

FRANCHISE DISCLOSURE DOCUMENT

PELICAN'S SNOBALLS

Pelican's SnoBalls USA, LLC
(a N.C. limited liability company)
801 East 2nd Avenue
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We offer franchises for the operation of "Pelican's SnoBalls" stores. "Pelican's SnoBalls" stores specialize in the sale of flavored ice products and other items.

The total initial investment necessary to begin operation of a "Pelican's SnoBalls" franchised business ranges from \$70,750 to \$209,800. This includes \$25,890 to \$26,100 that must be paid to us.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar-days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Randall Wright at 801 East 2nd Ave., Gastonia, North Carolina 28054 tel: (704) 671-2012.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "[A Consumer's Guide to Buying a Franchise](#)," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at www.ftc.gov for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

The issuance date of this Franchise Disclosure Document is April 11, 2023.

HOW TO USE THIS FRANCHISE DISCLOSURE DOCUMENT

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibits B and D.
How much will I need to invest?	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit H includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only Pelican's SnoBalls business in my area?	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What's it like to be a Pelican's SnoBalls franchisee?	Item 20 or Exhibits B and D list current and former franchisees. You can contact them to ask about their experiences.
What else should I know?	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

WHAT YOU NEED TO KNOW ABOUT FRANCHISING *GENERALLY*

Continuing responsibility to pay fees. You may have to pay royalties and other fees even if you are losing money.

Business model can change. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

Supplier restrictions. You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

Operating restrictions. The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

Competition from franchisor. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

Renewal. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

When your franchise ends. The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit E.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

SPECIAL RISKS TO CONSIDER ABOUT *THIS* FRANCHISE

Certain states require that the following risk(s) be highlighted:

Out-of-State Dispute Resolution. The franchise agreement requires you to resolve disputes with us by mediation and litigation in North Carolina. Out of state mediation and litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate and litigate in North Carolina than in your own state.

Financial Condition. The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.

Unregistered Trademark. The primary trademark that you will use in your business is not federally registered. If the franchisor's right to use this trademark in your area is challenged, you may have to identify your business and its products or services with a name that differs from that used by other franchisees or the franchisor. This change can be expensive and may reduce brand recognition of the products or services you offer.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

Pelican's SnoBalls USA, LLC
Franchise Disclosure Document

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ITEM 1
THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

The Franchisor

The franchisor is Pelican's SnoBalls USA, LLC ("**we**" or "**us**"). We were formed as a limited liability company in North Carolina on August 1, 2016 and maintain our principal place of business at 801 East 2nd Ave., Gastonia, North Carolina 28054 (tel: 704.671.2012). We do not maintain sales offices anywhere else. We conduct business only under our corporate name.

We offer and sell franchises for "Pelican's SnoBalls" stores ("**PSB Stores**"). PSB Stores are businesses operating under our Proprietary Marks (defined below) in buildings that bear our interior and/or exterior trade dress. PSB Stores specialize in the sale of flavored ice products prepared with specialized formulae, as well as other items.

Adrian Johnson began operating the first "Pelican's SnoBalls" business in Raleigh, North Carolina in 2001 as a sole proprietorship. Mr. Johnson later formed Pelican's SnoBalls, LLC (the "**NC Predecessor**") in 2011, which operated "Pelican's SnoBalls" businesses until we acquired the system on January 16, 2017. Mr. Johnson also formed Pelican's SnoBalls VA, LLC (the "**Virginia Predecessor**"). (The term "**Predecessor**" as used below means both the NC Predecessor and the Virginia Predecessor, unless otherwise indicated.) We have offered franchises for PSB Stores since the first quarter of 2017. We do not offer franchises in any other line of business. As of December 31, 2022, there were approximately 193 franchised PSB Stores, and no company-operated PSB Stores, as reported to us by the Predecessor and as detailed in Item 20 below.

Our agents for service of process are listed in Exhibit F.

Our Parents, Predecessors and Affiliates

The NC Predecessor was a North Carolina limited liability company, formed on September 12, 2011. The Virginia Predecessor was also a North Carolina limited liability company, formed on December 8, 2015. Both the NC Predecessor and the Virginia Predecessor maintained their principal place of business at 203 Winterlochen Rd, Raleigh, NC 27603. The NC Predecessor offered franchises for "Pelican's SnoBalls" businesses that are similar, but not identical, to a PSB Store, from September 2011 to December 2016 (the Virginia Predecessor offered similar "Pelican's SnoBalls" franchises in Virginia from December 2015 through December 2016.) We acquired most of the assets of the System from the Predecessor on January 16, 2017. To our knowledge, the Predecessor did not offer franchises in any other line of business.

Our affiliate, Pelican's SnoBalls USA Trademarks, LLC (the "**Trademark Holder**"), is a Delaware limited liability company formed on September 30, 2016. The Trademark Holder acquired the "Pelican's SnoBalls" trademarks and other intellectual property from our Predecessor's affiliate and has licensed that intellectual property to us. The Trademark Holder also maintains its offices, with us, at 801 East 2nd Ave., Gastonia, North Carolina 28054. The Trademark Holder does not offer and has never offered franchises in any line of business.

Our affiliate, Formative Industries, LLC (“**FIL**”), is a North Carolina limited liability company formed on January 27, 2017. FIL will provide certain supplies, such as t-shirts, tents and “SnoBuck Coins” to us and our franchisees. FIL also maintains its offices, with us, at 801 East 2nd Ave., Gastonia, North Carolina 28054. FIL does not offer and has never offered franchises in any line of business.

Except as described above, we have no other parents, predecessors or affiliates that must be included in this Item.

The Franchise Offered

If we approve your application to become a "Pelican's SnoBalls" franchisee, you will sign a franchise agreement in the form attached to this disclosure document as Exhibit A ("**Franchise Agreement**"). Under a Franchise Agreement, we will grant you the right, and you will accept the responsibility, to establish and operate a PSB Store (the "**Store**" or "**Franchised Business**") at an agreed-upon location (the "**Approved Location**"). (In this disclosure document, we use the term "**you**" to refer to individuals, partnerships, corporations, limited liability companies and partnerships, and the direct and indirect owners of partnerships, corporations, limited liability companies and partnerships.) Stores may also offer “Pelican’s SnoBalls” branded merchandise.

The System

We own a system for the development and operation of PSB Stores (the "**System**"). The System's distinguishing characteristics include (among other things): confidential and proprietary information and trade secrets; distinctive images, designs, business formats, methods, procedures, and specifications; distinctive exterior and interior design, decor, color scheme, and furnishings; uniform standards, specifications, and procedures for operations; quality and uniformity of Products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs.; all of which we may periodically change, improve, and further develop. PSB Stores will offer "**Proprietary Items**" (which include flavored ice products prepared with specialized formulae) as well as non-proprietary items (such as toppings, beverages, ice cream, and other authorized food products) (collectively, the "**Products**").

The System is identified by the federally-registered service mark PELICAN'S SNOBALLS, and any other trade names, service marks and trademarks that we may designate otherwise in writing for use with the System (the "**Proprietary Marks**"). You must conduct the Franchised Business according to our Confidential Brand Standards Manual (the "**Manual**"), a copy of which we will lend to you for the term of the Franchise Agreement. You may offer only those services and sell only those items and products that we specify or approve.

A typical newly opened PSB Store will be located in a free standing location of approximately 500 to 2,000 square feet in size. A typical PSB Store will operate for a full “season” beginning each year on February 1 and ending on November 30. Some PSB Stores operate for a “partial season” which is considered to be six months of the year or less.

Competition

The market for flavored ice businesses is competitive, generally mature, and well developed. You will compete with national, regional, and local competition including company owned and franchised chains, as well as independently owned businesses in this market. You may also compete with other company owned, affiliate-owned, or franchisee owned PSB Store locations. Your Store may be impacted by many factors including seasonal changes, the local economic and market conditions, your experience and location knowledge, the geographic location of your business, your market competition, the sales level you reach and your ability to retain customers.

Industry-Specific Regulations

You must comply with all local, state, and federal laws that apply to your Store operations including health, sanitation, no smoking, EEOC, OSHA, discrimination, employment, communications and telemarketing, advertising, payments, and sexual harassment laws. The Americans with Disabilities Act of 1990 and state equivalents require readily accessible accommodations for disabled people and may affect your building construction, site design, entrance ramps, doors, seating, bathrooms, drinking facilities, etc. There are also regulations that pertain to handling consumer data, sanitation, healthcare, labeling, caloric information, nutrition disclosures, food preparation, food handling, and food service. You should consult with your attorney concerning these and other local laws and ordinances that may affect your Store's operation.

ITEM 2 **BUSINESS EXPERIENCE**

Co-CEO and Member of the Board: **Gregg Fatool**

Mr. Fatool has served as our Co-CEO since our formation in August 2016. Since March 2012, he has also been the Owner of GT Enterprise LLC in Rock Hill, South Carolina, a franchisee of two PSB Stores located in Rock Hill, South Carolina. From January 2012 to March 2012, Mr. Fatool was self-employed in Charlotte, North Carolina in preparation of beginning operations with GT Enterprise LLC. Mr. Fatool is and has been a Member of the Board of Directors of FIL since January 2017. Mr. Fatool is also co-owner of Tintra Enterprises, LLC, which was formed in January 2020.

Co-CEO and Member of the Board: **Randall Wright**

Mr. Wright has served as our Co-CEO and as a Member of our Board of Directors since February 2018. He has been an Owner of RTW Company LLC in Lincolnton, North Carolina since January 2016, and an Owner of RTW Salons LLC in Lincolnton, North Carolina since April 2017. Mr. Wright was the Operations Manager for Blachford RP Corporation in Kings Mountain, North Carolina from November 2002 to April 2017. Mr. Wright is also co-owner of Tintra Enterprises, LLC, which was formed in January 2020.

Unless otherwise indicated, the employer's location is at our offices in Gastonia, North Carolina.

ITEM 3 **LITIGATION**

Virginia Corporation Commission v. Adrian Johnson and Pelican's SnoBalls VA LLC (Case No. SEC-2016-00056). The Virginia Corporation Commission asserted that the Virginia Predecessor and its owner violated the Virginia Retail Franchising Act (the "Act") by offering and selling franchises at times when the company was not properly registered to do so under the Act. Without admitting fault or the Securities Division's conclusions, the Virginia Predecessor voluntarily entered into a Consent Order with the Securities Division on December 16, 2016 under which the Virginia Predecessor and Mr. Johnson agreed not to violate the Act in the future, agreed to offer rescission to certain Virginia-based franchisees, and agreed to pay \$15,000 in monetary penalties.

Other than the one item noted above, no litigation is required to be disclosed in this Item.

ITEM 4 **BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

ITEM 5 **INITIAL FEES**

Franchise Agreement

When you sign the Franchise Agreement, you must pay us an initial franchise fee of \$20,000 for the Franchised Business. The initial franchise fee will be fully earned when paid, must be paid in one lump-sum amount, excluding any required deposits, and is not refundable. The initial franchise fee is uniformly applied to new franchisees; however in the last fiscal year franchisees paid initial franchise fees ranging from \$0 to \$20,000.

Purchases. When you sign your Franchise Agreement, and before you begin to operate, you will also need to purchase certain items from FIL, including:

Pelican's SnoBalls branded tent	You will need one of these, at up to \$1,500
Pelican's SnoBalls SnoBuck Coins (aka "Pelican Bucks")	You will need one case of these (approximately 3,500 coins) at a total cost of up to \$1,000.
Pelican's SnoBalls branded t-shirts	You will need 30 of these, at \$10-17 each (total cost of \$300-\$510)
Pelican's SnoBalls SnoBall Toppers	You will need a minimum of three sets of these, at up to \$30 per set (total minimum cost of \$90)

You will have to pay for these items before you open your business. These items are not refundable under any circumstances. You may be able to purchase additional quantities at a later date, as the need arises (subject to availability).

Prototype Building Plans

If you elect to construct the building in which the Franchised Business will operate, you must obtain prototype building plans from us before beginning construction of the Franchised Business. The cost of these prototype building plans is up to \$3,000, depending on the scope of your construction project, and is non-refundable.

ITEM 6
OTHER FEES

Type of Fee	Amount	Due Date	Remarks
Royalty	8% of Gross Sales	Monthly, on the 15th day of each month. We reserve the right to require you to pay Royalty Fees as frequently as on a weekly basis.	" Gross Sales " means all revenue from the sale of services and products and all other income related to the Franchised Business, except sales taxes. See note 2.
Transfer	The costs and expenses we incur in connection with the transfer (not to exceed \$10,000), which include, among other things, our legal, accounting, training, and other expenses.	On or before the date of the proposed transfer	Only due if you want to engage in a transfer, to compensate us for our legal, accounting, training, and other expenses incurred in connection with the transfer.
Technology Fee	Up to \$300 per Month	Monthly, on the 15 th day of each Month, or paid annually, in advance.	This fee is for System-wide technology-related costs and expenses.

Type of Fee	Amount	Due Date	Remarks
Regional Fund Contribution	If established, 1% of Gross Sales	If established, Monthly, on the 15 th day of each Month.	If we establish a regional marketing fund in the geographic area in which your Store is located (a " Regional Fund "), you must become a member and contribute to the Regional Fund. Any PSB Stores we or our affiliates operate that are included in the Regional Fund will have equal voting power as franchised PSB Stores (one vote per PSB Store).
Audit by us	Cost of the audit	Upon request	Only due if we audit your records and find that you understated amounts, or if you fail to submit the required monthly sales report then among other things, we may require you to reimburse us for the costs of our audit (such as auditors' fees). We may take other remedies as well.
Interest on Overdue Payments	1.5% per month (but not more than rate permitted by law, if a maximum applies)	Upon request	Only due if you do not timely pay your royalties and other fees under a Franchise Agreement, we may require you to pay interest on the overdue amounts.
Securities Offering	\$7,500 or such greater amount as is necessary to reimburse us for our reasonable costs and expenses (including legal and accounting fees) for reviewing the proposed offering	Upon request	Only due if you propose to offer securities.

Type of Fee	Amount	Due Date	Remarks
Relocation Fee	\$3,500 (or more if needed to reimburse us for the costs (including our attorneys' fees) incurred in connection with reviewing, approving, and documenting the proposed relocation, any related lease matters, and any necessary amendments to the Franchise Agreement)	Upon request	Only due if you propose to relocate your business.
Costs and Attorneys' Fees	Will vary under circumstances	Upon request	Only due if you default under the Franchise Agreement, you must reimburse us for the expenses we incur (such as attorneys' fees) in enforcing or terminating the agreement.
Cost of Defense	Will vary under circumstances	Upon request	Only due if we determine that you have not used the Proprietary Marks according to the Franchise Agreement, you must bear the cost of our defense of you against any third-party claim, suit, or claim arising out of your use of the Proprietary Marks, including the cost of any judgment or settlement.
Inspection and product testing charge	Will not exceed actual cost of inspection and actual cost of test	Upon request	Only due if you ask us to consider a new supplier, we may incur certain costs, including testing the supplier's facilities and products, and will ask you or the proposed supplier to reimburse us for those costs. See Item 8.

Type of Fee	Amount	Due Date	Remarks
Indemnity	Will vary under circumstances	Upon request	Only due if we are sued, or held liable for claims, that arise from your operation of the Franchised Business, for all actions caused by your failure to comply with the Americans With Disabilities Act, for any offer of your securities, and for costs we incur in defending claims that you used the Proprietary Marks in an unauthorized manner. In those cases you would have to reimburse us for the costs that we incur. See Items 9 and 13 for further discussion of your obligation to indemnify us.
Renewal fee	\$2,500	Before renewal	Only due if and when you renew the Franchise Agreement.
Additional and Replacement Specially-Trained Management Employee Training	There is no cost for the first two people to attend training; for each additional person who will attend training, the fee is \$500.	Before training begins	Only due if you want to send more than two Specially-Trained Management Employees (defined in Item 11 below) to training (or if they must repeat the initial training program, or if you must send replacement Specially-Trained Management Employees to the initial training program. Also, you will be responsible for paying for all of your employees' costs and expenses.
Lost Future Royalties	The average of the monthly Royalty Fees due for the previous 12 months, multiplied by the lesser of 8 or the number of months remaining in the then-current term of the Franchise Agreement	Upon request	Only due if we terminate the Franchise Agreement as a result of your default or if you abandon the Store.

Type of Fee	Amount	Due Date	Remarks
Site Selection Extension Request	\$5,000	As incurred	Under the Site Selection Addendum, if you have made diligent efforts to locate a site and are unable to do so within 270 days, you may request a 90 day extension to locate the site. We reserve the right to approve or deny this request at our discretion and charge this fee.

Notes:

1. We impose and collect all fees. All fees are uniformly applied to new system franchisees and non-refundable. However, in instances in which it is appropriate to do so, we may waive certain of these fees for particular franchisees.
2. The term "**Month**" means a calendar month, or such other four or five week period as we may designate.

ITEM 7
ESTIMATED INITIAL INVESTMENT

YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount (Low Amount to High Amount)	Method of Payment	When Due	To Whom Payment is Made
Initial franchise fee (Note 1)	\$20,000	Lump Sum	Upon signing the Franchise Agreement	Us
Lease/rent (Note 2)	\$1,500 to \$18,000	As Arranged	Monthly rental amount due upon signing	Landlord
Plans and Construction (includes architectural and building permits) (Note 3)	\$8,000 to \$80,000	As Arranged	As Arranged	Contractors or Municipality

Type of Expenditure	Amount (Low Amount to High Amount)	Method of Payment	When Due	To Whom Payment is Made
Concept Building Drawing (Note 3)	\$0 to \$3,000	Lump Sum	Before Building	Franchisor
Equipment (Note 4)	\$20,000 to \$40,000	As Arranged	Before Opening	Vendors, Approved Suppliers, or Us
POS (Note 5)	\$2,100 to \$3,000	As Arranged	As Arranged	Vendor
Inventory (Note 6)	\$10,000 to \$20,000	Lump sum	Before Opening	Vendors, Approved Suppliers, or Us
Signs (Note 7)	\$1,500 to \$7,000	Lump sum	Before Opening	Vendors
Advertising (Note 8)	\$100 to \$2,000	As Incurred	Before Opening	Service Providers
Insurance (Note 9)	\$3,000 to \$6,400	As Arranged	As Arranged	Insurance Providers
Training Expenses (Note 10)	\$1,000 to \$4,000	As Incurred	As Incurred	Airlines, hotels, restaurants
Business Licenses (Note 11)	\$50 to \$200	As Incurred	As Incurred	Government Agencies, providers
Professional Fees (Note 12)	\$500 to \$3,000	As Incurred	As Arranged	Service Providers
Additional Funds (3 Months) (Note 13)	\$0 to \$3,000	As Incurred	As Incurred	Employees, vendors, utilities
Security Deposits (Note 14)	\$0 to \$200	As Arranged	As Arranged	Lender, Approved Suppliers
Total (Note 15)	\$70,750 to \$209,800			

Notes:

The following notes are intended to be read with the chart above. None of the fees or costs estimated in this Item 7 are refundable except to the extent that you can negotiate with vendors.

Please note that we do not offer direct or indirect financing to you for any items. The availability and terms of financing from other sources will likely depend on factors such as the availability of financing generally, your creditworthiness, and the policies of lending institutions.

1. INITIAL FRANCHISE FEE. These amounts are discussed in detail in Item 5.

2. LEASE/RENT. If you do not own a location for your Store, you must purchase or lease a space. You will probably need to lease a space at least two months in advance; however, you may attempt to negotiate an abatement from the landlord. Store locations are typically free-standing locations. The expenses represented on the table reflect six months' rent (two months before opening, three months after opening, and one month security deposit), for a Store that is within the preferred target range of 500 to 1,000 square feet, with rent ranging from \$0.50 to \$3.00 per square foot per month.

Rent varies considerably from market to market, and from location to location within each market. Rents may vary beyond the range that we have provided, based on various factors (for example, the local real estate market conditions in your area, the type and nature of improvements needed to the premises, the size of the PSB Store, the terms of the lease, and the desirability of the location). If you decide to purchase the property for the location of your Store, you will incur additional costs that we cannot estimate.

3. PLANS AND CONSTRUCTION. We may provide you, for a charge of up to \$3,000, our prototype concept building drawing design and equipment layout specifications for the Store. You must adapt, at your expense, the layout we provide, subject to our approval.

