wholly owned subsidiary of Holdings (“Franchising Buyer” and, collectively with Asset Buyer and Holdings, “Buyer”), HAPPY JOE’S PIZZA AND ICE CREAM PARLOR, INC., an Iowa corporation (“Parlors”), HAPPY JOE’S FRANCHISING, INC., an Iowa corporation (“Franchising”), and WHITTY LEASING COMPANY, an Iowa corporation (“Leasing” and, collectively with Parlors and Franchising, each, a “Company” and, collectively, the “Companies”), and LARRY J. WHITTY (“Larry”) and KRISTEL ERSAN (collectively, the “Owners”).

RECITALS

A. Parlors is in the business of owning and operating restaurants with casual dining options, including pizza, pasta, sandwiches and similar menu items (the “Parlors Business”), Franchising is in the business of acting as a franchisor for franchised restaurants with offerings based on the Parlors Business (the “Franchising Business” and, together with the Parlors Business, the “Business”), and Leasing holds title to certain vehicles used in the Business.

B. Subject to the terms and conditions of this Agreement, (1) Parlors desires to sell or contribute to Asset Buyer, and Asset Buyer desires to purchase or otherwise acquire from Parlors, the Subject Assets (as defined below), (2) Asset Buyer is willing to assume, and Parlors desires to assign to Asset Buyer, the Assumed Liabilities (as defined below), (3) Parlors desires to sell or otherwise contribute to Franchising Buyer, and Franchising Buyer desires to purchase or otherwise acquire from Parlors, all of the issued and outstanding shares of capital stock of Franchising (the “Franchising Shares”) and (4) Leasing desires to sell to Asset Buyer, and Asset Buyer desires to purchase from Leasing, all of the vehicles owned by Leasing that are used in the Business (the transactions described in the foregoing subparagraphs (1) through (4) may be referred to herein as the “Transactions”).

C. The Owners own 100% of the issued and outstanding shares of capital stock of Parlors, and Parlors owns 100% of the issued and outstanding shares of capital stock of each of Franchising and Leasing, and accordingly the Owners will directly benefit from the Transactions.

AGREEMENTS

In consideration of the recitals and the mutual agreements set forth below, the parties agree as follows:

1. Defined Terms; Construction.

1.01 Defined Terms.

“Affiliate” means, with respect to a Person, any other Person that controls, is controlled by, or is under common control with, such first Person. The term “control” (including the terms “controlled by” or “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such

“Subject Assets” means all of the assets, properties, claims and rights of Parlors of every kind, nature, character and description, whether real, personal or mixed, tangible or intangible, accrued, contingent or otherwise, wherever located and regardless of whether reflected on Parlors’ books, other than the Excluded Assets. The Subject Assets shall include, without limitation, the following:

- (a) all Petty Cash at the Parlors’ Happy Joe locations as of Closing;
- (b) all inventory of Parlors;
- (c) all Tangible Assets of Parlors;
- (d) all of the Contracts of Parlors set forth on Schedule 1.03 (collectively, the “Assumed Contracts”);
- (e) all Intellectual Property and other similar intangible assets owned by Parlors (“Parlors IP”), including the names “Happy Joe’s” and “Happy Joe’s Pizza and Ice Cream Parlor” and the internet domain name www.happyjoes.com and subdomains thereof, together with all income, royalties, damages and payments due or payable to Parlors (including, without limitation, damages and payments for past infringements, misappropriations or other violations thereof) and the rights to sue and collect damages for infringements, misappropriations or other violations thereof, and any corresponding, equivalent or counterpart rights, title or interest that now exist or may be secured hereafter anywhere in the world with respect to such Intellectual Property, and all copies and tangible embodiments of the foregoing in Parlors’ possession, including without limitation the Intellectual Property listed on Schedule 1.04;
- (f) all files, records, books, customer lists, credit information and correspondence, plans, designs, financial information, sales and marketing information, sales and promotional materials, catalogs, advertising literature and all other records and documents of Parlors;
- (g) all Permits (and any applications for the foregoing), to the extent such Permits are transferable to Buyer;
- (h) all of Parlors’ rights, claims, counterclaims, credits, causes of action, warranty rights or rights of set-off against third parties to the extent arising out of or relating to the other Subject Assets or the Assumed Liabilities;
- (i) all goodwill of Parlors relating to the Subject Assets and the Business (the “Goodwill”); and
- (j) all other tangible and intangible assets of Parlors used in the operation of the Business.

“Tangible Assets” means all fixed assets, equipment, vehicles, spare parts, supplies, furniture, fixtures, furnishings, telephones, computers, servers and related equipment and all other tangible personal property.

<u>Term</u>	<u>Section</u>
Confidential Information	Section 11.08(a)
Consent Schedule	Section 8.02(b)
ERISA	Section 8.16
Escrow Agent	Section 5.03(b)
Escrow Agreement	Section 5.03(b)
Escrow Amounts	Section 5.03(b)
Excluded Assets	Section 3
Excluded Contract Liabilities	Section 4.01(h)
Excluded Liabilities	Section 4.03
Financial Statements	Section 8.11
Fringe Benefit Plans	Section 8.16
Fundamental Representations	Section 12.02(a)
GAAP	Section 8.11(a)
General Cap	Section 12.02(c)
Indemnification Notice	Section 12.05(a)
Indemnified Party	Section 12.05(a)
Indemnifying Party	Section 12.05(a)
Insurance Policies	Section 8.18
Leases	Section 7.01(i)
Leased Assets	Section 8.03(e)
License Agreement	Section 7.02(j)
Litigation Conditions	Section 12.05(c)(i)
Material Suppliers	Section 8.20(a)
Owner	Preamble
Pension Plans	Section 8.16(a)
Purchased Assets	Section 2.01(a)
Reimbursable Sellers' Transaction Expenses	Section 5.01(f)
Seller Benefit Plan(s)	Section 8.16(b)
Seller Indemnified Parties	Section 12.04
Seller Preferred	Section 5.01(c)
Sellers' Damages	Section 12.04
Third-Party Claim	Section 12.05(b)
Third Party Claim Notice	Section 12.05(b)
Trademark License Agreement	Section 7.02(i)
Transfer Taxes	Section 11.03
Welfare Plans	Section 8.16(a)

2. Purchase and Sale of Assets and Stock.

2.01 Purchase of Assets.

(a) At the Closing, Parlors will sell, transfer, assign and deliver to Asset Buyer, free and clear of all Encumbrances (other than Permitted Encumbrances), and Asset Buyer will purchase from Parlors, all of the Subject Assets. The Subject Assets, together with

the Purchased Vehicles (defined below), may be referred to in this Agreement as the “Purchased Assets.”

(b) At the Closing, Leasing will sell, transfer, assign and deliver to Asset Buyer, free and clear of all Encumbrances (other than Permitted Encumbrances), and Asset Buyer will purchase from Leasing, the vehicles list on Schedule 2.01(b) (the “Purchased Vehicles”).

2.02 Purchase of Franchising Shares. At the Closing, Parlors will sell, transfer, assign and deliver to Franchising Buyer, and Franchising Buyer will purchase from Parlors, the Franchising Shares.

3. Assets Excluded From Transaction. The following assets of Parlors and Leasing shall be excluded from the transactions contemplated by this Agreement, shall not be included in the Purchased Assets or transferred to Holdings, Franchising Buyer or Asset Buyer, and shall be retained by Parlors or Leasing, as applicable (collectively, the “Excluded Assets”):

3.01 The charter, minute books, stock records, tax records, corporate seals, formation documents, records regarding qualification to do business as a foreign entity, taxpayer identification numbers and all other documents and records relating to the organization, maintenance and existence as a legal entity, in each case of Parlors and Leasing;

3.02 Short-term investments, Cash and cash equivalents, except Petty Cash;

3.03 the assets listed on Schedule 3.03;

3.04 all Contracts other than the Assumed Contracts, including those Contracts listed on Schedule 3.04 (collectively, the “Excluded Contracts”);

3.05 the Permits listed on Schedule 3.05;

3.06 Parlors’ and Leasing’s respective rights under this Agreement and the other agreements and instruments executed and delivered by Parlors and Leasing in connection with this Agreement and the transactions contemplated hereby and thereby;

3.07 all deposits;

3.08 all accounts receivable, including those written off by Parlors prior to Closing (the “Parlors Receivables”);


3.09 all intercompany and employee accounts receivable;

3.10 shares of stock or other securities of Parlors and Leasing held in treasury, or otherwise;


3.11 all insurance policies and rights thereunder including, but not limited to, rights to insurance proceeds with respect to the operation of the Business prior to the Closing;

IN WITNESS WHEREOF, the parties hereto have caused this Asset and Stock Purchase Agreement to be executed as of the day, month and year first above written.


HJ DYNAMIC HOLDINGS, LLC

By: 
Name: James Smith
Title: President

DYNAMIC RESTAURANT ACQUISITION, INC.

By: 
Name: James Smith
Title: President

DYNAMIC RESTAURANT FRANCHISING, INC.