You will need to construct improvements, or "build out," the premises at which you will operate the Store. Occasionally, you will take the premises in "vanilla box" condition (e.g., primed drywall ready to be painted, but without improvements). Among other things, you will need to arrange for proper wiring and plumbing, floor covering, wall covering, partitions, heat, air conditioning, lighting, storefront modifications, painting, cabinetry, bathroom facilities, and the like. You will need to hire a licensed architect and a licensed builder. Construction costs are typically \$15 per square foot on average, but are likely to vary and may be higher or lower, as noted in the table, depending on the size of the Store, the contractor(s) you hire, and the materials used in construction. Costs may also be much higher if you wish to establish your Store in an area where special requirements of any kind (e.g., historical, architectural, or preservation requirements) will apply, or where there are labor conditions (shortages, unionized shops, etc.), higher than average minimum wages and other rates, if you choose to build out your location (for example, fixtures, fit, finishing, and equipment) at a different level than our standards, and other factors that may increase the cost of construction.

4. EQUIPMENT. We require franchisees to purchase equipment needed to operate the Store, such as ice shavers, refrigerators, freezers, block makers, and many other miscellaneous items. You will need to obtain the exact equipment we specify and in some cases from the vendor we specify. The amount spent for equipment will vary for each Store depending upon the Store's size, style, volume of Products to be offered in the Store, and local zoning requirements.

5. POS. We require our franchisees to purchase a point of sale (POS) system consisting of a PC-based hardware platform (including PC processor and peripheral hardware devices such as touch screens, printers, bar code readers, card readers, cash drawers, scales, battery back-up, etc.) combined with proprietary software of ours or a third party. The POS system is described below in this disclosure document.

6. **INVENTORY**. Items of inventory which you are required to obtain for the Store from us (or an affiliate) are paid for at standard prices and terms. All items of inventory which you obtain from sources of your own choosing are paid for directly to the supplier of those inventory items at prices agreed upon by you and the supplier. Start-up inventory of products and supplies will vary based on expected volume of business and size of storage areas in the building. This estimate is for the initial inventory only. Costs may be higher for Stores with greater square footage for merchandising or for Stores opening at peak holiday times.
7. **SIGNS**. The cost of signs will vary from location to location depending on lease requirements, ordinances and restrictions, traffic patterns, competition, and related factors. In addition, other considerations – such as zoning requirements, as well as historical and architectural design standards – may affect your costs (both in terms of materials as well as professional fees that you will incur to get approval of your proposed signs).
8. **ADVERTISING**. We may assist you in tailoring a marketing plan appropriate to your market. The estimate is for the initial marketing efforts you will need to make, which includes the Market Introduction Program. Additional details regarding marketing can be found in Item 11, under the subheading “Marketing.”
9. **INSURANCE**. The estimate is for the annual premium for the policies required under the Franchise Agreement. Insurance costs will vary depending upon factors such as the size and location of the Store, business income level to be insured, payroll totals for workers compensation, flood zoning, and lease requirements. You must obtain general liability insurance and product liability insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 in the aggregate, which you will have to obtain through third parties, such as your own insurance agent. Your obligations with respect to insurance are more fully described below in this disclosure document.
10. **TRAINING EXPENSES**. The estimates assume travel, meals, auto, and lodging, for two individuals. The cost you incur will vary depending upon factors such as the distance traveled, mode of transportation, *per diem* expenses actually incurred, and the number of persons who will attend training. If you send more than two persons to attend training, we estimate that the additional out-of-pocket cost, on a per person basis, will range from \$1,000 to \$4,000.
11. **BUSINESS LICENSES**. Local, municipal, county, and state regulations vary on what licenses and permits are required by you to operate. These fees are paid to governmental authorities before starting business.
12. **PROFESSIONAL FEES**. The estimate is for legal, accounting, administrative, traffic studies, demographic studies, and miscellaneous other professional fees that you may incur before you open for business, including (among other things) to assist you in reviewing the Franchise Agreement. Your actual costs may vary, for example, depending on the degree to which you rely upon your advisors, type of financing, lease negotiations, and the permitting process in your location. The hourly rates for advisors, accountants, and legal professionals will also vary.
13. **ADDITIONAL FUNDS**. You will need capital to support on-going expenses, such as payroll and utilities, to the extent that these costs are not covered by sales revenue. This is only an estimate, however, and there is no assurance that additional working capital will not be

necessary during this start-up phase or after. Our estimate is based on information provided to us by franchisees.

14. SECURITY DEPOSITS. The figure is the estimated cost of telephone and utility deposits.

15. TOTAL. We relied on our own experience and information provided to us by our franchisees when preparing these figures. While the “low amount” total represents the sum of the lowest estimated initial investment expenditures for each category in the table, and the “high amount” total represents the sum of the highest estimated initial investment expenditures for each category in the table, we expect that your overall expenditures will fall somewhere between the low amount and high amount range, as it is not common for each of a franchisee’s initial investment expenditures to match the lowest expected for each category, nor the highest for each category (for example, while rent costs may be close to the estimated low amount, construction costs may be close to the estimated high amount). These are only estimates, however, and there are numerous ways in which your costs may be higher or lower depending on the choices you make in connection with the development of your Store. You should review these estimates (and other relevant data that you develop) on your own, preferably with an experienced business advisor of your own choosing.

ITEM 8 **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

General

To insure that the highest degree of quality and service is maintained, you must operate the Franchised Business in strict conformity with the methods, standards, and specifications as we may periodically prescribe in the Manual or otherwise in writing.

At all times during the term of the Franchise Agreement, you must:

- sell or offer for sale only those Products and services that we have approved in writing for you to offer and use at your Franchised Business;
- sell or offer for sale all those Products and employing the techniques that we specify in writing;
- not deviate from our standards and specifications, including manner of preparation of Products;
- stop using and offering for use any Products that we at any time disapprove in writing (recognizing that we have the right to do so at any time).

If you deviate (or propose to deviate) from our standards and specifications, even if approved, the deviation will become our exclusive property.

You must buy all Products only from suppliers that we have approved in writing (and whom we have not subsequently disapproved). In determining whether we will approve any particular supplier, we will consider various factors, including: (a) whether the supplier can

demonstrate, to our continuing reasonable satisfaction, the ability to meet our then current standards and specifications for such items; (b) whether the supplier has adequate quality controls and capacity to supply your needs promptly and reliably; (c) whether approval of the supplier would enable the System, in our sole opinion, to take advantage of marketplace efficiencies; and (d) whether the supplier will sign a confidentiality agreement and a license agreement in the form that we may require (which may include a royalty fee for the right to use our Proprietary Marks and any other proprietary rights, designs or plans).

If you want to buy any Products (except for Proprietary Items) from an unapproved supplier you agree to first submit a written request to us asking for our prior written approval. You may not buy from any such supplier unless and until we have given you our prior written consent to do so. We have the right to require that our representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered, either to us or to an independent laboratory that we have designated for testing. You (or the supplier) may be required to pay a charge, in the amount of the actual cost of the inspection and testing. We also have the right to require that the supplier meet certain other requirements that we have the right to designate (including payment of continuing inspection fees in the amount of our actual costs to inspect and for services that we may render to the supplier). We also reserve the right, at our option, to periodically re inspect the facilities and products of any such approved supplier and to revoke our approval if the supplier does not continue to meet any of our then current criteria.

Our specifications and criteria for supplier approval are contained in the Manual and are updated and revised periodically. When approving suppliers, we consider whether the products meet our specifications, whether the supplier's facility meets our specifications, and other quality and safety factors. We will revoke our approval of a supplier if we determine that the supplier or its products or services no longer meet our standards. We will notify you in writing if we revoke our approval of a supplier or its products or services. If we notify you in writing that we have revoked our approval of a supplier, we may require you to stop selling the item(s) bought from that supplier and stop buying from the disapproved supplier. We must notify you in writing of our approval or disapproval of the proposed supplier. Although the Franchise Agreement does not require that we notify you of our approval or disapproval of a supplier within a specified time, we estimate that we will usually be able to notify you of approval or disapproval within 14 business days after receipt of your written request. This is only an estimate and the actual approval time may be shorter or longer than 30 days. Similarly, we estimate that the charge associated with our approval of a typical proposed supplier will range from \$0 to \$150.

We have the right to appoint only one supplier for any one or more items (including distributors), which may be us or one of our affiliates.

We estimate that your Product purchases from approved suppliers and according to our specifications will represent approximately 80% of your total product purchases in establishing the Franchised Business, and approximately 94% in the continuing operation of the Franchised Business. We also estimate that your product purchases from designated suppliers will represent approximately 20% of your total product purchases in establishing the Franchised Business, and approximately 24% of your total product purchases in the continuing operation of the Franchised Business. This estimate does not account for service purchases, such as insurance, pest control, equipment maintenance, landscaping, and the like.

There are certain items (including signature buildings, furniture, accessories, curated crafts and toys) that we may specify for sale at the Franchised Business and that are manufactured in accordance with our proprietary standards and specifications, and which are therefore, Proprietary Items of ours and/or our affiliates. In order to maintain the high standards of quality, taste, and uniformity associated with any Proprietary Items sold under the System, you agree to buy Proprietary Items only from us or from our designee(s), and not to offer or sell any items that are similar to (but not the same as) Proprietary Items at or from the Franchised Business.

We reserve the right to designate certain items and services that you may purchase only from us (or one of our affiliates), and if we do so, then we (or our affiliate) will derive revenue from those sales. Neither we nor any of our affiliates are currently the only approved suppliers for any products or services.

During our last fiscal year ended December 31, 2022, we did not receive any revenues from franchisee purchases of products or services, but our affiliate, FIL, received revenues from franchisee purchases in the last fiscal year ended December 31, 2022 in the amount of \$176,576, which was 100% percent of FIL's total revenues.

We have the right to collect and retain all manufacturing allowances, marketing allowances, rebates, credits, monies, payments and/or other benefits (collectively, "**Allowances**") that suppliers offer to us, our affiliates, and/or to you based upon your purchases of Products, Proprietary Items, and other goods and services. These Allowances include those based on System-wide purchases of Products. We have all right, title and interest in and to any and all such Allowances and we (or our designee) may collect and retain any or all such Allowances without restriction.

We may establish strategic alliances and/or preferred vendor programs with one or more suppliers that are willing to supply some or all PSB Stores with some or all of the products and/or services that we require for use and/or sale in developing and operating PSB Stores. Accordingly, we have the right to limit the number of approved suppliers with whom you may deal, designate sources that you must use for some or all Products, Proprietary Items, and other products and services, and/or refuse any of your requests if we believe that this action is in the best interests of the System or the network of PSB Stores. We have the ongoing right to approve or disapprove of the suppliers who may be permitted to sell Products to you.

As noted in Item 11, we will have the right to review and approve all marketing plans and promotional materials that you propose to use. You may not implement any marketing plan or use any promotional material without our prior written consent.

We negotiate purchase arrangements with suppliers for the benefit of our franchisees. These include, but are not limited to, a 70% discount for a membership to order supplies and equipment that includes free shipping, a 15% hardware discount and \$10/month subscription discount on employee management for our POS system, a discount on payroll, and a variable discount on liability insurance for the business from our preferred vendors.

We do not confer material benefits on our franchisees based on use of designated or approved suppliers.

Randall Wright and Gregg Fatoool, our Co-CEOs, are owners of our affiliate FIL, which, as noted in Item 1, will provide certain supplies, such as t-shirts, tents and “SnoBuck Coins” to us and our franchisees. Except as noted above, none of our officers currently owns an interest in any companies that are vendors or suppliers to our franchisees.

Computer System

You must buy (or lease) and maintain a computer system. More detailed information concerning the computer system can be found in Item 11 of this disclosure document under the heading “Computer System.” In general terms, you will be required to install, maintain, and at all times operate the computer hardware and software, including peripheral devices and equipment, that we specify in the Manual or otherwise in writing as reasonably necessary for the efficient management and operation of the Restaurant and the transmission of data to and from us.

Insurance

Under the Franchise Agreement, you must obtain and maintain the following insurance:

- commercial general liability insurance protecting against any and all claims for personal, bodily and/or property injury occurring in or about the Store and protecting against assumed or contractual liability under the Franchise Agreement with respect to the Store and your operations, with minimum limits of \$1,000,000 combined single limit per occurrence and \$2,000,000 general aggregate per location (at our election, such minimum limits may be increased);
- comprehensive automobile liability insurance, including owned, non-owned and hired car coverage providing third party liability insurance, covering all licensed vehicles owned or operated by or on your behalf, with limits of liability not less than \$1,000,000 combined single limit for both bodily injury and property damage;
- statutory workers' compensation insurance and employers' liability insurance for a minimum limit equal of \$1,000,000, as well as such other disability benefits type insurance as may be required by statute or rule of the state in which the Store is located;
- Employment practices liability of \$1,000,000 to provide coverage for employment related claims from employees and harassment and discrimination coming from other than employees. This policy must include us as a third party beneficiary and include wage and hour defense liability coverage of not less than \$50,000;
- commercial umbrella liability insurance with limits of \$1,000,000 in excess of the combined aggregate liability limits of your general liability, automobile liability, and employers' liability insurance policies; and
- property insurance providing coverage for direct physical loss or damage to real and personal property for all risk perils, including the perils of flood and earthquake. Appropriate coverage must also provide for business interruption/extra expense exposures of not less than 50% of your annual sales or 12 months actual loss sustained if available. The policy or policies must value property (real and personal)

on a new replacement cost basis without deduction for depreciation and the amount of insurance must not be less than the full replacement value of the Store, its furniture, fixtures, equipment, and stock (real and personal property). You must purchase flood/wind/earthquake insurance in geographic areas that are prone to such losses. Any deductibles contained in such policy must not be more than \$5,000.

Each policy must be written by an insurance company or companies reasonably satisfactory to us, having a current Best's rating of at least "A+." All liability and property damage policies must name us as additional insureds and must provide that each policy cannot be cancelled unless we are given thirty days' prior written notice. We have the right to periodically make changes to minimum policy limits and endorsements. You must deliver to us (and in the future maintain on file with us) valid and current certificates of insurance showing that all required insurance is in full force and effect.

ITEM 9 **FRANCHISEE'S OBLIGATIONS**

This table lists your principal obligations under the Franchise Agreement. It will help you find more detailed information about your obligations in these agreements and in other items of this Disclosure Document.

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	§§ 1 and 5 of Franchise Agreement	5, 6, 7, and 11
b. Pre-opening purchases/leases	§ 5 of Franchise Agreement	5, 7, and 8
c. Site development and other pre-opening requirements	§§ 3 and 5 of Franchise Agreement	8 and 11
d. Initial and ongoing training	§§ 3 and 5 of Franchise Agreement	11
e. Opening	§ 5 of Franchise Agreement	11
f. Fees	§§ 2, 4, 13 and 16 of Franchise Agreement	5 and 6
g. Compliance with standards and policies/Operating Manual	§§ 5, 7, 8 and 10 of Franchise Agreement	8, 11, and 14
h. Trademarks and proprietary information	§§ 9 and 11 of Franchise Agreement	13 and 14
i. Restrictions on products/services offered	§ 7 of Franchise Agreement	5, 8, and 16
j. Warranty and customer service requirements	§ 8 of Franchise Agreement	16

Obligation	Section in Agreement	Disclosure Document Item
k. Territorial development and sales quotas	§ 1 of Franchise Agreement	12
l. Ongoing product/service purchases	§ 8 of Franchise Agreement	8
m. Maintenance, appearance and remodeling requirements	§§ 2 and 5 of Franchise Agreement	8
n. Insurance	§ 15 of Franchise Agreement	7 and 8
o. Advertising	§ 13 of Franchise Agreement	6, 8, and 11
p. Indemnification	§ 21 and Exhibit B of Franchise Agreement	6 and 13
q. Owner's/ participation/ management/ staffing	§§ 8 and 19 of Franchise Agreement	15
r. Records/reports	§ 12 of Franchise Agreement	6
s. Inspection/audits	§§ 3, 8, and 12 of Franchise Agreement	6 and 11
t. Transfer	§ 16 of Franchise Agreement	17
u. Renewal	§ 2 of Franchise Agreement	17
v. Post-termination obligations	§ 18 of Franchise Agreement	17
w. Non-competition covenants	§ 19 of Franchise Agreement	17
x. Dispute resolution	§ 27 of Franchise Agreement	17
y. Taxes/permits	§§ 5 and 20 of Franchise Agreement	1 and 7
z. Other: Personal Guarantee	Exhibit B of Franchise Agreement	15

ITEM 10
FINANCING

We do not offer direct or indirect financing. We do not guarantee your note, lease or obligation.

ITEM 11
FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

Except as listed below, we are not required to provide you with any assistance.

Pre-Opening Obligations

If you sign a Franchise Agreement, we:

- a. Will provide an initial training program, at a location we designate, for you and your management employees. You (or, if you are an entity, your controlling principal who is also designated to serve as your general manager who we have previously approved to serve in that role) must complete the training to our satisfaction before you may open the Store. We will be responsible for the cost of instruction and materials, subject to the terms of the Franchise Agreement; you will pay all other costs (e.g., transportation) incurred to attend training. (*Franchise Agreement, Sections 3.1 and 6.1*)
- b. May provide a prototype and specifications for constructing the Store and for the exterior and interior design and layout, fixtures, furnishings, equipment, and signs. (*Franchise Agreement, Section 3.2*)
- c. May, if you do not already operate a Store under the System, provide a representative to be present at the Store's opening. We may provide additional on-site pre-opening and opening supervision and assistance to the extent we deem it advisable. (*Franchise Agreement, Section 3.3*)
- d. Will lend you a copy of the Manual, for the duration of the Franchise Agreement. (*Franchise Agreement, Section 3.4*)
- e. Will inspect the Store for opening before you open. You may not open the Store for business unless you have our prior written approval. (*Franchise Agreement, Section 3.7*)

Continuing Obligations

Under the Franchise Agreement, we will provide the following assistance and service to you:

- a. We will make available additional training programs, as we deem appropriate. (*Franchise Agreement, Section 6.4*)
- b. We may provide you periodic assistance in the marketing, management, and operation of the Franchised Business, and we may periodically offer you the services of certain of our representatives, such as an accounting manager, and these representatives will periodically visit your Franchised Business and offer advice regarding your operations. (*Franchise Agreement, Section 3.8*)
- c. We will govern the Regional Fund (as defined below) in the manner described in the Franchise Agreement. (*Franchise Agreement, Section 3.6*)

We do not provide any other assistance to you, including, among other things, assistance with establishing prices.

Regional Marketing Development Fund

We do not have a System-wide advertising fund, but we may establish a regional marketing development fund in the geographic area in which your Store is located (a "**Regional Fund**"). There are no other advertising funds in which you must participate or to which you must contribute. If a Regional Fund has been established in the geographic area in which your Store is located when you begin operation, you must immediately become a member. If a Regional Fund is established during the term of your Franchise Agreement, you must become a member within thirty days after Regional Fund begins operation. You will not be required to become a member of more than one Regional Fund.

If formed, Regional Funds will be administered as follows:

1. Each Regional Fund will be organized (including bylaws and other organic documents, available for review by each member of the Regional Fund) and governed in a form and manner, and shall commence operations on a date, which we must have approved in advance in writing. The activities carried on by each Regional Fund will be decided by a majority vote of its members (unless we specify otherwise in writing). Any PSB Stores that we operate in the region shall have the same voting rights as PSB Stores owned by franchisees. The owner of each PSB Store is entitled to cast one vote for each PSB Store owned.

2. Each Regional Fund will be organized for the sole purpose of administering regional marketing programs and developing, subject to our approval, standardized promotional materials for use by the members in local store marketing.

3. No advertising, marketing, or promotional plans or materials may be used by a Regional Fund or given to its members without our prior written approval.

4. You must contribute to a Regional Fund in the amount of 1% of your Gross Sales, in the manner and at the time specified by the Regional Fund.

5. Although once established, each Regional Fund is intended to be of perpetual duration, we maintain the right to terminate any Regional Fund. A Regional Fund shall not be terminated, however, until all monies in that Regional Fund have been expended for marketing and/or promotional purposes.

6. A majority of the PSB Store owners in the Regional Fund who pay 1% or more of each Store's Gross Sales to the Regional Fund may vote to increase the amount of each Store owner's contribution to the Regional Fund by up to an additional one percent 1% of each Store's Gross Sales (to a total of 2%). Voting will be on the basis of one vote per Store, and any Stores we operate in the region, if any, will have the same voting rights as those owned by our franchisees. You agree to contribute to the Regional Fund in accordance with any such vote by the Regional Fund to increase each Store's contribution to 2% of the Gross Sales of the Store.

Local Advertising and Promotion

We recommend, but do not require, that you spend additional amounts on Local Advertising and Promotion ("**Local Advertising and Promotion**").

Certain criteria will apply to any Local Advertising and Promotion that you conduct. All of your Local Advertising and Promotion must be dignified, must conform to our standards and requirements, and must be conducted in the media, type, and format that we have approved. You may not use any advertising or promotional plans that we have not approved in writing. You must submit to us samples of all proposed plans and materials that we have not previously approved. We will ordinarily provide you with our response (whether approval or disapproval) to the proposed plans or materials within 14 days; but if we do not give our approval within 14 days, we will have been deemed to disapprove the plans or materials.

All copyrights in and to advertising and promotional materials you develop (or that are developed for you) will become our sole property. You must sign the documents (and, if necessary, require your independent contractors to sign the documents) that we deem reasonably necessary to implement this provision.

In addition to and not instead of any contributions to a Regional Fund, you must spend a certain minimum amount on local marketing conducted in conjunction with the Store's initial grand opening (the "**Market Introduction Program**"), according to a marketing plan that you will prepare and that will be subject to our approval. The amount that you must spend on the Market Introduction Program will depend on the competitive circumstances in the market, but we estimate that these amounts will be at least \$1,000. You must complete the Market Introduction Program within three months after the Store first opens for business. The Market Introduction Program is considered Local Advertising and Promotion and is therefore subject to the restrictions described below.

We may periodically make available to you, for purchase, certain advertising plans and promotional materials for your use in Local Advertising and Promotion. There is not currently an advertising council composed of franchisees.

As used in this disclosure document, the term "**Local Advertising and Promotion**" refers to only the direct costs of purchasing and producing advertising materials (such as camera-ready advertising and point of sale materials), media (space or time), promotion, and your direct out-of-pocket expenses related to costs of advertising and sales promotion in your local market or area. Local advertising and promotion also includes associated advertising agency fees and expenses, postage, shipping, telephone, and photocopying costs. Local Advertising and Promotion does not, however, include any of the following:

- (a) Salaries and expenses of your employees, including salaries or expenses for attendance at marketing meetings or activities, or incentives provided or offered to such employees, including discount coupons;
- (b) Charitable, political, or other contributions or donations;
- (c) The value of discounts given to consumers; and
- (d) The cost of food, beverage and merchandise items.

Online Sites

Online Sites (as defined below) are considered as "advertising" under the Franchise Agreement, and are subject (among other things) to our review and prior written approval

before they may be used (as described above). As used in the Franchise Agreement, the term "**Online Site**" means one or more related documents, designs, pages, or other communications that can be accessed through electronic means, including, for example, the Internet, World Wide Web, webpages, microsites, social networking sites (e.g., Facebook, Twitter, LinkedIn, You Tube, Snapchat, Google Plus, Pinterest, Instagram, etc.), blogs, vlogs, applications to be installed on mobile devices (e.g., iOS or Android apps), and other applications, etc., and that refers to the Store, Proprietary Marks, us, or the System. In connection with any Online Site, the Franchise Agreement provides that you may not establish an Online Site, nor may you offer, promote, or sell any products or services, or make any use of the Proprietary Marks, through the Internet without our prior written approval. As a condition to granting consent, we will have the right to establish any requirement that we deem appropriate, including for example a requirement that your only presence on the Internet will be through one or more webpages that we establish on our website.

Computer Systems

Currently, we require our franchisees to buy an approved computer hardware and software point of sale (POS) system. The POS and computer system will be required to use our approved interface (high speed telecommunication connection) to communicate electronically with our own system. The cost of purchasing computer hardware and software for the Store will vary for each Store depending upon the Store's size, style and format, but we currently estimate the cost of purchasing the required POS system and computer hardware and software to be approximately \$1,500.

We have not approved any hardware or software in place of these systems and programs, although we reserve the right to do so in the future. We have the right to specify the brands, types, makes, and models of your computer system. You will have to abide by our requirements concerning the computer system, including: (a) back office and point of sale systems; (b) systems to store data, including audio and video, as well as systems to retrieve and transmit that data between your franchised business and us; (b) security systems (physical, electronic, and other); (c) printers and other peripheral devices; (d) archive (back-up) systems; and (e) internet access mode (for example, your telecommunications connection, such as broadband) and speed.

We reserve the right to have independent access to your computer for the purpose of downloading sales and other data. There is no contractual limitation on our right to receive this information. All data that you provide, that we download from your system, and that we otherwise collect from you is owned exclusively by us, and we will have the right to use that data in any way that we deem appropriate without compensating you.

We reserve the right to require you to bring any computer hardware and software, related peripheral equipment, communications systems, as well as the cash register system, into conformity with our then-current standards for new Stores. Except as described above regarding the acquisition and maintenance of the POS system for the Store, we have no obligation to assist you in obtaining hardware, software or related services and there are no contractual limits on the frequency or cost of your obligations to obtain these upgrades. The cost you will incur to maintain, update and upgrade the cash registers and computer system will depend on the type of equipment that you select, but we estimate these costs to be \$1,050 per year.

Manual

The table of contents from our Manual is appended to this disclosure document as Exhibit G. There are 126 pages in the Manual.

Site Selection

You must obtain an Approved Site and a lease for the Approved Site before entering into the Franchise Agreement. When you enter into the Franchise Agreement, if you do not have an Approved Site for the Franchised Business, you must sign the “**Site Selection Addendum**” attached to the Franchise Agreement as Exhibit H. You may have obtained an Approved Site and a lease for the Approved Site before entering into the Franchise Agreement; if not, then you must enter into the Site Selection Addendum.

Under the terms of the Site Selection Addendum, you will have 270 days within which to lease, sublease or acquire a site for the Franchised Business, subject to our approval according to our site selection guidelines. Under the Site Selection Addendum, we will grant you an area within which you may search for an Approved Site (the “**Site Selection Area**”). The Site Selection Area is granted only for the purpose of selecting an Approved Site for the Franchised Business.

You must submit to us, in the form we specify, a copy of the site plan and such other materials or information that we may require, together with an option contract, letter of intent, or other evidence satisfactory to us which confirms your favorable prospects for obtaining the site. We will have 30 days following receipt of this information and materials from you to approve or disapprove the proposed site for the Approved Site of the Franchised Business. If we do not approve a proposed site by written notice to you within this 30-day period, the site will be deemed disapproved.

We will perform such on site evaluations as we may deem advisable in response to your requests for site approval, but we will not provide on-site evaluation for any proposed site before we have received from you a completed site approval form for the site as noted above. When considering a site for a PSB Store Business, we consider factors such as general location and neighborhood; demographics; size and ease of access to the proposed site; location of the site in relation to other businesses; availability of utilities; the proposed lease or sublease; ingress and egress; utilities; and zoning issues. We will make our site-selection criteria available to you upon request. We do not typically own the premises for franchised PSM Locations and lease those out to franchisees.

If you fail to acquire or lease a site for the Franchised Business under the Site Selection Addendum within the time required, that will constitute a default under the Franchise Agreement and we will have the right to terminate the Franchise Agreement.

Once authorized, the site for the Franchised Business will be the “Approved Site.” After we approve the site, you must execute a lease which must be coterminous with the Franchise Agreement, or a binding agreement to purchase the site. Our approval of any lease is conditioned upon inclusion in the lease of the “Lease Rider,” attached to the Franchise Agreement as Exhibit F. We are not responsible for review of the lease for any terms other than those contained in the Lease Rider.

Opening the Franchised Business

We estimate that the time period between beginning to find a site for the Approved Site and the start of operations at the Franchised Business will be approximately two to six months. Factors which may affect this time period include your ability to locate a site, negotiate a lease, secure financing, obtain necessary permits and licenses, construct or build-out facilities for the Franchised Business, weather conditions, construction delays, and obtain furniture, fixtures, equipment and supplies. You must open the Store not later than one year after the date you sign the Franchise Agreement; and if you do not do so, we will have the right to terminate the Franchise Agreement immediately upon notice to you.

Training

Before you open your Store, if the Store is the first or second PSB Store you are opening, you (or, if you are an entity, your controlling principal who is also designated to serve as your general manager who we have previously approved to serve in that role (the “**Operating Principal**”)) must attend and successfully complete, to our satisfaction, the basic training program we offer. You will be permitted to send one additional designated management employee (for example, your general manager) (together with the Operating Principal, the “**Specially Trained Management Employees**”) to the initial training program. If you wish to send more than two individuals to the initial training program, you will be required to pay us a fee (as disclosed in Item 6) for each additional individual you request to be trained. We expect to offer training at our offices or a Store that we designate, which may not be in the same area as where your Store will be operated.

You must maintain the requisite number of Specially Trained Management Employees as employees of the Store during the term of the Franchise Agreement. If you or any Specially Trained Management Employee stops being actively employed at the Store, or if any Specially Trained Management Employees fail to complete the initial training program, you must have the Specially Trained Management Employee repeat training, or enroll a qualified replacement, acceptable to us, in our training program within thirty days. The replacement must attend and complete the training program as soon as possible. We will conduct our initial training program as follows:

TRAINING PROGRAM

Subject	Number of Hours of Classroom Training	Number of Hours of On-the-Job Training	Location
Preparing & serving proprietary products	2	30	A "Pelican's SnoBalls" Store or at our corporate headquarters in North Carolina
Pelican's Culture and Running your Franchise	2	5	"
Administration and running your business	2	0	"
Finding, Hiring, and Training Employees	1	5	"
Total	7	40	"

We conduct our training program as often as necessary to accommodate our new franchisees. Our initial training program will be supervised by Gregg Fatool, one of our owners, and other individuals under his supervision may provide training. Greg Fatool has 12 years of experience with the Pelican's SnoBalls brand, and 8-13 years of experience with the subjects taught in the initial training program.

Initial training may include web-based training that you can complete at home, one day of classroom and four days of on-the-job training at our headquarters or another location we choose, and up to two days of support at the location of your Store. You and your Specially Trained Management Employees must also attend additional refresher courses, seminars, and training programs that we periodically and reasonably may require. For all required initial and additional training courses for your first two PSB Stores only, we will provide, at no charge to you, instructors and training materials. You and your Specially Trained Management Employees will be responsible for all other expenses which you incur within the courses, including the cost of transportation, lodging, meals, and wages.

ITEM 12 **TERRITORY**

Franchise Agreement

Under the Franchise Agreement, you are authorized to operate a PSB Store from a specified location, which we must approve. You may not relocate the Store without our consent. During the term of the Franchise Agreement, we will not establish, nor license any other person to establish, another Store within the "Protected Territory." The size of each Protected Territory will vary based on the location of the Franchised Business and numerous other factors. There is not a minimum sized Protected Territory.

We reserve all other rights, as noted below. As a result, while you will receive the territorial protections noted above within your Protected Territory, you will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. You will not receive the right to acquire additional franchises in your area.

You may not operate your Store, provide services, sell products, deliver products, or otherwise conduct business at any location other than the Approved Site. This means that you may not conduct business at remote locations such as a school, church and other houses of worship, private homes, etc.

You will not have any options, rights of first refusal, or similar rights to acquire additional franchises or other rights under the Franchise Agreement. Continuation of your rights regarding the Protected Territory are not contingent upon your having met any particular sales volume, market penetration, or any other contingency, and we don't have any right to alter the Protected Territory provided under your Franchise Agreement.

We retain all rights not specifically granted to you. These include, for example, the right to: (1) use, and to license others to use, the System and the Proprietary Marks for the operation of PSB Stores at any location outside the Protected Territory; (2) sell, and to license others to sell, products and services that are also authorized for sale at PSB Stores through other channels of distribution (including digital sales (for example, via mobile apps), physical catalogs, mail order, telephone ordering, and other forms of electronic commerce now in use or later developed) (but not from a PSB Store located in the Protected Territory); (3) acquire and operate businesses of any kind and to grant or franchise the right to others to operate other businesses of any kind, no matter where located (but we will not change these to PSB Stores located in the Protected Territory); and/or (4) use and license the use of the Proprietary Marks and other marks in connection with the operation of businesses that may offer services that are the same as, similar to, or different from those offered at your Store (but not from a PSB Store located in the Protected Territory).

You may conduct catering services at customers' homes, offices, and other locations ("**Catering**") and offer or sell products to customers from mobile vehicles ("**Vehicles**") (together, Catering and Vehicle services are referred to as "**Mobile Services**") only according to the Territorial Rules (defined below).

You may not conduct Mobile Services in the protected territory of another PSB Store (an "**Assigned Area**"). You may provide Mobile Services in areas located outside the Protected Territory so long as: (a) those services are provided in an area that is not an Assigned Area (an "**Open Area**"); and (b) your Store is the closest PSB Store to the event at which the Mobile Services are to be provided.




If you wish to provide, or receive an inquiry to provide, Mobile Services outside of your Protected Territory, you must inquire with us as to whether such Mobile Services would take place in an Assigned Area. Upon receipt of written confirmation from us that the requested Mobile Services are not in an Assigned Area, and are in an Open Area, you may provide those Mobile Services. If we notify you that the Mobile Services would be in an Assigned Area, you must refer those services to the Store operating in that Assigned Area.

Other Stores will generally operate under restrictions similar to those noted above with respect to where you may provide Mobile Services (the "**Territorial Rules**"). Although we will not knowingly permit violations of the Territorial Rules, we cannot guarantee that other Stores will always abide by the Territorial Rules, and we will not be liable to you if that takes place. You may offer Mobile Services outside of the Protected Territory only if you do so in compliance with the Territorial Rules.

In addition to the "Pelican's SnoBalls" marks, we may at some time operate (or are affiliated with other companies that operate) businesses under other brand names and also that we may acquire other brands (or be acquired by a company that operates under other brand names) (collectively, "**Other Brands**"). You understand and agree that the Franchise Agreement does not grant you any rights with respect to such Other Brands. We will not compensate you for soliciting or accepting orders from purchasers (or recipients) located in your Protected Territory, including through other channels of distribution as described above.

ITEM 13 **TRADEMARKS**

The Franchise Agreement allows you to use our Proprietary Marks with the Franchised Business. The Proprietary Marks include the following trademarks that are registered with (or for which application for registration is pending with) the U.S. Patent and Trademark Office (the "**USPTO**") on its Principal Register:

Mark	Registration/Application No.	Classes	Registration / Application Date
PELICAN'S SNOBALLS (design) 	Reg. No. 4275200	International classes 43 and 100	January 15, 2013
PELICAN'S SNOBALLS	Reg. No. 5289645		September 19, 2017
PELICAN'S SNOBALLS (design) 	Reg. No. 5345878		November 28, 2017
PELICAN BUCKS	Serial No. 87453145		May 17, 2017
PELICAN'S SNOBALLS (design) 	Serial No. 87703358		November 30, 2017

We do not have a federal registration for one of our principal trademarks. Therefore, that trademark does not have many legal benefits and rights as a federally-registered trademark. If our right to use that trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

As noted in Item 1, the Trademark Holder acquired the Proprietary Marks from the Predecessor's affiliate. It is the Trademark Holder's understanding that the Predecessor's affiliate has timely filed an affidavit of use and an affidavit of incontestability, and the Trademark Holder intends to timely file a renewal application, when due, for the above registration.

We have entered into a license agreement with the Trademark Holder that licenses to us the use of the Proprietary Marks (the “**Trademark License Agreement**”). Under the Trademark License Agreement, the Trademark Holder granted us an exclusive worldwide right to use, and to license others to use, the Proprietary Marks in connection with the operation of the System. The Trademark License Agreement will remain in force as long as we operate the System. If the Trademark License Agreement terminates, the Trademark Holder has agreed to allow you to continue to use the Proprietary Marks under the same terms and conditions as in your Franchise Agreement.

As noted in Item 1, we acquired the System from the Predecessor on January 16, 2017. At the same time, our affiliate, the Trademark Holder, acquired the Proprietary Marks from the Predecessor's Affiliate, Pelican's SnoBalls Trademarks, LLC. Our and the Trademark Holder's knowledge of past matters relating to the Proprietary Marks are therefore limited in that manner, but to our and the Trademark Holder's knowledge, there are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the Trademark Administrator of this state or any court. There is no pending infringement, opposition, or cancellation proceeding. There is no pending material litigation involving the trademarks which may be relevant to their use in this state or in any other state.

We do not know of any infringing uses that could materially affect your use of the Proprietary Marks in this state or elsewhere.

You must promptly notify us of any unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to our ownership of, right to use and to license others to use, or your right to use, the Proprietary Marks. We have the right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement. We have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks. We will defend you against any third-party claim, suit, or demand arising out of your use of the Proprietary Marks. If we determine that you have used the Proprietary Marks according to the Franchise Agreement, we will bear the cost of defense, including the cost of any judgment or settlement. If we determine that you have not used the Proprietary Marks according to the Franchise Agreement, you must bear the cost of defense, including the cost of any judgment or settlement. If there is any litigation due to your use of the Proprietary Marks, you must execute all documents and do all things as may be necessary to carry out a defense or prosecution, including becoming a nominal party to any legal action. Unless litigation results from your use of the Proprietary Marks in a manner inconsistent with the terms of the Franchise Agreement, we will reimburse you for your out-of-pocket costs, except that you will bear the salary costs of your employees.

There are no agreements currently in effect which limit our rights to use or license the use of any Proprietary Mark. We reserve the right to substitute different proprietary marks for use in identifying the System and the businesses operating under it if we, in our sole discretion, determine that substitution of different marks as Proprietary Marks will be beneficial to the System. You must promptly implement any substitution of new Proprietary Marks.

We reserve the right to substitute different Proprietary Marks for use in identifying the System and the businesses operating as part of the System if our currently owned Proprietary Marks no longer can be used, or if we determine, exercising our right to do so, that substitution of different Proprietary Marks will be beneficial to the System. In such circumstances, you must

make those changes at your own expense, and your right to use the substituted proprietary marks will be governed by the terms of the Franchise Agreement.

ITEM 14 **PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION**

Patents and Copyrights

There are no patents that are material to the franchise.

We may provide you with copyrighted prototype architectural plans for construction of a PSB Store. You must employ a licensed architect or engineer who is acceptable to us to prepare plans and specifications for constructing the Store based on our prototype plans and subject to our approval. You will be entitled to use the copyrighted architectural plans only to construct a single PSB Store at the Approved Location.

There are no currently effective determinations of the USPTO, Copyright Office, or any court regarding design patent or copyright. There are no currently effective agreements pursuant to which we derive our rights in the design patent or copyright which could limit your use of them. We are not obligated under the Franchise Agreement to protect any of the rights that you have to use any design patent or copyright, and we do not have any other obligation under the Franchise Agreement regarding the design patents and copyrights. We are not aware of any infringements that could materially affect your use of any design patent or copyright in any state.

Confidential Brand Standards Manual

We will lend you a copy of the Manual for the term of the Franchise Agreement (see table of contents at Exhibit G). You must treat the Manual, any other manuals created for or approved for use in the operation of the Franchised Business, and the information contained in them, as confidential, and must use reasonable efforts to maintain this information as secret and confidential. You must not reproduce these materials or otherwise make them available to any unauthorized person. The Manual will remain our sole property. You must keep any physical copies of the Manual in a secure place.

We may revise the contents of the Manual, and you must comply with each new or changed standard. You must ensure that the Manual is kept current at all times. If there is a dispute as to the contents of the Manual, the terms of the master copy which we maintain at our headquarters will control.

Confidential Information

You must not, during or after the term of the Franchise Agreement, divulge or use for the benefit of anyone else any confidential information concerning the System and the methods of operation of the Franchised Business. You may divulge confidential information only to those employees who must have access to it in order to operate the Franchised Business. Any and all information, knowledge, and other data which we designate as confidential will be deemed confidential for purposes of the Franchise Agreement.

ITEM 15
OBLIGATION TO PARTICIPATE IN THE
ACTUAL OPERATION OF THE FRANCHISE BUSINESS

The Franchise Agreement does not require you to participate personally in the direct operation of the Store, although we encourage and recommend active participation by you. We do, however, require that you or your Operating Principal devote full time, energy, and best efforts to the management of the Store. If you are a corporation, partnership, or other entity, we require all of your owners to sign a personal guarantee (in the form attached to the Franchise Agreement as Exhibit B) of the performance of your obligations under the Franchise Agreement.