By: 
Name: James Smith
Title: President

HAPPY JOE'S PIZZA AND ICE CREAM PARLOR,
INC.

By: _____
Its President

HAPPY JOE'S FRANCHISING, INC.

By: _____
Its President

WHITTY LEASING COMPANY

By: _____
Its President

OWNERS

Larry J. Whitty

Kristel Whitty-Ersan

[Signature page to Asset and Stock Purchase Agreement]

TRADEMARK
REEL: 006497 FRAME: 0481

IN WITNESS WHEREOF, the parties hereto have caused this Asset and Stock Purchase Agreement to be executed as of the day, month and year first above written.

HJ DYNAMIC HOLDINGS, LLC

By: _____
Name: James Smith
Title: President

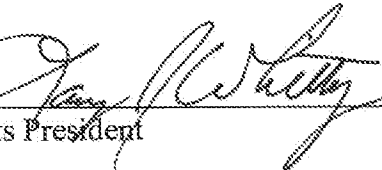
DYNAMIC RESTAURANT ACQUISITION, INC.

By: _____
Name: James Smith
Title: President

DYNAMIC RESTAURANT FRANCHISING, INC.

By: _____
Name: James Smith
Title: President

HAPPY JOE'S PIZZA AND ICE CREAM PARLOR,
INC.

By:  _____
Its President

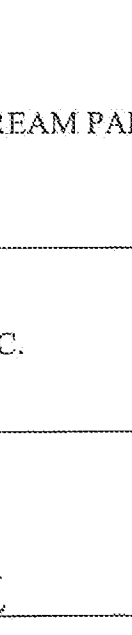
HAPPY JOE'S FRANCHISING, INC.

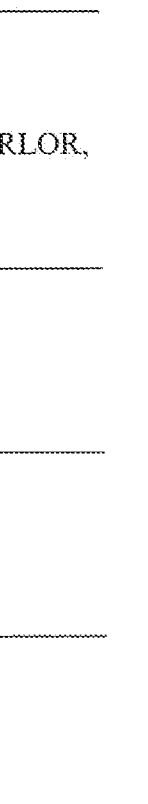
By:  _____
Its President

WHITTY LEASING COMPANY

By:  _____
Its President

OWNERS

 _____
Larry J. Whitty

 _____
Kristel Whitty-Ersan

SCHEDULE 1.04

Parlor Intellectual Property

1. **Federal Trademark Registration Applications**

<u>Owner</u>	<u>Mark</u>	<u>Filing Date</u>	<u>Serial No.</u>
Happy Joe's Pizza and Ice Cream Parlor, Inc.	D-Lite Crust*	2/9/2016	86902328
	CrunchCrust	9/24/2015	86767693

*See Schedule 8.09(d) which is incorporated herein by this reference.

2. **Internet Domain Name Registrations***

<u>Domain Name</u>	<u>Registrant Name</u>
HappyJoes.com	Kristel Whitty-Ersan
350Grille.biz	Kristel Whitty-Ersan
350Grille.com	Kristel Whitty-Ersan
350Grille.info	Kristel Whitty-Ersan
350Grille.net	Kristel Whitty-Ersan
350Grille.org	Kristel Whitty-Ersan
Grillelancers.biz	Kristel Whitty-Ersan
Grillelancers.com	Kristel Whitty-Ersan
Grillelancers.info	Kristel Whitty-Ersan
Grillelancers.net	Kristel Whitty-Ersan
Grillelancers.org	Kristel Whitty-Ersan
Happy-joes-pizzagrille.club	Kristel Whitty-Ersan
Happy-joes-pizzagrille.co	Kristel Whitty-Ersan
Happy-joes-pizzagrille.com	Kristel Whitty-Ersan
Happy-joes-pizzagrille.info	Kristel Whitty-Ersan
Happy-joes-pizzagrille.net	Kristel Whitty-Ersan
Happyjoespizzagrille.club	Kristel Whitty-Ersan
Happyjoespizzagrille.co	Kristel Whitty-Ersan

Happyjoespizzagrille.com	Kristel Whitty-Ersan
Happyjoespizzagrille.info	Kristel Whitty-Ersan
Happyjoespizzagrille.net	Kristel Whitty-Ersan
Happyjoespizzagrilleonline.com	Kristel Whitty-Ersan
Myhappyjoespizzagrille.com	Kristel Whitty-Ersan
Myhappyjoespizzagrille.net	Kristel Whitty-Ersan
Myhappyjoespizzagrille.com	Kristel Whitty-Ersan
Myhappyjoespizzagrille.net	Kristel Whitty-Ersan

* All domain names registered to Kristel Whitty and not Happy Joe's Pizza and Ice Cream Parlor, Inc. or Happy Joe's Franchising, Inc. A conveyance will need to be made to get them out of her name. All domain names related to Happy Joes Kids Foundation have been excluded.