If you are a corporation or a partnership, an Operating Principal must supervise the operation of the Store and must be approved by us. Our approval will be based on whether the proposed Operating Principal has a good business reputation in the industry and whether they can successfully complete our training program. An Operating Principal must be able to speak the English language and attend and complete our training course. All persons that subsequently serve in the position of Operating Principal must be approved by us and must attend and successfully complete our training program which is described in Item 11 of this disclosure document.

We require your principals (including the Operating Principal), supervisors and other managers to sign a non-disclosure and non-competition agreement, the form of which is attached to the Franchise Agreement as Exhibit F. We do not impose any other restrictions on your managers.

ITEM 16
RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You may use the Store premises only to operate the Franchised Business. You must keep the Store open and in normal operation for the minimum hours and days we specify in the Manual or otherwise in writing. You must not use the premises for any other purpose or activity without first obtaining our written consent. You must operate the Store in strict conformity with the specifications contained in the Manual or otherwise in writing. You must not deviate from our specifications, menus, or procedures without first obtaining our written consent (see Item 8 for additional details).

You must sell only those items, products, and services that we have expressly approved in writing and which meet our current standards as established in the Manual or otherwise in writing. You must not sell any other kind of service or product without first obtaining our written consent. You must discontinue selling or offering for sale any items, services or products which we, in our sole discretion, disapprove in writing at any time (see Item 8 for additional details). You must sell all items, products, or services which we direct.

You will have sole discretion as to the prices to be charged to customers, except that we may determine the maximum and minimum retail prices. If we have set a maximum price on a particular product or service, you may charge any price for that product or service up to and including the maximum price. If we have set a minimum price for a particular product or

service, then (subject to applicable law) you may charge any price for that product or service that is equal to or above the minimum price we have set.

You must comply with all reasonable requirements if we supplement, improve, or modify the System, including offering and selling new or different services and products that we specify. We have the right to change the types of authorized goods and services, and there are no limits on our right to make changes.

ITEM 17
RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

These tables list important provisions of the Franchise Agreement. You should read these provisions in the agreement attached to this Disclosure Document.

Franchise Agreement		
Provision	Section in Franchise Agreement	Summary *
a. Term of the franchise	§ 2	15 years from the earlier to occur of (a) the date the Store opens, (b) 270 days from the date the Franchise Agreement is signed.
b. Renewal or extension of the term	§ 2	Two additional terms of 15 years each.
c. Requirements for you to renew or extend	§ 2	Notice, improvements to Franchised Business, satisfaction of monetary obligations throughout term of the Franchise Agreement, compliance with Franchise Agreement, release, execute new Franchise Agreement, pay a renewal fee, training, and others. If you seek to renew your franchise at the expiration of the initial term, you will be asked to sign a new franchise agreement that may contain terms and conditions materially different from those in your previous franchise agreement, such as different fee requirements.
d. Termination by you	Not Applicable	
e. Termination by us without cause	Not Applicable	

Franchise Agreement		
Provision	Section in Franchise Agreement	Summary *
f. Termination by us with cause	§ 17	Default under the Franchise Agreement, bankruptcy, abandonment, and other grounds; see § 17 of the Franchise Agreement. (Under the U.S. Bankruptcy Code, we may be unable to terminate the agreement merely because you make a bankruptcy filing.)
g. "Cause" defined - defaults which can be cured	§ 17	All other defaults not specified in §§ 17.1 and 17.2 of the Franchise Agreement
h. "Cause" defined - defaults which cannot be cured	§ 17	Bankruptcy, abandonment, conviction of felony, and others; see § 17.2 of the Franchise Agreement. (Under the U.S. Bankruptcy Code, we may be unable to terminate the agreement merely because you make a bankruptcy filing.)
i. Your obligations on termination/nonrenewal	§ 18	Stop operating the Store, pay amounts due, pay lost future royalties, and others; see §§ 18.1 18.11 of the Franchise Agreement.
j. Assignment of contract by us	§ 16	There are no limits on our right to assign the Franchise Agreement.
k. "Transfer" by you - definition	§ 16	Includes transfer of any interest in the Franchised Business.
l. Our approval of transfer by you	§ 16	We have the right to approve transfers.
m. Conditions for our approval of transfer	§ 16	Your compliance with the existing franchise agreement, a release, the buyer's signature of a new Franchise Agreement, the payment of transfer fee, and others; see §§ 16.5.1 - 16.5.10 of the Franchise Agreement.
n. Our right of first refusal to acquire your business	§ 16	We can match any offer, or the cash equivalent.
o. Our option to purchase your business	§ 17	We can acquire your lease or sublease for the premises, and purchase your equipment, material, and inventory at cost or fair market value after termination or expiration.
p. Your death or disability	§ 16	Interest in Franchised Business must be transferred to a third-party we have approved within six months.
q. Non-competition covenants during the term of the franchise	§ 19	Includes prohibition on engaging in any business where flavored ice products comprise 30% or more of the revenue of that business.

Franchise Agreement		
Provision	Section in Franchise Agreement	Summary *
r. Non-competition covenants after the franchise is terminated or expires	§ 19	Includes a two-year prohibition similar to "q" above within a 10-mile radius of the Store and any other PSB Store under the System.
s. Modification of the agreement	§ 25	Must be in writing executed by both parties.
t. Integration/merger clause	§ 25	Only the terms of the Franchise Agreement and other related written agreements are binding (subject to state law). Any representations or promises outside of the Franchise Agreement and this Disclosure Document may not be enforceable.
u. Dispute resolution by arbitration or mediation	§ 27	Before bringing an action in court, the parties must first submit the dispute to non-binding mediation (except for injunctive relief) at the JAMS location nearest our headquarters.
v. Choice of forum	§ 27	We may, and you must, sue only in the state and judicial district in which we have our principal place of business.*
w. Choice of law	§ 27	North Carolina law will apply.*

ITEM 18
PUBLIC FIGURES

We do not use any public figures to promote our Pelican's SnoBalls franchise.

ITEM 19
FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's Franchise Rule permits a franchisor to disclose information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about performance at a particular location or under particular circumstances.

The tables below provide information on the average Gross Sales of franchisees operating under the System during the last fiscal year (ended December 31, 2022). Table 1 presents information regarding the average annual Gross Sales for PSB Stores operating for a Full

Season (defined below), and Table 2 presents information regarding the average monthly Gross Sales for PSB Stores operating for a Partial Season (defined below).

Please read both of these tables together with all of the notes that follow.

Table 1 – Full Season Stores Average Annual Gross Sales (Note 1)					
January 1, 2022 – December 31, 2022					
180 Total Full Season Franchised PSB Stores	Mean Average	Median Average	# of Stores that Met or Exceeded the Mean Average	Highest Grossing Store in Range	Lowest Grossing Store in Range
Top 25% (45 Stores)	\$237,178	\$213,078	16	\$408,216	\$178,652
Middle 50% (90 Stores)	\$136,970	\$135,324	41	\$177,948	\$98,571
Bottom 25% (45 Stores)	\$73,372	\$74,778	24	\$97,482	\$17,941

Table 2 – Partial Season Stores Average Monthly Gross Sales (Note 1)					
January 1, 2022 – December 31, 2022					
13 Total Partial Season Franchised PSB Stores	Mean Average per month	Median Average	# of Stores that Met or Exceeded the Mean Average	Highest Grossing Store in Range	Lowest Grossing Store in Range
Top 25% (3 Store)	\$25,285	\$25,644	2	\$30,725	\$19,485
Middle 50% (7 Stores)	\$12,993	\$12,165	3	\$16,087	\$10,624
Bottom 25% (3 Store)	\$3,920	\$1,896	1	\$8,300	\$1,563

Notes:

1. There were 193 franchised PSB Stores that operated in the Pelican's SnoBalls franchise System for at least some time during the 2022 fiscal year (Jan. 1 to Dec. 31, 2022). Out of those 193 PSB Stores, 180 operated for a "Full Season" (which we consider to be a PSB Store that is open and in operation for six months or more during a fiscal year). Thirteen of the 193 PSB Stores operated for a "Partial Season" (which we consider to be a PSB Store that is open and in operation for fewer than six months during a fiscal year) or less. (Because some of the Full Season and Partial Season PSB Stores operated for only a portion of calendar year 2022, there is a different total number of PSB Stores in this Item 19 than there is in Table 1 of Item 20.)

"Gross Sales" means all revenue from the sale of services and products and all other income related to each PSB Store, except sales taxes.

2. Neither we nor the Predecessor operated any company-owned PSB Stores during the 2022 fiscal year, although eleven of the PSB Stores during the 2022 fiscal year were operated by our Co-CEOs, Randall Wright and Gregg Fatool, who were franchisees of the Predecessor and who continue to be franchisees of ours.
3. The results in Tables 1 and 2 are organized into three groups, with the "Top 25%" representing the top performing 25% of the included franchisees, the "Middle 50%" representing the middle two performing quartiles of the included franchisees, the "Bottom 25%" representing the worst performing 25% of the included franchisees.
4. **Some franchisees have earned this amount. Your individual results may differ. There is no assurance you will earn as much.**
5. A "Pelican's SnoBalls" business is seasonal and, depending on where the business is located (for example, in a warmer weather climate or a colder weather climate) or the prevailing weather during any given season, the length of the "season" for each PSB Store will vary. See Item 20 below for the locations of the PSB Stores operating under the System during the last fiscal year.
6. The information above does not include costs or expenses that these businesses incurred. You will incur costs and expenses in connection with operating your Store. These include, among others, royalty fees (8% of Gross Sales), occupancy costs, labor costs, debt/financing costs, inventory, goods and supply expenses, marketing and advertising costs, computer hardware and software purchases and upgrades, legal and professional fees, income and other non-real estate taxes, and various other expenses. You should conduct an independent investigation of the costs and expenses that you may or will incur in operating your franchised PSB Store.
7. The businesses from which data is reflected in this Item offered substantially the same products and services to customers as you will.
8. Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

Other than the preceding financial performance representation, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to our management by contacting Mr. Randall Wright at 801 East 2nd Ave., Gastonia, North Carolina 28054 (tel: 704.671.2012), the Federal Trade Commission, and the appropriate state regulatory agencies

ITEM 20
OUTLETS AND FRANCHISEE INFORMATION

Table 1:
Systemwide PSB Store Summary For Years 2020 to 2022 (Note 1)

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2020	171	175	+4
	2021	175	180	+5
	2022	180	191	+11
Company Owned (Note 1)	2020	0	0	0
	2021	0	0	0
	2022	0	0	0
Total Outlets	2020	171	175	+4
	2021	175	180	+5
	2022	180	191	+11

Notes

- (1) Figures are as of Dec. 31 for each year, as reported to us by the Predecessor. We cannot verify the accuracy of this information.

Table 2:
Transfers of PSB Stores from Franchisees to New Owners (other than Franchisor)
For Years 2020-2022

State	Year	Number of Transfers
Florida	2020	0
	2021	0
	2022	2
Georgia	2020	0
	2021	1
	2022	0

State	Year	Number of Transfers
North Carolina	2020	7
	2021	3
	2022	8
South Carolina	2020	2
	2021	10
	2022	7
Tennessee	2020	3
	2021	0
	2022	0
Total	2020	12
	2021	14
	2022	17

Notes

- (1) Figures are as of Dec. 31 for each year, as reported to us by the Predecessor. We cannot verify the accuracy of this information.
- (2) States not listed had no activity during the relevant time frame.

**Table 3:
Status of Franchised PSB Store Outlets for Years 2020-2022**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Alabama	2020	1	0	0	0	0	0	1
	2021	1	1	0	0	0	0	2
	2022	2	2	0	0	0	0	4
California	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
Florida	2020	9	3	0	0	0	0	12
	2021	12	1	0	0	0	0	13
	2022	13	1	0	0	0	0	14
Georgia	2020	12	2	0	0	0	0	14
	2021	14	2	0	0	0	0	16
	2022	16	5	2	0	0	0	19
Kentucky	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	1	0	0	0	0	3

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Louisiana	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Massachusetts	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Mississippi	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
New Jersey	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
New York	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
North Carolina	2020	71	0	0	0	0	0	71
	2021	71	1	0	0	0	0	72
	2022	72	1	0	0	0	0	73
Ohio	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Pennsylvania	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	1	0	0	0	0	3
South Carolina	2020	50	0	4	0	0	0	46
	2021	46	1	1	0	0	0	46
	2022	46	0	0	0	0	0	46
Tennessee	2020	9	1	0	0	0	0	10
	2021	10	0	0	0	0	0	10
	2022	10	0	0	0	0	0	10

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Texas	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Virginia	2020	6	2	0	0	0	0	8
	2021	8	0	0	0	0	0	8
	2022	8	1	0	0	0	0	9
Totals	2020	171	8	4	0	0	0	175
	2021	175	6	1	0	0	0	180
	2022	180	13	2	0	0	0	191

Notes

- (1) Our Franchised Outlets are identified in Exhibit B.
- (2) Figures are as of Dec. 31 for each year, as reported to us by the Predecessor. We cannot verify the accuracy of this information.
- (3) There is an additional operation in Florida not counted in these charts, which is not a franchise.
- (4) States not listed had no activity during the relevant time frame.

**Table 4:
Status of Affiliate Owned PSB Store Outlets for Years 2020-2022**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Re-acquired From Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
Any State	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Totals	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0

Notes:

- (1) Our Affiliate-Owned Outlets are identified in Exhibit C.
- (2) Our Co-CEO, Randall Wright, is a franchisee of three PSB Stores in North Carolina, and our Co-CEO, Gregg Fatool, is a franchisee of three PSB Stores in South Carolina, as indicated in Exhibit B.
- (3) All numbers are as of the fiscal year end. Our fiscal year end is December 31.
- (4) States not listed had no activity during the relevant time frame.

Table 5:
Projected PSB Store Openings as of January 1, 2023, for Fiscal Year 2023

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company – Owned Outlets In the Next Fiscal Year
Arizona	1	1	0
California	1	1	0
Florida	1	0	0
Georgia	3	2	0
Iowa	1	1	0
Kentucky	2	1	0
North Carolina	4	1	0
Pennsylvania	2	1	0
South Carolina	1	1	0
Tennessee	2	1	0
Total	18	10	0

States not listed had no activity during the relevant period of time.

The names, addresses, and telephone numbers of our franchisees as of December 31, 2022 are listed in Exhibit B to this disclosure document. The name and last known home address and telephone number of every franchisee who has had an agreement terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during our last fiscal year, or who has not communicated with us within ten weeks of the date of this disclosure document, are listed in Exhibit D. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

No franchisees have signed a confidentiality clause in a franchise agreement, settlement or other contract within the last three years that would restrict their ability to speak openly about their experience with us.

As of the date of this franchise disclosure document, there are no Pelican's SnoBalls franchisee associations in existence regardless of whether they use our trademark or not.

ITEM 21
FINANCIAL STATEMENTS

Our audited financial statements for our fiscal years ended as of December 31, 2022, December 31, 2021 and December 31, 2020 are attached as Exhibit H.

Our fiscal year end falls on December 31 of each year.

ITEM 22
CONTRACTS

The following contracts are attached to the disclosure document in the following order:

1. Franchise Agreement (Exhibit A).
2. Our current General Release language (Exhibit L).
3. Franchisee Acknowledgement (Exhibit I)

ITEM 23
RECEIPT

The last two pages of this disclosure document (following the exhibits and attachments) are a document acknowledging receipt of this disclosure document by you. One copy of the document is for you and one (the last page) is to be signed and dated, and provided to us.

EXHIBIT A
FRANCHISE AGREEMENT

Pelican's SnoBalls USA, LLC

Franchise Agreement

Pelican’s SnoBalls USA, LLC Franchise Agreement

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Exhibits

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| B Personal Guarantee | F Lease Addendum |
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| D ACH - Authorization Agreement for
Prearranged Payments (Direct Debits) | H Site Selection Addendum |

Pelican's SnoBalls USA, LLC

Franchise Agreement

THIS FRANCHISE AGREEMENT (the "**Agreement**") is made and entered into as of the date that we have indicated on the signature page of this Agreement (the "**Effective Date**") by and between:

- Pelican's SnoBalls USA, LLC, a North Carolina limited liability company, with its principal place of business at 801 East 2nd Avenue, Gastonia, North Carolina 28054 ("**we**," "**us**," "**our**", or the "**Franchisor**"); and
- _____ a [resident of] [corporation organized in] [limited liability company organized in] the State of _____ and having offices at _____ ("**you**" or the "**Franchisee**").

Introduction

We own a format and system relating to the establishment and operation of "Pelican's SnoBalls" shops, which are businesses operating under our Proprietary Marks in buildings that bear our interior and/or exterior trade dress (each one of which is referred to as a "**Store**"). A Store specializes in the sale of Proprietary Items (which include flavored ice products prepared with specialized formulas) as well as non-Proprietary Items (such as toppings, beverages, ice cream, and other authorized food products) (collectively, the "**Products**").

Among the distinguishing characteristics of a Store are that it operates under our "Pelican's SnoBalls" "System." Our System includes (among other things): confidential and proprietary information and trade secrets; distinctive images, designs, business formats, methods, procedures, and specifications; distinctive exterior and interior design, decor, color scheme, and furnishings; uniform standards, specifications, and procedures for operations; quality and uniformity of Products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs (together, the "**System**").

We identify the System by means of our Proprietary Marks. Our proprietary marks include certain trade names (for example, the mark "PELICAN'S SNOBALLS" and logo), service marks, trademarks, logos, emblems, and indicia of origin, as well as other trade names, service marks, and trademarks that we may periodically specify in writing for use in connection with the System (all of these are referred to as our "**Proprietary Marks**"). We continue to develop, use, and control the use of our Proprietary Marks in order to identify for the public the source of services and products marketed under those marks and under the System, and to represent the System's high standards of quality, appearance, and service. The Proprietary Marks are owned by our affiliate, Pelican's SnoBalls USA Trademarks, LLC and licensed to us under the terms of a license agreement between that entity and us.

You have asked to enter into the business of operating a Store under our System and wish to obtain a franchise from us for that purpose, as well as to receive the training and other assistance we provide as described in this Agreement. You also understand and acknowledge the importance of our high standards of quality, cleanliness, appearance, and service and the necessity of operating the business franchised hereunder in conformity with our standards and specifications, all for the sake of enhancing, promoting, and protecting the "Pelican's SnoBalls" brand and the goodwill associated with our Proprietary Marks.

In recognition of all of the details noted above, the parties have decided to enter into this Agreement, taking into account all of the promises and commitments that they are each making to one another in this contract, and they agree as follows:

1 GRANT

1.1 *Rights and Obligations.* We grant you the right, and you accept the obligation, all under the terms (and subject to the conditions) of this Agreement:

1.1.1 To operate one Store under the System (the "**Licensed Location**");

1.1.2 To use the Proprietary Marks and the System, but only in connection with the Licensed Location (recognizing that we may periodically change or improve the Proprietary Marks and the System); and

1.1.3 To do all of these things only at the Approved Site (as defined in Section 1.2 below).

1.2 *Approved Site.* The street address of the location for the Licensed Location approved under this Agreement is specified in Exhibit A to this Agreement, and is referred to as the "**Approved Site.**" We have the right to grant or withhold our approval of the Approved Site.

1.2.1 When this Agreement is signed, if you have not yet obtained (and we have not yet approved in writing) a location for the Licensed Location, then you agree to enter into the site selection addendum (the "**Site Selection Addendum.**" attached as Exhibit H to this Agreement) at the same time as when you sign this Agreement. You will then find a site and, after we have given you our written approval for that site, you will obtain the right to occupy the premises (by lease, sublease, or acquisition of the property), also subject to our prior written approval, and all in accordance with the Site Selection Addendum.

1.2.2 You understand, acknowledge, and agree that our review and approval of your proposed location, under this Section 1.2 or pursuant to the Site Selection Addendum, does not constitute our assurance, representation, or warranty of any kind that your Licensed Location at the Approved Site will be profitable or successful (as further described in Section 5 of the Site Selection Addendum).

1.3 *Protected Territory and Exclusions.* During the term of this Agreement, and except as otherwise provided in this Agreement, we agree not to establish, nor license any other person to establish, another Store within the "Protected Territory." The "**Protected Territory**" is specified in Exhibit A, subject to all of the following:

1.3.1 We retain the exclusive right, among others, on any terms and conditions that we deem advisable, without granting you any rights in the matters, and despite the proximity of these business activities to the Approved Site to do any or all of the following:

1.3.1.1 The right to use, and to license others to use, the System and the Proprietary Marks for the operation of Stores at any location outside the Protected Territory;

1.3.1.2 The right to sell, and to license others to sell, products and services that are also authorized for sale at Stores through other channels of distribution (including digital sales (for example, via mobile apps), physical catalogs,

mail order, telephone ordering, and other forms of electronic commerce now in use or later developed) (but not from a "Pelican's SnoBalls" Store located in the Protected Territory);

- 1.3.1.3 The right to acquire and operate businesses of any kind and to grant or franchise the right to others to operate other businesses of any kind, no matter where located (but we will not change these to "Pelican's SnoBalls" Stores located in the Protected Territory); and
- 1.3.1.4 The right to use and license the use of the Proprietary Marks and other marks in connection with the operation of businesses that may offer services that are the same as, similar to, or different from those offered at your Store (but not from a "Pelican's SnoBalls" Store located in the Protected Territory).
- 1.3.2 You understand that we, our affiliates and designees may sell any of our products: **(a)** through packages or over-the-counter under the Proprietary Marks at grocery stores, supermarkets, convenience stores, club stores, and/or similar retail outlets (the "**Grocery Products**"); and **(b)** through packages under the Proprietary Marks for direct-to-consumer sale (e.g., via catalogs, mail order, toll free numbers, the Internet, "home shopping" television channels, etc.) ("**Direct-to-Consumer Products**"). You understand that this Agreement does not grant you any rights with regard to such Grocery Products and/or Direct-to-Consumer Products, whether the same as are now in existence or are later developed.
- 1.3.3 You agree that you will offer and sell Products from the Approved Location only to retail customers:
 - 1.3.3.1 Face to face, for consumption on the Store premises;
 - 1.3.3.2 Face to face, for personal carry-out consumption; and/or
 - 1.3.3.3 For catering service provided at customers' homes, offices, and other locations ("**Catering**"), and for the offer or sale of products to customers from mobile vehicles ("**Vehicles**") at locations other than the Store, you agree that all Catering and Vehicle activities must be conducted in accordance with the Territorial Rules (defined below) and the terms and conditions stated in this Agreement and the standards that we set in the Manual (as defined in Sections 3.4 and 10 below).
- 1.3.4 You agree not to engage in any other type of sale of, or offer to sell, or distribution of Products, including, but not limited to: **(a)** selling, distributing or otherwise providing, any Products to third parties at wholesale, or for resale or distribution by any third party, including corporate and commercial food service operations; and **(b)** selling, distributing or otherwise providing any Products through catalogs, mail order, toll free numbers, or electronic means (e.g., the Internet) (all of which, collectively, are "**Other Sales**").
- 1.3.5 *Territorial Rules.* You may conduct Catering and Vehicle services ("**Mobile Services**") inside (but only inside) your Protected Territory, except as otherwise provided below.
 - 1.3.5.1 You may not conduct Mobile Services in the protected territory of another

“Pelicans SnoBalls” Store (an “**Assigned Area**”). You may provide Mobile Services in areas located outside the Protected Territory so long as: **(a)** those services are provided in an area that is not an Assigned Area (an “**Open Area**”); and **(b)** the Licensed Location is the closest Store to the event at which the Mobile Services are to be provided.

1.3.5.2 If you wish to provide, or receive an inquiry to provide, Mobile Services outside of your Protected Territory, you must inquire with us as to whether such Mobile Services would take place in an Assigned Area. Upon receipt of written confirmation from us that the requested Mobile Services are not in an Assigned Area, and are in an Open Area, you may provide those Mobile Services. If we notify you that the Mobile Services would be in an Assigned Area, you must refer those services to the Store operating in that Assigned Area.

1.3.5.3 You may offer Mobile Services outside of the Protected Territory only if you do so in compliance with Sections 1.3.5.1 and 1.3.5.2 above.

1.3.5.4 You acknowledge that: **(a)** other Stores will generally operate under restrictions similar to those set out in Sections 1.3.5.1-1.3.5.3 (the “**Territorial Rules**”); and **(b)** although we will not knowingly permit violations of the Territorial Rules, we cannot represent nor can we guarantee that other Stores will always abide by the Territorial Rules, and we will have no liability to you if that takes place.

1.3.6 You understand that in addition to the “Pelican’s SnoBalls” brand, we may at some future time operate (or become affiliated with other parties that operate) businesses under other brand names, and also that we may acquire other brands (or be acquired by a company that operates other brands) (collectively, “**Other Brands**”). You agree that this Agreement grants you no rights with respect to any such Other Brands.

2 TERM AND RENEWAL

2.1 *Term.* The term of this Agreement shall start on the Effective Date and, unless this Agreement is earlier terminated in accordance with its provisions, shall expire fifteen (15) years from the earlier of: (a) the date when the Store first opens for business; or (b) two-hundred and seventy (270) days from the Effective Date.

2.2 *Renewal.* You will have the right to renew this Agreement for two (2) additional terms of fifteen (15) years each under the then-current form of franchise agreement that we are offering at the time of each such renewal; provided that you meet all of the following conditions before each renewal:

2.2.1 You agree to give us written notice of your choice to renew at least six (6) months before the end of the term of this Agreement (but not more than nine (9) months before the term expires).

2.2.2 You agree to remodel and refurbish the Licensed Location to comply with our then-current standards in effect for new Stores (as well as the provisions of Sections 5.4.4 and 8.5 below).

2.2.3 At the time of renewal, you must be in material compliance with all of the provisions of this Agreement (including any amendment to this Agreement), any successor to

this Agreement, and/or any other contract between you (and your affiliates) and us (and our affiliates); and in our reasonable judgment, you must have been in material compliance throughout the term of this Agreement (even if we did not issue a notice of default or exercise our right to terminate this Agreement if you did not meet your obligations).

- 2.2.4 You must have timely met all of your financial obligations to us, our affiliates, and/or the Regional Fund, as well as your vendors, throughout the term of this Agreement (even if we did not issue a notice of default or exercise our right to terminate this Agreement if you did not meet your obligations).
- 2.2.5 You must sign our then-current form of franchise agreement, which will supersede this Agreement in all respects (except with respect to the renewal provisions of the new franchise agreement, which shall not supersede this Section 2), and which you acknowledge and agree may contain terms, conditions, obligations, rights, and other provisions that are substantially and materially different from those spelled out in this Agreement (including, for example, a higher percentage royalty fee and marketing contribution). If you are an entity then your direct and indirect owners must sign and deliver to us a personal guarantee of your obligations under the renewal form of franchise agreement. (The term "**entity**" is agreed to mean a corporation, a limited liability company, a partnership, and/or a limited liability partnership.)
- 2.2.6 Instead of a new initial franchise fee, you agree to pay to us a reduced renewal fee in an amount equal to Two Thousand Five Hundred Dollars (\$2,500).
- 2.2.7 You agree to sign and deliver to us a general mutual release, in a form that we will provide (which will include our release, with certain limited exclusions), that will include your release of all claims against us and our affiliates, and our respective officers, directors, members, managers, agents, and employees. If you are an entity, then your affiliates and your direct and indirect owners (and any other parties that we reasonably request) must also sign and deliver that release to us.
- 2.2.8 You and your personnel must meet our then-current qualification and training requirements.
- 2.2.9 You agree to present to us satisfactory evidence that you have the right to remain in possession of the Approved Site for the duration of the renewal term of this Agreement.
- 2.2.10 You must be current with respect to your financial and other obligations to your lessor, suppliers, and all other parties with whom you do business.

3 OUR DUTIES

- 3.1 *Training.* We will provide you with the training specified in Section 6 below.
- 3.2 *Standard Layout.* We may make available, at no charge to you, a standard layout for the construction of a Store and for the exterior and interior design and layout, fixtures, furnishings, placement of equipment, workflow, and signs.
- 3.3 *Opening and Additional Assistance.* If you do not already operate a Store under the System, we will provide a representative to be present at the opening of the Licensed Location. We

will provide such additional on-site pre-opening and opening supervision and assistance that we think is advisable, and as may be described in the Manual (defined below).

- 3.4 *Manual.* We will provide to you, on loan, one (1) copy of the confidential brand manuals and other written instructions relating to the use of our brand and System in the operation of your Store (the "**Manual**"), in the manner and as described in Section 10 below.
- 3.5 *Marketing Materials.* We have the right to approve or disapprove all marketing and promotional materials that you propose to use, pursuant to Section 13 below.
- 3.6 *Marketing Funds.* We will govern the Regional Fund (as defined in Section 13 below) in the manner set forth in Section 13 below.
- 3.7 *Inspection Before Opening.* We will evaluate the Licensed Location before it first opens for business. You agree to not open the Licensed Location or otherwise start operations until you have received our prior written approval.
- 3.8 *Periodic Assistance.* We may provide you periodic assistance in the marketing, management, and operation of the Licensed Location at the times and in the manner that we determine. We may periodically offer you the services of certain of our representatives, such as an accounting manager, and these representatives will periodically visit your Licensed Location and offer advice regarding your operations.
- 3.9 *Services Performed.* You acknowledge and agree that any of our designees, employees, agents, or independent contractors (such as an "area developer") may perform any duty or obligation imposed on us by the Agreement, as we may direct (if so, we will, nonetheless, remain responsible to you for the performance of these obligations).
- 3.10 *Our Decision-Making.* In fulfilling our obligations under this Agreement, and in conducting any activities or exercising our rights pursuant to this Agreement, we (and our affiliates) will always have the right: **(a)** to take into account, as we see fit, the effect on, and the interests of, other Licensed Locations and systems in which we have an interest and on our activities (and those of our affiliates'); **(b)** to share market and product research, and other proprietary and non-proprietary business information, with other Stores and systems in which we (or our affiliates) have an interest, and/or with our affiliates; **(c)** to introduce Proprietary Items and non-proprietary items or operational equipment used by the System into other franchised systems in which we have an interest; and/or **(d)** to allocate resources and new developments between and among systems, and/or our affiliates, as we see fit. You understand and agree that all of our obligations under this Agreement are subject to this Section 3.10, and that nothing in this Section 3.10 in any way affects your obligations under this Agreement.
- 3.11 *Confirmation.* After we have performed our pre-opening obligations to you under this Agreement, we may ask that you execute and deliver to us a written confirmation (the "**Confirmation**"), in a form we reasonably request, verifying that we have performed those obligations. If we ask you to provide us with such a certificate, you agree to execute and deliver the Confirmation to us within three (3) business days after our request. However, if you do not reasonably believe that we have performed all of our pre-opening obligations, you must, within that same three (3) day period, provide us with written notice specifically describing the obligations that we have not performed. Not later than three (3) business days after we complete all the obligations that you specified in that notice, you agree to execute and deliver the Confirmation to us. You agree to do so even if we performed such obligations after the time performance was due under this Agreement. The term "pre-opening

obligations” means the obligations we have to you under this Agreement that must be performed before the date your Licensed Location starts its operations.

4 FEES AND REPORTS

4.1 *Initial Franchise Fee.* You agree to pay us an initial franchise fee of Twenty Thousand Dollars (\$20,000) (the “**Initial Franchise Fee**”). The Initial Franchise Fee is due and payable to us on the day that you sign this Agreement. The Initial Franchise Fee is payable in consideration of administrative, legal and other expenses that we incur in granting this franchise and for our lost or deferred opportunity to grant a franchise to other parties and is non-refundable.

4.2 *Royalty Fees and Sales Reports.*

4.2.1 For each Month during the term of this Agreement, you agree to pay us a continuing royalty fee in an amount equal to eight percent (8%) of the Gross Sales of the Licensed Location (“**Royalty Fees**”). We have the right to require you to pay Royalty Fees as frequently as on a weekly basis. As used in this Agreement:

4.2.2 You also agree to make the advertising and marketing payments and expenditures that are specified in Section 13 below.

4.2.3 The term “**Gross Sales**” means all revenue from the sale of all services, products, and other items, and all other income of every kind and nature related to, derived from, or originating from the Licensed Location (whether such sales are for cash, check, or credit, and regardless of collection in the case of check or credit). Gross Sales also includes the proceeds of any business interruption insurance policies. Gross Sales excludes, however, customer refunds and ordinary discounts, as well as sales taxes and/or other taxes that you directly collect from customers and actually transmit to the appropriate taxing authorities.

4.2.4 The term “**Month**” means a calendar month of such other four (4) or five (5) week period(s) we may periodically specify.

4.3 *Due Date.* All payments required by Section 4.2 above shall be based on your Monthly Gross Sales and submitted so that they are received by us, in our offices, by the fifteenth (15th) day of each Month (based on your Gross Sales in the previous Month). In addition, you agree to all of the following:

4.3.1 You agree to deliver to us all of the reports, statements, and/or other information that is required under Section 12.3 below, at the time and in the format that we reasonably request.

4.3.2 You agree to establish an arrangement for electronic funds transfer to us, or electronic deposit to us of any payments required under Sections 4 or 13 of this Agreement. Among other things, to implement this point, you agree to sign and return to us our current form of “ACH - Authorization Agreement for Prearranged Payments (Direct Debits),” a copy of which is attached to this Agreement as Exhibit D (and any replacements for that form that we determine are needed to implement this Section 4.3.2), and you agree to comply with the payment and reporting procedures that we may specify in the Manual or otherwise in writing.

- 4.3.3 You acknowledge and agree that your obligation to make full and timely payment of Royalty Fees (and all other sums due to us) is absolute, unconditional, fully-earned (by us), and due when you have generated and received Gross Sales. Accordingly: (a) you agree to maintain a proper and sufficient balance in the account from which your ACH deductions are made to pay all of the fees that are due under this Agreement; and (b) if you do not do so, then you agree to reimburse us for the bank fees (if any) that we incur as well as a reasonable additional administrative fee that we will have the right to impose.
- 4.3.4 You agree that you will not, for any reason, delay or withhold the payment of any amount due to us under this Agreement; put into escrow any payment due to us; set-off payments due to us against any claims or alleged claims that you may allege against us, the Regional Fund or others.
- 4.3.5 You agree that if you do not provide us, as requested, with access to your Computer System to obtain sales information or, if we require under Section 12.1.4 below or otherwise, printed and signed sales reports, then we will have the right to impute your sales for any period using (among other things) your sales figures from any Month(s) that we choose (which may be those with your highest grossing sales), and that you agree to pay the royalties on that amount (whether by check or by our deduction of that amount from your direct debit account).
- 4.3.6 You agree that you will not, whether on grounds of alleged non-performance by us or others, withhold payment of any fee, including, Royalty Fees, nor withhold or delay submission of any reports due under this Agreement.
- 4.4 *No Subordination.* You agree not to subordinate to any other obligation your obligation to pay us the royalty fee and/or any other amount payable to us, whether under this Agreement or otherwise, and that any such subordination commitment that you may give without our prior written consent shall be null and void.
- 4.5 *Late Payment.* If we do not receive any payment due under this Agreement (and if the appropriate Regional Fund does not receive payment due) on or before the due date, then that amount shall be deemed overdue. If any payment is overdue, then you agree to pay us, in addition to the overdue amount, interest on the overdue amount from the date it was due until paid, at the rate of one and one-half percent (1.5%) per month (but the interest rate will not exceed the maximum rate (if one applies) under law). Our right to collect interest will be in addition to any other remedies we may have. Any report that we do not receive on or before the due date shall also be deemed overdue.
- 4.6 *Technology Fee.* Each Month, you must pay us a technology fee in an amount up to One Hundred and Fifty Dollars (\$150) (the "**Technology Fee**") for the costs and expenses we incur in connection with System-wide technology initiatives. The Technology Fee will be due and payable to us at the same time and in the same manner as Royalty Fees.
- 4.7 *Other Funds Due.* You agree to pay us, within ten (10) days of our written request (which must be accompanied by reasonable substantiating material), any funds that we have paid, or that we have become obligated to pay, on your behalf, by our consent or otherwise.
- 4.8 *Index.* We have the right to adjust, for inflation, all fixed-dollar amounts under this Agreement (except for the Initial Franchise Fee) once a year to reflect changes in the Index from the year when you signed this Agreement. The term "**Index**" means the Consumer Price Index (1982-84=100; all items; CPI-U; all urban consumers) that is published by the U.S. Bureau of

Labor Statistics (“**BLS**”). If the BLS no longer publishes the Index, then we will have the right to designate a reasonable alternative measure of inflation.

5 LICENSED LOCATION: CONSTRUCTION AND RENOVATION

5.1 *Opening the Licensed Location.* You are responsible for purchasing, leasing, or subleasing a suitable site for the Licensed Location. You agree to establish the Licensed Location and have it open and in operation within one (1) year after the Effective Date of this Agreement. **Time is of the essence.**

5.1.1 You acknowledge and agree that any site selection assistance or approval that we provide shall neither be construed nor interpreted as a guarantee of success for the Approved Location (or any other site), nor shall any location recommendation or approval we make be deemed a representation that any particular location is available or suitable for use as a Licensed Location.

5.1.2 In addition, you agree, at your sole expense, to do or cause to be done the following within one hundred twenty (120) days after the execution of the lease, sublease or purchase contract for the Store:

5.1.2.1 secure all financing required to fully develop the Store;

5.1.2.2 construct all required improvements to the Approved Location and decorate the Store in compliance with the plans and specifications we have approved;

5.1.2.3 purchase or lease and install all required fixtures, equipment, furnishings and signs required for the Store; and

5.1.2.4 purchase an opening inventory of authorized and approved products and other materials and supplies.

5.2 *Review of Lease, Sublease, or Purchase Agreement.* You must provide us with a copy of the proposed lease, sublease, or purchase agreement for the Approved Site, and you must obtain our prior written approval before you enter into that lease, sublease, and/or purchase agreement. We will have the right to require, as a condition to our approval of the lease, sublease, or purchase agreement, the inclusion in the lease, sublease, or purchase agreement of terms acceptable to us, which are consistent with our rights and your responsibilities under this Agreement (in the form of the lease rider attached as Exhibit F to this Agreement). You also agree to provide us with a complete copy of signed purchase agreement, lease, sublease, and/or lease rider within five (5) business days after those documents are signed by all of the parties.

5.3 *Review.* Any review that we conduct under this Section 5 are for our benefit only. In addition:

5.3.1 You acknowledge and agree that our review and approval of a site, lease, sublease, design plans or renovation plans for the Store do not constitute a recommendation, endorsement, or guarantee of the suitability of that location or the terms of the lease, or sublease, or purchase agreement. You agree that you will take all steps necessary to determine for yourself whether a particular location and the terms of any lease, sublease, or purchase agreement for the site are beneficial and acceptable to you.

5.3.2 You also acknowledge and agree that no matter to what extent (if any) that we participate in lease negotiations, discussions with the landlord, and/or otherwise in

connection with reviewing the lease, you have to make the final decision as to whether or not the lease is sensible for your business, and the final decision as to whether or not to sign the lease is yours, and you agree not hold us responsible with respect to the terms and conditions of your lease.