See Schedule 8.09 which is incorporated herein by this reference.

SCHEDULE 8.09

Companies Intellectual Property

1. Trademarks:

Federally Registered Trademarks and Service Marks

<u>Owner</u>	<u>Mark</u>	<u>Reg. Date</u>	<u>Registration No.</u>
Happy Joe's Franchising, Inc.	"Where Birthdays Are Fun"	11/30/1976	1053784
	Chicago Prime	3/24/1983	1239628
	Good Times To Be Together!	8/7/2007	3277071
	Happy Joe's	11/11/1975	1024785
	Happy Joe's	8/18/1987	1453392
	Happy Joe's	2/3/1976	1032639
	Happy Joe's Pizza & Ice Cream (design)	6/1/2004	2848301
	Happy Joe's Pizza & Ice Cream Parlor	11/30/1976	1053785
	Happy Joe's PizzaGrille	10/6/2015	4824184
	Happy Reader Club	11/20/2007	3341315
	IPaths	3/17/2009	3589528
	Joegurt	1/1/2013	4266030
	Lasghetti	3/19/2002	2550101
	Meat Works	2/7/1995	1877797
	MiPi ²	12/23/2008	3550615
	Spicey Joe's	12/27/1988	1518183
Tortizza	2/28/1995	1881559	

State Marks

<u>Owner</u>	<u>Mark</u>	<u>Registration Date</u>	<u>Jurisdiction</u>	<u>Registration No.</u>

Happy Joe's Franchising, Inc.	Happy Joe's PizzaGrille – words only	3/24/2015	Illinois	107640
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Federal Applications

<u>Owner</u>	<u>Mark</u>	<u>Filing Date</u>	<u>Serial No.</u>
Happy Joe's Franchising, Inc.	Chef's Hat	6/17/2014	86311857
	Slight-N-Lite	8/23/2017	87581189
	Slight-N-Lite	8/23/2017	87581161
Happy Joe's Pizza and Ice Cream Parlor, Inc.	D-Lite Crust*	2/9/2016	86902328
	Crunch Crust	9/24/2015	86767693

*See Schedule 8.09(d) which is incorporated herein by this reference.

2. Internet Domain Name Registrations:

<u>Domain Name</u>	<u>Registrant Name</u>
HappyJoes.com	Kristel Whitty-Ersan
350Grille.biz	Kristel Whitty-Ersan
350Grille.com	Kristel Whitty-Ersan
350Grille.info	Kristel Whitty-Ersan
350Grille.net	Kristel Whitty-Ersan
350Grille.org	Kristel Whitty-Ersan
Grillelancers.biz	Kristel Whitty-Ersan
Grillelancers.com	Kristel Whitty-Ersan
Grillelancers.info	Kristel Whitty-Ersan
Grillelancers.net	Kristel Whitty-Ersan
Grillelancers.org	Kristel Whitty-Ersan
Happy-joes-pizzagrille.club	Kristel Whitty-Ersan
Happy-joes-pizzagrille.co	Kristel Whitty-Ersan
Happy-joes-pizzagrille.com	Kristel Whitty-Ersan
Happy-joes-pizzagrille.info	Kristel Whitty-Ersan

Happy-joes-pizzagrille.net	Kristel Whitty-Ersan
Happyjoespizzagrille.club	Kristel Whitty-Ersan
Happyjoespizzagrille.co	Kristel Whitty-Ersan
Happyjoespizzagrille.com	Kristel Whitty-Ersan
Happyjoespizzagrille.info	Kristel Whitty-Ersan
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Happyjoespizzagrilleonline.com	Kristel Whitty-Ersan
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Myhappyjoespizzagrille.com	Kristel Whitty-Ersan
Myhappyjoespizzagrille.net	Kristel Whitty-Ersan

3. **Copyrights:**

<u>Copyright Claimant</u>	<u>Copyright Title</u>	<u>Registration No.</u>	<u>Date of Registration</u>
Happy Joe's Franchising, Inc.	Happy Joe's Pizza & Ice Cream (artwork)	VAu000536862	3/6/2002
Happy Joe's Franchising, Inc.	Morn 'n' Moon (art original)	VAu000536863	3/6/2002

See Schedule 1.04 which is incorporated herein by this reference.