- 5.3.3 Additionally, with respect to any review of your design plans and construction or renovation plans, or other federal, state, or local health regulations, we will not review whether you are in compliance with federal, state, or local laws and regulations, including the ADA (defined below), and you acknowledge and agree that: **(a)** you are solely responsible for compliance with all such laws and regulations; and **(b)** our approval is not, and will not be deemed to be, an assessment as to whether or not you have complied with those laws and regulations.
- 5.4 *Preparing the Site.* You agree that, promptly after obtaining possession of the approved site for the Licensed Location, you will do all of the following:
- 5.4.1 cause to be prepared and submit for our approval a description of any modifications to our specifications for a Licensed Location (including requirements for dimensions, exterior design, materials, interior design and layout, equipment, fixtures, furniture, signs and decorating materials) required for the development of a Licensed Location at the site leased or purchased for that purpose, provided that you may modify our specifications only to the extent required to comply with all applicable ordinances, building codes and permit requirements (with prior notification to and written approval from us);
- 5.4.2 obtain all required zoning permits, liquor licenses, all required building, utility, health, sign permits and licenses, and any other required permits and licenses;
- 5.4.3 purchase or lease equipment, fixtures, furniture and signs as required under this Agreement (including the specifications we have provided in writing, whether in the Manual or otherwise);
- 5.4.4 complete the construction and/or remodeling, equipment, fixture, furniture and sign installation and decorating of the Licensed Location in full and strict compliance with plans and specifications for the Licensed Location that we have approved in writing, as well as all applicable ordinances, building codes and permit requirements;
- 5.4.5 obtain all customary contractors' sworn statements and partial and final waivers of lien for construction, remodeling, decorating and installation services; and
- 5.4.6 otherwise complete development of and have the Licensed Location ready to open and commence the conduct of its business in accordance with Section 5.1 above.
- 5.5 *Use of the Premises.* You may use the Approved Site only for the purpose of operating the Licensed Location and for no other purpose. You agree not to co-brand or permit any other business to operate at the Approved Site without our prior written approval.
- 5.6 *Relocation.* You agree not to relocate the Licensed Location without our prior written consent. We will have the right to grant or to withhold our approval of any proposed location or relocation and, if our approval is granted, you understand that our approval will not be deemed to be our guarantee, representation, or assurance that your Licensed Location shall be profitable or successful at that location or elsewhere. Any proposed relocation will be subject to our review of the new site under our then-current standards for site selection,

except that we will also have the right to take into consideration any commitments we have given to other franchisees, licensees, landlords, and other parties relating to the proximity of a new Store to their establishment. In addition, and instead of a new franchise fee, you agree to reimburse us Three Thousand Five Hundred Dollars (\$3,500) (or such greater amount as is necessary to reimburse us for our out-of-pocket costs incurred in connection with reviewing, approving, and documenting your proposed relocation, any related lease matters, and any necessary amendments to this Agreement, including our attorneys' fees).

5.7 *Construction or Renovation.* In connection with any construction or renovation of the Licensed Location (and before you start any such construction or renovation) you agree to comply, at your expense, with all of the following requirements, which you agree to satisfy to our reasonable satisfaction:

5.7.1 You agree to employ a qualified, licensed architect or engineer who is reasonably acceptable to us to prepare, for our approval, preliminary plans and specifications for site improvement and construction of the Licensed Location based upon prototype design and image specifications we will furnish in the Manual (depending on whether your Licensed Location will be operated in a stand-alone facility, an end-cap, or as a retro-fit of an existing building). Our approval shall be limited to conformance with our standard image specifications and layout, and shall not relate to your obligations to comply with any applicable Operating Codes.

5.7.2 You shall have the sole responsibility to comply with any Operating Codes. The term "**Operating Codes**" means applicable federal, state, and local laws, codes, ordinances, and/or regulations (including the Americans with Disabilities Act, "**ADA**") that apply to the construction, design, and operation of the Licensed Location.

5.7.3 If you receive any complaint, claim, or other notice alleging a failure to comply with any Operating Code, you agree to provide us with a copy of that notice within five (5) days after you have received the notice.

5.7.4 In connection with any standard layout and equipment plans that we provide to you, you acknowledge that such specifications do not meet and are not meant to address the requirements of any federal, state or local law, code or regulation (including without limitation those concerning the ADA and/or similar rules governing public accommodations or commercial facilities for persons with disabilities), nor shall such plans contain the requirements of, or be used for, construction drawings or other documentation necessary to obtain permits or authorization to build a specific Licensed Location, compliance with all of which shall be your responsibility and at your expense. In addition:

5.7.4.1 You agree to adapt, at your expense, the standard specifications to the Licensed Location, subject to our approval, as provided in above in Section 5.7.1, which we will not unreasonably withhold, provided that such plans and specifications conform to our general criteria.

5.7.4.2 You understand and acknowledge that we have the right to modify the prototype architectural plans and specifications as we deem appropriate periodically (however, we will not modify the prototype architectural plans and specifications for the Licensed Location developed pursuant to this Agreement once those prototype architectural plans and specifications have been given to you).

- 5.7.5 You are solely responsible for obtaining all zoning classifications and clearances which may be required by state or local laws, ordinances, or regulations (or that may be necessary or advisable due to any restrictive covenants relating to your location). After having obtained such approvals and clearances, you agree to submit to us, for our prior written approval, final plans for construction based upon the preliminary plans and specifications.
- 5.7.5.1 Our review and approval of plans shall be limited to review of such plans to assess compliance with our design standards for Stores, including such items as trade dress, presentation of Proprietary Marks, and the provision to the potential customer of certain products and services that are central to the purpose, atmosphere, and functioning of "Pelican's SnoBalls" Stores.
- 5.7.5.2 We will not review your compliance with (nor shall our approval be deemed to confirm that you have met) any of the Operating Codes.
- 5.7.5.3 Once we have approved those final plans, you cannot later change or modify the plans without our prior written consent. Any such change made without our prior written permission shall constitute a material default under this Agreement and we may withhold our authorization to open the Licensed Location (or if the Licensed Location is already open and operational we may require you to close the Licensed Location) for business until the unauthorized change is rectified (or reversed) to our reasonable satisfaction.
- 5.7.6 You agree to obtain (and maintain) all permits and certifications required for the lawful construction and operation of the Licensed Location and certify in writing to us that all such permits and certifications have been obtained.
- 5.7.7 You agree to employ a qualified licensed general contractor who is reasonably acceptable to us to construct the Licensed Location and to complete all improvements.
- 5.7.8 You agree to obtain (and maintain) during the entire period of construction the insurance required under Section 15 below; and you agree to deliver to us such proof of such insurance as we may reasonably require.
- 5.7.9 You acknowledge and agree that any site selection assistance or approval that we provide is not to be construed or interpreted as our guarantee of success for said location, nor shall any location that we recommend, or approval that we give, be deemed as our representation that the location is available or suitable for your use as a Licensed Location.
- 5.8 *Pre-Opening.* Before opening for business, you agree to meet all of the pre-opening requirements specified in this Agreement, the Manual, and/or that we may otherwise specify in writing. Within ninety (90) days after the Licensed Location first opens for business, you agree to give us a full written breakdown of all costs associated with the development and construction of the Licensed Location, in the form that we may reasonably find acceptable or that we may otherwise require. Additionally, before opening the Licensed Location, and after any renovation, you agree to execute and deliver to us an ADA Certification in the form attached to this Agreement as Exhibit E, to certify that the Licensed Location and any proposed renovations comply with the ADA.

- 5.9 *Opening Promotion.* You agree to conduct, at your expense, the market introduction promotional and advertising activities that we may require.

6 TRAINING AND PERSONNEL

- 6.1 *Your Training and Personnel Obligations.* Before opening the Store, you (or, if you are an entity, your controlling Principal who is also designated to serve as your general manager who we have previously approved to serve in that role (the "**Operating Principal**")) must attend and successfully complete (to our satisfaction) the basic training program we offer. You will be permitted to send one (1) additional designated management employee (for example, your general manager) (together with the Operating Principal, the "**Specially Trained Management Employees**") to the initial training program. If you wish to send more than two (2) individuals to the initial training program, you will be required to pay us a fee for each additional individual you request to be trained. We expect to offer training at our offices or a Store that we designate, which may not be in the same area as where your Store will be operated. In addition:
- 6.1.1 You agree to maintain the proper number of Specially Trained Management Employees in Store's employ throughout the term of this Agreement.
- 6.1.2 If you or any Specially Trained Management Employee ceases active employment at the Store, you shall enroll a qualified replacement who is acceptable to us in our training program within thirty (30) days of cessation of the former Specially Trained Management Employee's employment. The replacement Specially Trained Management Employee shall attend and successfully complete the basic management training program as soon as it is practical to do so (but not later than fifteen (15) days after starting to work for you). Franchisee and its Specially Trained Management Employees may also be required to attend such refresher courses, seminars, and other training programs as Franchisor may reasonably require periodically.
- 6.2 *Training Expenses.* For all training courses, seminars, and programs: (a) we shall provide instructors and training materials without cost to you; and (b) you shall be responsible for any and all other expenses that you and your employees incur in connection with any such courses, seminars, and programs (including transportation, lodging, meals, wages, compensation/benefits, and worker's compensation insurance.).
- 6.3 *Operating Principal.* The Licensed Location must be under the active full-time management of either you or the Operating Principal (either of whom must have successfully completed, to our satisfaction, our initial training program). For the purpose of this Section 6.3, the Operating Principal must: (a) be a person who has an ownership interest in the Franchisee; and (b) have signed and delivered to us the Guarantee, Indemnification, and Acknowledgement attached to this Agreement as Exhibit B.
- 6.4 *Additional Training.* Your Specially Trained Management Employees may also be required to attend such refresher courses, seminars, and other training programs as we may reasonably specify periodically. You may ask us to provide on-site training in addition to that which we will provide to you in connection with the initial training program and/or the opening of the Licensed Location, and if we are able to do so, then you agree to pay us our then-current per diem training charges as well as our out-of-pocket expenses.

- 6.5 *Individual Covenants.* We will have the right to require that your trainees execute and deliver to us a personal covenant of confidentiality in substantially the form appended to this Agreement as Exhibit G (without the non-competition covenant).
- 6.6 *Personnel.* You and your staff must, at all times, cooperate with us and with our representatives, and maintain any professional certifications and licenses that we may reasonably require.

7 PRODUCT AND SUPPLY

- 7.1.1 *Supplies.* You agree to buy all Products, ingredients, supplies, materials, and other products used or offered for sale at the Licensed Location only from suppliers that we have approved in writing (and whom we have not subsequently disapproved). In determining whether we will approve any particular supplier, we will consider various factors, including but not limited to: **(a)** whether the supplier can demonstrate, to our continuing reasonable satisfaction, the ability to meet our then-current standards and specifications for such items; **(b)** whether the supplier has adequate quality controls and capacity to supply your needs promptly and reliably; **(c)** whether approval of the supplier would enable the System, in our sole opinion, to take advantage of marketplace efficiencies; and **(d)** whether the supplier will sign a confidentiality agreement and a license agreement in the form that we may require (which may include a royalty fee for the right to use our Proprietary Marks and any other proprietary rights, recipes, and/or formulae).
- 7.1.2 As used in this Agreement:
- 7.1.2.1 The term “**Products**” includes all equipment, ingredients, supplies, materials, and other items used or offered for sale at the Licensed Location.
- 7.1.2.2 The term “**supplier**” includes manufacturers, distributors, resellers, and other vendors.
- 7.1.3 You acknowledge and agree that we have the right to appoint only one supplier for any one or more items (including but not limited to distributors, soft drink suppliers, and similar items), which may be us or one of our affiliates.
- 7.1.4 Notwithstanding anything to the contrary in this Agreement, you agree to buy all of your requirements for any Proprietary Items only from us or from our designee(s), as provided in Section 7.2 below (possibly through one or more distributors that we designate in writing). We have the right, but not the obligation, to periodically introduce additional Proprietary Items.
- 7.1.5 We have the right (directly, through our affiliates, and/or our designees) to establish food commissaries and distribution facilities, and we have the right to designate these as approved or required manufacturers, suppliers or distributors.
- 7.1.6 If you want to buy any Products or any items (except for Proprietary Items) from an unapproved supplier, you agree to first submit a written request to us asking for our prior written approval. You agree not to buy from any such supplier unless and until we have given you our prior written consent to do so. We have the right to require that our representatives be permitted to inspect the supplier’s facilities, and that samples from the supplier be delivered, either to us or to an independent laboratory that we have designated for testing. You (or the supplier) may be required to pay a

charge, not to exceed the reasonable cost of the inspection, as well as the actual cost of the test. We have the right to also require that the supplier comply with such other requirements that we have the right to designate, including but not limited to payment of reasonable continuing inspection fees and administrative costs and/or other payment to us by the supplier on account of their dealings with you or other franchisees, for use of our trademarks, and for services that we may render to such suppliers. We also reserve the right, at our option, to periodically re-inspect the facilities and products of any such approved supplier and to revoke our approval if the supplier does not continue to meet any of our then-current criteria.

- 7.1.7 Nothing in this Agreement requires us to approve any particular supplier, nor to require that we make available to prospective suppliers our standards and specifications (including formulas), all which we have the right to deem confidential.
- 7.1.8 We have the right to establish strategic alliances and/or preferred vendor programs with one or more suppliers that are willing to supply some or all Stores with some or all of the products and/or services that we require for use and/or sale in developing and operating Stores. Accordingly, we have the right to limit the number of approved suppliers with whom you may deal, designate sources that you must use for some or all Products, Proprietary Items, and other products and services, and/or refuse any of your requests if we believe that this action is in the best interests of the System or the network of Stores. We have the ongoing right to approve or disapprove of the suppliers who may be permitted to sell Products to you.
- 7.1.9 You acknowledge and agree that we have the right to collect and retain all manufacturing allowances, marketing allowances, rebates, credits, monies, payments or benefits (collectively, "**Allowances**") offered by suppliers to you or to us (or our affiliates) based upon your purchases of Products, Proprietary Items, and other goods and services. These Allowances include those based on System-wide purchases of Products. You assign to us or our designee all of your right, title and interest in and to any and all such Allowances and authorize us (or our designee) to collect and retain any or all such Allowances without restriction.
- 7.2 *Proprietary Items.* You acknowledge and agree that there are certain items (including flavored ice products that we may specify for sale at the Licensed Location and that are manufactured in accordance with our proprietary standards and specifications, and which are therefore, Proprietary Items of ours and/or our affiliates. In order to maintain the high standards of quality, taste, and uniformity associated with any Proprietary Items sold under the System, you agree to buy Proprietary Items only from us or from our designee(s), and not to offer or sell any items that are similar to (but not the same as) Proprietary Items at or from the Licensed Location. In connection with the handling, storage, transport and delivery of any Proprietary Items that you buy from us, our affiliates or designee(s), you agree that any action (or inaction) by a third party (e.g., an independent carrier) in connection with the handling, storage, transport and delivery of the Proprietary Items shall not be attributable to us, nor constitute negligence on our part.
- 7.3 *Employee Attire and Personal Appearance.* Your employees must comply with such dress code and/or standards that we may require, which may include use of branded (or other "**uniform**") apparel, and otherwise identify themselves with the Proprietary Marks at all times in the manner we specify (whether in the Manual or otherwise in writing) while on a job for the Licensed Location. We may also require that you and your employees comply with personal appearance standards (including dress code, shoes, hair color, body art, piercing,

sanitation and personal hygiene, foundation garments, personal displays at work stations, etc.).

8 YOUR DUTIES

In addition to all of the other duties specified in this Agreement, for the sake of brand enhancement and protection, you agree to all of the following:

- 8.1 *Importance of Following Standards.* You acknowledge and agree that every detail of the Licensed Location is important to you, to us, and to other "Pelican's SnoBalls" franchisees and licensees in order to develop and maintain high operating standards, to increase the demand for the Products, Proprietary Items, and services sold by all franchisees, and to protect and enhance the reputation and goodwill of our brand.
- 8.2 *Opening.* In connection with the opening of the Licensed Location you agree to do all of the following:
- 8.2.1 You agree to conduct, at your expense, the promotional and marketing activities that we may require.
- 8.2.2 You agree to open the Licensed Location by the date specified in Section 5.1 above. You agree to give us written notice at least fourteen (14) days before the date on which you propose to first open the Licensed Location for business. We reserve the right to have our representative(s) present at the opening of the Licensed Location, and if we so require, you shall not open the Licensed Location without the on-site presence of the representative(s) we select; however, we agree not to unreasonably delay the opening of the Licensed Location.
- 8.2.3 You will not open the Licensed Location until we have determined that all construction has been substantially completed, and that such construction conforms to our standards (including, but not limited, to materials, quality of work, signage, decor, paint, and equipment), and we have given you our prior written approval to open, which we will not unreasonably withhold.
- 8.2.4 You agree not to open the Licensed Location until the Specially Trained Management Employees have successfully completed all training that we require, and not until you have hired and trained to our standards a sufficient number of employees to service the anticipated level of the Licensed Location's customers.
- 8.2.5 In addition, you agree not to open the Licensed Location until the Initial Franchise Fee and any other amounts due to us (and our affiliates) under this Agreement or any other agreements have been paid.
- 8.3 *Health Standards.* You agree to meet and maintain the highest health standards and ratings applicable to the operation of the Licensed Location. If any government agency inspects your Store, then you agree to send us, within five (5) days of your receipt, a copy of all inspection reports, warnings, citations, certificates, and/or ratings that are provided to you.
- 8.4 *Use of the Premises.*
- 8.4.1 You may use the Licensed Location premises only to operate the Store that is the subject of this Agreement; and you agree not to use or permit the Licensed Location premises to be used for any other purpose or activity at any time. As used in this

Agreement, the term "premises" include the grounds surrounding the Approved Site for the Licensed Location that are part of your leasehold.

- 8.4.2 You agree to keep the Licensed Location open and in normal operation for the hours and days that we may periodically specify in the Manual or as we may otherwise approve in writing.

8.5 *Licensed Location.*

- 8.5.1 Ongoing Maintenance. You agree that at all times, you will maintain the Licensed Location in a high degree of sanitation, repair, and condition. In addition, you agree to make the repairs and replacements to the Franchised Premises as may be required for that purpose (but no others without our prior written consent), including the periodic repainting or replacement of obsolete floor coverings, front-of-the-house and back-of-the-house equipment, toys, furnishings, signs, and decor that we may reasonably require. You also agree to obtain maintenance services from qualified vendors for all major items of equipment used in the Licensed Location and maintain those service agreements at all times.

- 8.5.2 Remodeling. In addition to the ongoing maintenance of the Licensed Location:

8.5.2.1 You agree to remodel the Licensed Location to conform to our then-current building design, exterior facade, trade dress, signage, furnishings, decor, color schemes, and presentation of the Proprietary Marks in a manner consistent with the then-current image for new Stores, including remodeling, redecoration, and modifications to existing improvements, all of which we may require in writing (collectively, "**Remodeling**"). In this regard, the parties agree that:

8.5.2.2 You will not have to conduct a Remodeling more than once every ten (10) years during the term of this Agreement (and not in an economically unreasonable amount); provided, however, that we may require Remodeling more often if Remodeling is required as a pre-condition to renewal (as described in Section 2.2.2 above); and

8.5.2.3 You will have six (6) months after you receive our written notice within which to complete Remodeling.

- 8.6 *Staffing.* You agree to maintain a competent, conscientious, trained staff in numbers sufficient to promptly service customers, and to take such steps as are necessary to ensure that your employees preserve good customer relations and comply with such dress code as we may prescribe.

- 8.7 *Operation.* To insure that the highest degree of quality and service is maintained, you agree to operate your Licensed Location in strict conformity with such methods, standards, and specifications that we may periodically require in the Manual or otherwise in writing. In this regard, you agree to do all of the following:

- 8.7.1 You agree to maintain in sufficient supply, and to use and/or sell at all times only the Products, ingredients, materials, supplies, and paper goods that meet our written standards and specifications, and you also agree not to deviate from our standards and specifications by using or offering any non-conforming items without our specific prior written consent.

- 8.7.2 You agree: **(a)** to sell or offer for sale only those Products and services that we have approved in writing for you to sell at your Licensed Location; **(b)** to sell or offer for sale all those Products, utilizing the ingredients and employing the preparation standards and techniques that we specify in writing; **(c)** not to deviate from our standards and specifications, including manner of preparation of Products; **(d)** to stop selling and offering for sale any Products or services that we at any time disapprove in writing (recognizing that we have the right to do so at any time); and **(e)** that if you propose to deviate (or if you do deviate) from our standards and specifications, whether or not we have approved the deviation, that deviation shall become our property.
- 8.7.3 You agree to permit us, or our agents, at any reasonable time, to remove samples of Products, without payment, in amounts reasonably necessary for testing by us or an independent laboratory to determine whether those samples meet our then-current standards and specifications. In addition to any other remedies we may have under this Agreement, we may require you to bear the cost of such testing if we had not previously approved the supplier of the item or if the sample fails to conform to our specifications.
- 8.7.4 You agree to buy and install, at your expense, all fixtures, furnishings, equipment, decor, and signs as we may specify.
- 8.7.5 You agree not to install or permit to be installed on or about the premises of the Licensed Location, without our prior written consent, any fixtures, furnishings, equipment, decor, signs, or other items that we have not previously in writing approved as meeting our standards and specifications.
- 8.7.6 You agree not to install or permit anyone else to install any vending machine, game or coin-operated (or electronic counterpart) device without our prior written consent to do so.
- 8.7.7 You agree to refrain from selling, offering to sell, or permitting any other party to sell or offer to sell beer, wine, or any form of liquor, without our advance written authorization, which authorization we shall have the right to grant or deny.
- 8.7.8 You agree not to offer Catering and/or Vehicle services except as permitted under Section 1.3 above.
- 8.7.9 You agree to fully and faithfully comply with all laws and regulations applicable to your Licensed Location.
- 8.7.10 You agree to immediately suspend operation of (and close) the Licensed Location if: **(a)** any Products sold at the Licensed Location appears to have been adulterated or otherwise deviate from our standards for Products; **(b)** any Products sold at the Licensed Location fail to comply with applicable laws or regulations; and/or **(c)** you fail to maintain the Products, Licensed Location premises, equipment, personnel, or operation of the Licensed Location in accordance with any applicable law or regulations. In the event of such closing, you agree to immediately notify us, in writing, and also destroy all contaminated or adulterated products, eliminate the source of those products, and remedy any unsanitary, unsafe, or other condition or other violation of the applicable law or regulation. You agree not to reopen the Licensed Location until after we have inspected the Licensed Location premises, and

we have determined that you have corrected the condition and that all Products sold at the Licensed Location comply with our standards.

- 8.8 *Use of the Marks.* You will require all marketing and promotional materials, signs, decorations, merchandise, paper and plastic (for example, disposable) goods, any and all replacement trade dress products, and other items that we may designate to bear our then-current Proprietary Marks and logos in the form, color, location, and manner that we have then-prescribed.
- 8.9 *If You Are an Entity:*
- 8.9.1 *Corporate Franchisee.* If you are a corporation, then you agree to: **(a)** confine your activities, and your governing documents shall at all times provide that your activities are confined, exclusively to operating the Licensed Location; **(b)** maintain stop transfer instructions on your records against the transfer of any equity securities and shall only issue securities upon the face of which a legend, in a form satisfactory to us, appears which references the transfer restrictions imposed by this Agreement; **(c)** not issue any voting securities or securities convertible into voting securities; and **(d)** maintain a current list of all owners of record and all beneficial owners of any class of voting stock of your company and furnish the list to us upon request.
- 8.9.2 *Partnership/LLP Franchisee.* If you are a partnership or a limited liability partnership (LLP), then you agree to: **(a)** confine your activities, and your governing documents shall at all times provide that your activities are confined, exclusively to operating the Licensed Location; **(b)** furnish us with a copy of your partnership agreement as well as such other documents as we may reasonably request, and any amendments thereto; **(c)** prepare and furnish to us, upon request, a current list of all of your general and limited partners; and **(d)** consistent with the transfer restrictions set out in this Agreement, maintain instructions against the transfer of any partnership interests without our prior written approval.
- 8.9.3 *LLC Franchisee.* If you are a limited liability company (LLC), then you agree to: **(a)** confine your activities, and your governing documents shall at all times provide that your activities are confined, exclusively to operating the Licensed Location; **(b)** furnish us with a copy of your articles of organization and operating agreement, as well as such other documents as we may reasonably request, and any amendments thereto; **(c)** prepare and furnish to us, upon request, a current list of all members and managers in your LLC; and **(d)** maintain stop transfer instructions on your records against the transfer of equity securities and shall only issue securities upon the face of which bear a legend, in a form satisfactory to us, which references the transfer restrictions imposed by this Agreement.
- 8.9.4 *Guarantees.* You agree to obtain, and deliver to us, a guarantee of your performance under this Agreement and covenant concerning confidentiality and competition, in the form attached as Exhibit B, from each current and future direct and indirect: **(a)** shareholder of a corporate Franchisee; **(b)** member of a limited liability company Franchisee; **(c)** partner of a partnership Franchisee; and/or **(d)** partner of a limited liability partnership Franchisee.
- 8.10 *Quality-Control and Guest Survey Programs.* We may periodically designate an independent evaluation service to conduct a "mystery shopper," "guest survey," and/or similar quality-control and evaluation programs with respect to "Pelican's SnoBalls" Stores. You agree to participate in such programs as we require, and promptly pay the then-current charges of the

evaluation service. If you receive an unsatisfactory or failing report in connection with any such program, then you agree to: **(a)** immediately implement any remedial actions we require; and **(b)** reimburse us for the expenses we incur as a result thereof (including but not limited to the cost of having the evaluation service re-evaluate the Licensed Location, our inspections of the Licensed Location, and other costs or incidental expenses).

- 8.11 *Prices.* You will have the right to set the prices that you will charge to your customers; but (subject to applicable law): **(a)** if we have set a maximum price for a particular Product or service, then you may charge any price for that item up to and including the maximum price we have set; and **(b)** if we have set a minimum price for a particular Product or service, then you may charge any price for that item that is equal to or above the minimum price we have set.
- 8.12 *Environmental Matters.* We are committed to working to attain optimal performance of Stores with respect to environmental, sustainability, and energy performance. We each recognize and agree that there are changing standards in this area in terms of applicable law, competitors' actions, consumer expectations, obtaining a market advantage, available and affordable solutions, and other relevant considerations. In view of those and other considerations, as well as the long-term nature of this Agreement, you agree that we have the right to periodically set reasonable standards with respect to environmental, sustainability, and energy for the System through the Manual, and you agree to abide by those standards.
- 8.13 *Innovations.* You agree to disclose to us all ideas, concepts, methods, techniques and products conceived or developed by you, your affiliates, owners and/or employees during the term of this Agreement relating to the development and/or operation of the Stores. All such products, services, concepts, methods, techniques, and new information will be deemed to be our sole and exclusive property and works made-for-hire for us. You grant to us (and agree to obtain from your affiliates, owners, employees, and/or contractors, and deliver to us), a perpetual, non-exclusive, and worldwide right to use any such ideas, concepts, methods, techniques and products in all businesses that we and/or our affiliates, franchisees and designees operate. We will have the right to use those ideas, concepts, methods, techniques, and/or products without making payment to you. You agree not to use or allow any other person or entity to use any such concept, method, technique or product without obtaining our prior written approval.

9 PROPRIETARY MARKS

- 9.1 *Our Representations.* We represent to you that we own (or have an appropriate license to) all right, title, and interest in and to the Proprietary Marks, and that we have taken (and will take) all reasonably necessary actions to preserve and protect the ownership and validity in, and of, the Proprietary Marks.
- 9.2 *Your Agreement.* With respect to your use of the Proprietary Marks, you agree that:
- 9.2.1 You will use only the Proprietary Marks that we have designated in writing, and you will use them only in the manner we have authorized and permitted in writing; and all items bearing the Proprietary Marks must bear the then-current logo.
- 9.2.2 You will use the Proprietary Marks only for the operation of the business franchised under this Agreement and only at the location authorized under this Agreement, or in franchisor-approved marketing for the business conducted at or from that location (subject to the other provisions of this Agreement).

- 9.2.3 Unless we otherwise direct you in writing to do so, you agree to operate and advertise the Licensed Location only under the name "Pelican's SnoBalls" without prefix or suffix.
- 9.2.4 During the term of this Agreement and any renewal of this Agreement, you will identify yourself (in a manner reasonably acceptable to us) as the owner of the Licensed Location in conjunction with any use of the Proprietary Marks, including, but not limited to, uses on invoices, order forms, receipts, and contracts, as well as the display of a notice in such content and form and at such conspicuous locations on the premises of the Licensed Location as we may designate in writing.
- 9.2.5 Your right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute an infringement of our rights.
- 9.2.6 You agree not to use the Proprietary Marks to incur any obligation or indebtedness on our behalf.
- 9.2.6.1 You agree that you will not use the Proprietary Marks:
- (a) as part of your corporate or other legal name;
 - (b) as part of your identification in any e-mail address, domain name, or other electronic medium, except as permitted under Section 14.12.3 below; and/or
 - (c) in connection with any employment or H.R. documents (including employment applications, paychecks, pay stubs, and employment agreements).
- 9.2.7 You agree to execute any documents that we (or our affiliates) deem necessary to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability.
- 9.2.8 With respect to litigation involving the Proprietary Marks, the parties agree that:
- 9.2.8.1 You agree to promptly notify us of any suspected infringement of the Proprietary Marks, any known challenge to the validity of the Proprietary Marks, or any known challenge to our ownership of (or your right to use) the Proprietary Marks licensed under this Agreement.
- 9.2.8.2 You acknowledge and agree that we will have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement of any such matter. We will also have the sole right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks.
- 9.2.8.3 Costs:
- (a) If you have used the Proprietary Marks in accordance with this Agreement as well as our instructions, then: (i) we will defend you, at our expense, against any third party claim, suit, or demand involving the Proprietary Marks arising out of your use thereof; (ii) we will

reimburse you for your out-of-pocket travel costs in doing such acts and things as we may direct (except that you will bear the salary and related employment costs of your own employees); and (iii) we will bear the costs of any judgment or settlement.

- (b) However, if you used the Proprietary Marks in a manner that does not comply with this Agreement and/or our instructions, then: (i) we will still defend you, but at your expense, against such third party claims, suits, or demands; (ii) you agree to reimburse us (upon our request, which may be periodic and/or upon the conclusion of the proceedings) for the cost of such litigation and/or upon our written request, pay our legal fees directly (your obligation under this Section includes but is not limited to reasonable attorneys' fees, court costs, discovery costs, and all other related expenses; and (iii) you agree to bear the cost of any judgment or settlement.

9.2.8.4 If we assume the defense or prosecution of any litigation or other similar proceeding relating to the Proprietary Marks, you agree to sign any and all documents, and do those acts and things that may, in our counsel's opinion, be needed to carry out the defense or prosecution of that matter (including becoming a nominal party to any legal action).

9.3 *Your Acknowledgements.* You expressly understand and acknowledge that:

- 9.3.1 We own all right, title, and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them.
- 9.3.2 The Proprietary Marks are valid and serve to identify the System and those who are authorized to operate under the System.
- 9.3.3 Neither you nor any of your owners, principals, or other persons acting on your behalf will directly or indirectly contest the validity or our ownership of the Proprietary Marks, nor will you, directly or indirectly, seek to register the Proprietary Marks with any government agency (unless we have given you our express prior written consent to do so).
- 9.3.4 Your use of the Proprietary Marks does not give you any ownership interest or other interest in or to the Proprietary Marks, except the license granted by this Agreement.
- 9.3.5 Any and all goodwill arising from your use of the Proprietary Marks shall inure solely and exclusively to our benefit, and upon expiration or termination of this Agreement and the license granted as part of this Agreement, there will be no monetary amount assigned as attributable to any goodwill associated with your use of our System or of our Proprietary Marks.
- 9.3.6 The right and license of the Proprietary Marks that we have granted to you under this Agreement is non-exclusive, and we therefore have the right, among other things:
- 9.3.6.1 To use the Proprietary Marks ourselves in connection with selling Products and services;
- 9.3.6.2 To grant other licenses for the Proprietary Marks, in addition to licenses we may have already granted to existing franchisees; and

9.3.6.3 To develop and establish other systems using the same or similar Proprietary Marks, or any other proprietary marks, and to grant licenses or franchises for those other marks without giving you any rights to those other marks.

9.4 *Change to Marks.* We reserve the right to substitute different Proprietary Marks for use in identifying the System and the businesses operating as part of the System if our currently owned Proprietary Marks no longer can be used, or if we determine, exercising our right to do so, that substitution of different Proprietary Marks will be beneficial to the System. In such circumstances, your right to use the substituted proprietary marks shall be governed by (and pursuant to) the terms of this Agreement.

10 CONFIDENTIAL BRAND MANUAL

10.1 *You Agree to Abide by the Manual.* In order to protect our reputation and goodwill and to maintain high standards of operation under our Proprietary Marks, you agree to conduct your business in accordance with the written instructions that we provide, including the Manual. We will lend to you (or permit you to have access to) one (1) copy of our Manual, only for the term of this Agreement, and only for your use in connection with operating the Licensed Location during the term of this Agreement.

10.2 *Format of the Manual.* We will have the right to provide the Manual in any format we determine is appropriate (including paper format and/or by making some or all of the Manual available to you in electronic form, such as through an internet website or an extranet). If at any time we choose to provide the Manual electronically, you agree to immediately return to us any and all physical copies of the Manual that we have previously provided to you.

10.3 *We Own the Manual.* The Manual shall at all times remain our sole property and you agree to promptly return the Manual when this Agreement expires or if it is terminated.

10.4 *Confidentiality and Use of the Manual.* The Manual contains our proprietary information and you agree to keep the Manual confidential both during the term of this Agreement and after this Agreement expires and/or is terminated. You agree that, at all times, you will insure that your copy of the Manual will be available at the Licensed Location premises in a current and up-to-date manner. You agree not to make any unauthorized use, disclosure or duplication of any portion of the Manual. Whenever the Manual is not in use by authorized personnel, you agree to maintain the Manual in a locked receptacle at the premises of the Licensed Location, and you agree to grant only authorized personnel (as defined in the Manual) access to the key or lock combination of that receptacle.

10.5 *You Agree to Treat Manual as Confidential.* You agree that at all times, you will treat the Manual, any other manuals that we create (or approve) for use in the operation of the Licensed Location, and the information contained in those materials, as confidential, and you also agree to use your best efforts to maintain such information as secret and confidential. You agree that you will never copy, duplicate, record, or otherwise reproduce those materials, in whole or in part, nor will you otherwise make those materials available to any unauthorized person.

10.6 *Which Copy of the Manual Controls.* You agree to keep your copy of the Manual only at the Licensed Location (and as provided in Section 10.4 above) and also to insure that the Manual are kept current and up to date. You also agree that if there is any dispute as to the contents of the Manual, the terms of the master copy of the Manual that we maintain in our home office will be controlling. Access to any electronic version of the Manual shall also be

subject to our reasonable requirements with respect to security and other matters, as described in Section 14 below.

- 10.7 *Revisions to the Manual.* We have the right to revise the contents of the Manual whenever we deem it appropriate to do so, and you agree to make corresponding revisions to your copy of the Manual and to comply with each new or changed standard.
- 10.8 *Modifications to the System.* You recognize and agree that we may periodically change or modify the System and you agree to accept and use for the purpose of this Agreement any such change in the System (which may include, among other things, new or modified trade names, service marks, trademarks or copyrighted materials, new products, new equipment or new techniques, as if they were part of this Agreement at the time when you and we signed this Agreement; provided the financial burden placed upon you is not substantial). You agree to make such expenditures and such changes or modifications as we may reasonably require pursuant to this Section and otherwise in this Agreement.

11 CONFIDENTIAL INFORMATION

11.1 Confidentiality.

- 11.1.1 You agree that you will not, during the term of this Agreement or at any time thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any Confidential Information that may be communicated to you or of which you may be apprised by virtue of your operation under the terms of this Agreement. You may divulge our Confidential Information only to those of your employees as must have access to it in order to operate the Licensed Location.
- 11.1.2 Any and all information, knowledge, know-how, and techniques that we designate as confidential shall be deemed Confidential Information for purposes of this Agreement, except information that you can demonstrate came to your attention before disclosure of that information by us; or which, at or after the time of our disclosure to you, had become or later becomes a part of the public domain, through publication or communication by another party that has the right to publish or communicate that information.
- 11.1.3 Any employee who may have access to any Confidential Information regarding the Licensed Location shall execute a covenant that s/he will maintain the confidentiality of information they receive in connection with their association with you. Such covenants shall be on a form that we provide, which form shall, among other things, designate us as a third party beneficiary of such covenants with the independent right to enforce them.
- 11.1.4 The term "**Confidential Information**" includes our business concepts and plans, recipes, ingredient details, food preparation methods, equipment, operating techniques, marketing methods, processes, formulae, manufacturing and vendor information, results of operations and quality control information, financial information, demographic and trade area information, prospective site locations, market penetration techniques, plans, or schedules, the Manuals, customer profiles, preferences, or statistics, menu breakdowns, itemized costs, franchisee composition, territories, and development plans, and all related trade secrets or other confidential or proprietary information treated as such by us, whether by course of conduct, by letter or report, or by the use of any appropriate proprietary stamp or legend

designating such information or item to be confidential or proprietary, by any communication to such effect made prior to or at the time any Confidential Information is disclosed to you.

- 11.2 *Consequences of Breach.* You acknowledge and agree that any failure to comply with the requirements of this Section 11 will cause us irreparable injury, and you agree to pay all costs (including, reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur in obtaining specific performance of, or an injunction against violation of, the requirements of this Section 11.

12 ACCOUNTING, FINANCIAL AND OTHER RECORDS, AND INSPECTIONS

12.1 *Accounting Records and Sales Reports.*

12.1.1 With respect to the operation and financial condition of the Licensed Location, we will have the right to designate, and you agree to adopt, the fiscal year and interim fiscal periods that we decide are appropriate for the System.

12.1.2 With respect to the Licensed Location, you agree to maintain for at least seven (7) years during (as well as after) the term of this Agreement (and also after any termination and/or transfer), full, complete, and accurate books, records, and accounts prepared in accordance with generally accepted accounting principles and in the form and manner we have prescribed periodically in the Manual or otherwise in writing, including: **(a)** daily cash reports; **(b)** cash receipts journal and general ledger; **(c)** cash disbursements and weekly payroll journal and schedule; **(d)** monthly bank statements, daily deposit slips and cancelled checks; **(e)** all tax returns; **(f)** supplier's invoices (paid and unpaid); **(g)** dated daily and weekly cash register journals and POS reports in accordance with our standards; **(h)** semi-annual fiscal period balance sheets and fiscal period profit and loss statements; **(i)** operational schedules and weekly inventory records; **(j)** records of promotion and coupon redemption; and **(k)** such other records that we may periodically and reasonably request.

12.1.3 We have the right to specify a common chart of accounts, and, if we do so, you agree to use that chart of accounts (and require your bookkeeper and accountant to do so) in preparing and submitting your financial statements to us.

12.1.4 You agree to submit Monthly sales reports to us at the same time as your royalty payments are due under Section 4 above, in the form and format that we may reasonably require for that purpose. You agree to submit the report to us by the method that we designate (which may be electronically). You agree that if you do not submit those reports to us in a timely manner, we will have the right to charge you for the costs that we incur in auditing your records.

12.2 *Financial Statements.*

12.2.1 You agree to provide us, at your expense, and in a format that we reasonably specify, a complete annual financial statement prepared on a review basis by an independent certified public accountant (as to whom we do not have a reasonable objection) within ninety (90) days after the end of each fiscal year of the Licensed Location during the term of this Agreement. Your financial statement must be prepared according to generally accepted accounting principles, include a fiscal year-end balance sheet, an income statement of the Licensed Location for that fiscal year reflecting all year-end adjustments, and a statement of changes in your cash flow

reflecting the results of operations of the Licensed Location during the most recently completed fiscal year.

- 12.2.2 In addition, no later than the twentieth (20th) day after each month (or, if we elect, other periodic time period) during the term of this Agreement after the opening of the Licensed Location, you will submit to us, in a format acceptable to us (or, at our election, in a form that we have specified): **(a)** a fiscal period and fiscal year-to-date profit and loss statement and a quarterly balance sheet (which may be unaudited) for the Licensed Location; **(b)** reports of those income and expense items of the Licensed Location that we periodically specify for use in any revenue, earnings, and/or cost summary we choose to furnish to prospective franchisees (provided that we will not identify to prospective franchisees the specific financial results of the Licensed Location); and **(c)** copies of all state sales tax returns for the Licensed Location. You agree to certify as correct and true all reports and information that you submit to us pursuant to this Section 12.2.
- 12.3 *Additional Information.* You also agree to submit to us (in addition to the sales reports required pursuant to Section 12.1.4 above), for review or auditing, such other forms, reports, records, information, and data as and when we may reasonably designate, in the form and format, and at the times and places as we may reasonably require, upon request and as specified periodically in the Manual or otherwise in writing, including: **(a)** information in electronic format; **(b)** restated in accordance with our financial reporting periods; **(c)** consistent with our then-current financial reporting periods and accounting practices and standards; and/or **(d)** as necessary so that we can comply with reporting obligations imposed upon us by tax authorities with jurisdiction over the Licensed Location and/or our company. The reporting requirements of this Section 12.3 shall be in addition to, and not in lieu of, the electronic reporting required under Section 14 below.
- 12.4 *PCI Compliance and Credit Cards.* With respect to your acceptance and processing of customer payments by credit and debit cards, you agree to do all of the following:
- 12.4.1 You agree to maintain, at all times, credit-card relationships with the credit- and debit-card issuers or sponsors, check or credit verification services, financial-center services, merchant service providers, and electronic-fund-transfer systems (together, "**Payment Vendors**") that we may periodically designate as mandatory. The term "Payment Vendors" includes, among other things, companies that provide services for electronic payment, such as near field communication vendors (for example, "Apple Pay" and "Google Wallet"). The obligations specified in this Section include your agreement to pay the applicable charges imposed by the Credit Card Vendors for participation in, and transactions conducted through, those methods.
- 12.4.2 You agree not to use any Payment Vendor for which we have not given you our prior written approval or as to which we have revoked our earlier approval.
- 12.4.3 We have the right to modify our requirements and designate additional approved or required methods of payment and vendors for processing such payments, and to revoke our approval of any service provider.
- 12.4.4 You agree to comply with all of our policies regarding acceptance of payment by credit and/or debit cards, including for example minimum purchase requirements for a customer's use of a credit card (we may set these requirements in the Manual).

- 12.4.5 You agree to comply with our requirements concerning data collection and protection, as specified in Section 14.3 below.
- 12.4.6 You agree to comply with the then-current Payment Card Industry Data Security Standards as those standards may be revised and modified by the PCI Security Standards Council, LLC (see www.pcisecuritystandards.org), or any successor organization or standards that we may reasonably specify. Among other things, you agree to implement the enhancements, security requirements, and other standards that the PCI Security Standards Council (or its successor) requires of a merchant that accepts payment by credit and/or debit cards.
- 12.5 *Gift Cards and Incentive Programs.* You agree to offer for sale, and to honor for purchases by customers, all gift cards and other incentive or convenience programs that we may periodically institute (including loyalty programs that we or a third party vendor operate, as well as mobile payment applications); and you agree to do all of those things in compliance with our standards and procedures for such programs. In order to participate, you agree that you will, among other things: purchase software, hardware, and other items needed to sell and process gift cards, and to contact the gift card supplier or processing services; and pay the applicable charges for participation in, and transactions conducted through, these gift cards and other incentive or convenience programs.
- 12.6 *Our Right to Inspect Your Books and Records.* We have the right at all reasonable times to examine, copy, and/or personally review or audit (at our expense) all of your books, records, and sales and income tax returns in person or through electronic access (at our option). We will also have the right, at any time, to have an independent audit made of your books and records. If an inspection should reveal that you have understated any payments in any report to us, then this shall constitute a default under this Agreement, and you agree to immediately pay us the amount understated upon demand, in addition to interest from the date such amount was due until paid, at the rate of one and one-half percent (1.5%) per month (but not more than the maximum rate permitted by law, if any). If we conduct an inspection because you did not timely provide sales reports to us, or if an inspection discloses that you understated your sales by two percent (2%) or more, then you agree (in addition to paying us the overdue amount and interest) to reimburse us for any and all costs and expenses we incur in connected with the inspection (including travel, lodging and wages expenses, and reasonable accounting and legal costs). These remedies shall be in addition to any other remedies we may have. We may exercise our rights under this Section 12 directly or by engaging outside professional advisors (for example, a CPA) to represent us.
- 12.7 *Inspections.* In addition to the provisions of Section 12.6 above, you also grant to us and our agents the right to the Licensed Location's premises at any reasonable time for the purpose of conducting inspections, to preserve the validity of the Proprietary Marks, and to verify your compliance with this Agreement and our policies and procedures. You agree to cooperate with our representatives in such inspections by rendering such assistance as they may reasonably request; and, upon notice from us or from our agents (and without limiting our other rights under this Agreement), you agree to take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection.

13 **MARKETING**

- 13.1 *Regional Fund.* We will have the right to designate any geographical area for purposes of establishing a regional cooperative market marketing fund ("**Regional Fund**"). If a Regional Fund for the geographic area in which the Licensed Location is located has been established at the time you start to operate under this Agreement, you will immediately become a

member of such Regional Fund. If a Regional Fund for the geographic area in which the Licensed Location is located is established during the term of this Agreement, you will become a member of that Regional Fund within thirty (30) days after the date on which the Regional Fund commences operation. (However, you will not be required to be a member of more than one Regional Fund.) The following provisions shall apply to each Regional Fund:

- 13.1.1 Each Regional Fund shall be organized (including bylaws and other organic documents) and governed in a form and manner, and shall commence operations on a date, which we must have approved in advance in writing. The activities carried on by each Regional Fund shall be decided by a majority vote of its members (unless we specify otherwise in writing). Any Stores that we operate in the region (for example, company-owned Stores) shall have the same voting rights as the Stores owned by franchisees. The owner of each Store shall be entitled to cast one (1) vote for each Store owned.
- 13.1.2 Each Regional Fund shall be organized for the sole purpose of administering regional marketing programs and developing, subject to our approval, standardized promotional materials for use by the members in local store marketing.
- 13.1.3 No advertising, marketing, or promotional plans or materials may be used by a Regional Fund or given to its members without our prior written approval as specified in Section 13.4 below.
- 13.1.4 You agree to make a required contribution to a Regional Fund in the amount of one percent (1%) of your Monthly Gross Sales, in the manner and at the time(s) specified by the Regional Fund.
- 13.1.5 Although once established, each Regional Fund is intended to be of perpetual duration, we maintain the right to terminate any Regional Fund. A Regional Fund shall not be terminated, however, until all monies in that Regional Fund have been expended for marketing and/or promotional purposes.
- 13.1.6 A majority of the Store owners in the Regional Fund who pay one percent (1%) or more of each Store's Gross Sales to the Regional Fund may vote to increase the amount of each Store owner's contribution to the Regional Fund by up to an additional one percent (1%) of each Store's Gross Sales (to a total of two percent (2%)). Voting will be on the basis of one (1) vote per Store, and any Stores we operate in the region, if any, will have the same voting rights as those owned by our franchisees. You agree to contribute to the Regional Fund in accordance with any such vote by the Regional Fund to increase each Store's contribution to two percent (2%) of the Gross Sales of your Store.
- 13.2 *Standards.* All of your local store marketing must: **(a)** be in the media, and of the type and format, that we may approve; **(b)** be conducted in a dignified manner; and **(c)** conform to the standards and requirements that we may specify. You agree not to use any advertising, marketing materials, and/or promotional plans unless and until you have received our prior written approval, as specified in Section 13.7 below.
- 13.3 *Materials Available for Purchase.* We will make available to you, periodically, for your purchase, designs and templates that you can use in order to prepare marketing plans and promotional materials, including newspaper mats, coupons, merchandising materials, sales aids, point-of-purchase materials, special promotions, direct mail materials, community

relations programs, and similar marketing and promotional materials for use in local store marketing.

- 13.4 *Our Review and Right to Approve All Proposed Marketing.* For all proposed advertising, marketing, and promotional plans, you (or the Regional Fund, where applicable) shall submit to us samples of such plans and materials (by means described in Section 24 below), for our review and prior written approval. If you (or the Regional Fund) have not received our written approval within fourteen (14) days after we have received those proposed samples or materials, then we will be deemed to have disapproved them. You acknowledge and agree that any and all copyright in and to advertising, marketing materials, and promotional plans developed by or on behalf of you will be our sole property, and you agree to sign such documents (and, if necessary, require your employees and independent contractors to sign such documents) that we deem reasonably necessary to give effect to this provision.
- 13.5 *Additional Marketing Expenditure Encouraged.* You understand and acknowledge that the required contributions and expenditures are minimum requirements only, and that you may (and we encourage you to) spend additional funds for local advertising and promotion, which will focus on disseminating marketing directly related to your Licensed Location.
- 13.6 *Market Introduction Program.* In addition to and not instead of any other marketing requirements (including contributions to a Regional Fund), you agree to spend at least the amount specified in Exhibit A on local marketing conducted in conjunction with the Store's initial grand opening (the "**Market Introduction Program**"), in accordance with a marketing plan that you will prepare and that will be subject to approval under Section 13.7 above. You must complete the Market Introduction Program within three months after the Licensed Location first opens for business. The Market Introduction Program will be considered local marketing and promotion, and subject to Section 13.10 below.
- 13.7 *Local Advertising and Promotion.* As used in this Agreement, the term "**local advertising and promotion**" shall consist only of the direct costs of purchasing and producing marketing materials (including, but not limited to, camera-ready advertising and point of sale materials), media (space or time), and those direct out-of-pocket expenses related to costs of marketing and sales promotion that you spend in your local market or area, advertising agency fees and expenses, postage, shipping, telephone, and photocopying; however, the parties expressly agree that local store marketing shall not include costs or expenses that you incur or that are spent on your behalf in connection with any of the following:
- 13.7.1 Salaries and expenses of your employees, including salaries or expenses for attendance at marketing meetings or activities, or incentives provided or offered to such employees, including discount coupons;
 - 13.7.2 Charitable, political, or other contributions or donations;
 - 13.7.3 The value of discounts provided to consumers; and/or
 - 13.7.4 The cost of food, beverage, and merchandise items.
- 13.8 *Rebates.* You acknowledge and agree that periodic rebates, giveaways and other promotions and programs will, if and when we adopt them, be an integral part of the System. Accordingly, you agree to honor and participate (at your expense) in reasonable rebates, giveaways, marketing programs, and other promotions that we establish and/or that other franchisees sponsor, so long as they do not violate regulations and laws of appropriate governmental authorities.

- 13.9 *Considerations as to Charitable Efforts.* You acknowledge and agree that certain associations between you and/or the Licensed Location and/or the Proprietary Marks and/or the System, on the one hand, and certain political, religious, cultural or other types of groups, organizations, causes, or activities, on the other, however well-intentioned and/or legal, may create an unwelcome, unfair, or unpopular association with, and/or an adverse effect on, our reputation and/or the good will associated with the Proprietary Marks. Accordingly, you agree that you will not, without our prior written consent, take any actions that are, or which may be perceived by the public to be, taken in the name of, in connection or association with you, the Proprietary Marks, the Licensed Location, us, and/or the System involving the donation of any money, products, services, goods, or other items to, any charitable, political or religious organization, group, or activity.

14 TECHNOLOGY

- 14.1 *Computer Systems and Required Software.* With respect to computer systems and required software:

14.1.1 We have the right to specify or require that certain brands, types, makes, and/or models of communications, computer systems, and hardware to be used by, between, or among Stores, and in accordance with our standards, including without limitation: **(a)** back office and point of sale systems, data, audio, video (including managed video security surveillance), telephone, voice messaging, retrieval, and transmission systems for use at Stores, between or among Stores, and between and among the Licensed Location, and you, and us; **(b)** POS Systems (defined in Section 14.7 below); **(c)** physical, electronic, and other security systems and measures; **(d)** printers and other peripheral devices (including digital menu board systems); **(e)** archival back-up systems; **(f)** internet access mode (e.g., form of telecommunications connection) and speed; **(g)** customer experience hardware and software (including wait time calculator); and **(h)** front-of-the-house WiFi and other internet service for customers (collectively, all of the above are referred to as the **“Computer System”**).

14.1.2 We will have the right, but not the obligation, to develop or have developed for us, or to designate: **(a)** computer software programs and accounting system software that you must use in connection with the Computer System (**“Required Software”**), which you agree to install; **(b)** updates, supplements, modifications, or enhancements to the Required Software, which you agree to install; **(c)** the media upon which you must record data; and **(d)** the database file structure of your Computer System. If we require you to use any or all of the above items, then you agree to do so.

14.1.3 You agree to install and use the Computer System and Required Software at your expense. You agree to pay us or third party vendors, as the case may be, initial and ongoing fees in order to install, maintain, and continue to use the Required Software, hardware, and other elements of the Computer System.

14.1.4 You agree to implement and periodically make upgrades and other changes at your expense to the Computer System and Required Software as we may reasonably request in writing (collectively, **“Computer Upgrades”**).

14.1.5 You agree to comply with all specifications that we issue with respect to the Computer System and the Required Software, and with respect to Computer Upgrades, at your expense. You agree to afford us unimpeded access to your

Computer System and Required Software, including all information and data maintained thereon, in the manner, form, and at the times that we request.

14.1.6 You also agree that we will have the right to approve or disapprove your use of any other technology solutions (including beacons and other tracking methodologies).

14.2 *Data.*

14.2.1 You agree that all data that you collect, create, provide, or otherwise develop on your Computer System (whether or not uploaded to our system from your system and/or downloaded from your system to our system) is and will be owned exclusively by us, and that we will have the right to access, download, and use that data in any manner that we deem appropriate without compensation to you.

14.2.2 You agree that all other data that you create or collect in connection with the System, and in connection with your operation of the Licensed Location (including customer and transaction data), is and will be owned exclusively by us during the term of, and after termination or expiration of, this Agreement.

14.2.3 In order to operate your Licensed Location under this Agreement, we license use of such data back to you, at no additional cost, solely for the term of this Agreement and for your use in connection with operating the Licensed Location. You acknowledge and agree that except for the right to use the data under this clause, you will not develop or have any ownership rights in or to the data.

14.2.4 You agree to transfer to us all data (in the digital machine-readable format that we specify, and/or printed copies, and/or originals) promptly upon our request when made, whether periodically during the term of this Agreement, upon termination and/or expiration of this Agreement, any transfer of an interest in you, and/or a transfer of the Licensed Location.

14.3 *Data Requirements and Usage.* We may periodically specify in the Manual or otherwise in writing the information that you agree to collect and maintain on the Computer System installed at the Licensed Location, and you agree to provide to us such reports as we may reasonably request from the data so collected and maintained. All data pertaining to or derived from the Licensed Location (including, data pertaining to or otherwise about Licensed Location customers) is and shall be our exclusive property, and we grant a royalty-free non-exclusive license to you to use such data during the term of this Agreement.

14.3.1 You agree to abide by all applicable laws pertaining to the privacy of consumer, employee, and transactional information ("**Privacy Laws**").

14.3.2 You agree to comply with our standards and policies pertaining to the privacy of consumer, employee, and transactional information. If there is a conflict between our standards and policies and Privacy Laws, you agree to: **(a)** comply with the requirements of Privacy Laws; **(b)** immediately give us written notice of such conflict; and **(c)** promptly and fully cooperate with us and our counsel in determining the most effective way, if any, to meet our standards and policies pertaining to privacy within the bounds of Privacy Laws.

14.3.3 You agree to not publish, disseminate, implement, revise, or rescind a data privacy policy without our prior written consent as to such policy.

- 14.3.4 You agree to implement at all times appropriate physical and electronic security as is necessary to secure your Computer System, including complex passwords that you change periodically, and to comply any standards and policies that we may issue (without obligation to do so) in this regard.
- 14.4 *Extranet.* You agree to comply with our requirements (as set forth in the Manual or otherwise in writing) with respect to establishing and maintaining telecommunications connections between your Computer System and our Extranet and/or such other computer systems as we may reasonably require. The term "**Extranet**" means a private network based upon Internet protocols that will allow users inside and outside of our headquarters to access certain parts of our computer network via the Internet. We may establish an Extranet (but are not required to do so or to maintain an Extranet). If we establish an Extranet, then you agree to comply with our requirements (as set forth in the Manual or otherwise in writing) with respect to connecting to the Extranet, and utilizing the Extranet in connection with the operation of your Licensed Location. The Extranet may include, without limitation, the Manual, training and other assistance materials, and management reporting solutions (both upstream and downstream, as we may direct). You agree to purchase and maintain such computer software and hardware (including telecommunications capacity) as may be required to connect to and utilize the Extranet. You agree to execute and deliver to us such documents as we may deem reasonably necessary to permit you to access the Extranet.
- 14.5 *Online Ordering System.* If we implement an electronic ordering system, then you agree to participate in that system on the terms and conditions that we may specify in writing, and to pay the reasonable fees for that system that we and/or our vendor specify.
- 14.6 *No Separate Online Sites.* Unless we have otherwise approved in writing, you agree to neither establish nor permit any other party to establish an Online Site relating in any manner whatsoever to the Licensed Location or referring to the Proprietary Marks. We will have the right, but not the obligation, to provide one or more references or webpage(s), as we may periodically designate, within our Online Site. The term "**Online Site**" means one or more related documents, designs, pages, or other communications that can be accessed through electronic means, including, but not limited to, the Internet, World Wide Web, webpages, microsites, social networking sites (e.g., Facebook, Twitter, LinkedIn, You Tube, Snapchat Pinterest, Instagram, etc.), blogs, vlogs, applications to be used on mobile devices (e.g., iOS or Droid apps), and other applications, etc. (whether they are now in existence or developed at some point in the future). However, if we give you our prior written consent to have some form of a separate Online Site (which we are not obligated to approve), then each of the following provisions shall apply:
- 14.6.1 You agree that you will not establish or use any Online Site without our prior written approval.
- 14.6.2 Any Online site owned or maintained by or for your benefit will be deemed "marketing" under this Agreement, and will be subject to (among other things) our approval under Section 13.7 above.
- 14.6.3 Before establishing any Online Site, you agree to submit to us, for our prior written approval, a sample of the proposed Online Site domain name, format, visible content (including, proposed screen shots, links, and other content), and non-visible content (including, meta tags, cookies, and other electronic tags) in the form and manner we may reasonably require.

- 14.6.4 You may not use or modify such Online Site without our prior written approval as to such proposed use or modification.
- 14.6.5 In addition to any other applicable requirements, you agree to comply with the standards and specifications for Online Sites that we may periodically prescribe in the Manual or otherwise in writing (including, but not limited to, requirements pertaining to designating us as the sole administrator or co-administrator of the Online Site).
- 14.6.6 If we require, you agree to establish such hyperlinks to our Online Site and others as we may request in writing.
- 14.6.7 If we require you to do so, you agree to make weekly or other periodic updates to our Online Site to reflect information regarding specials and other promotions at your Licensed Location.
- 14.6.8 We may require you to make us the sole administrator (or co-administrator) of any social networking pages that you maintain or that are maintained on your behalf, and we will have the right (but not the obligation) to exercise all of the rights and privileges that an administrator may exercise.
- 14.7 *POS Systems.* You agree to record all sales on computer-based point of sale systems we approve or on such other types of cash registers as we may designate in the Manual or otherwise in writing ("**POS Systems**"), which shall be deemed part of your Computer System. You agree to utilize POS Systems that are fully compatible with any program, software program, and/or system which we, in our discretion, may employ (including mobile or remote device, application and payment systems), and you agree to record all Gross Revenues and all sales information on such equipment. We may designate one or more third party suppliers or servicers to provide installation, maintenance, and/or support for the POS System, and you agree to enter into and maintain such agreements (including making such payments) as we or the third party suppliers and/or servicers require in connection with the installation, maintenance, and/or support for the POS System. The POS System is part of the Computer System. You agree to at all times maintain a continuous high-speed cabled or secure wireless connection to the Internet to send and receive POS data to us.
- 14.8 *Electronic Identifiers; E-Mail.*
- 14.8.1 You agree not to use the Proprietary Marks or any abbreviation or other name associated with us and/or the System as part of any e-mail address, domain name, social network or social media name or address, and/or any other identification of you and/or your business in any electronic medium.
- 14.8.2 You agree not to transmit or cause any other party to transmit advertisements or solicitations by e-mail, text message, and/or other electronic media without obtaining our prior written consent as to: **(a)** the content of such electronic advertisements or solicitations; and **(b)** your plan for transmitting such advertisements. In addition to any other provision of this Agreement, you will be solely responsible for compliance with any laws pertaining to sending electronic communication including, the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (known as the "CAN-SPAM Act of 2003") and the Federal Telephone Consumer Protection Act. (As used in this Agreement, the term "**electronic communication**" includes all methods for sending communication electronically, whether or not

currently invented or used, including without limitation e-mails, text messages, internet-based communication, and faxes.)

- 14.9 *Outsourcing.* You agree not to hire third party or outside vendors to perform any services or obligations in connection with the Computer System, Required Software, and/or any other of your obligations, without our prior written approval. Our consideration of any proposed outsourcing vendors may be conditioned upon, among other things, such third party or outside vendor's entry into a confidentiality agreement with us and you in a form that we may reasonably provide and the third party or outside vendor's agreement to pay for all initial and ongoing costs related to interfaces with our computer systems. The provisions of this section are in addition to and not instead of any other provision of this Agreement. You agree not to install (and/or remove) any software or firmware from the Computer System without our prior written consent.
- 14.10 *Telephone Service.* You agree to use the telephone service for the Store that we may require, which may be one or more centralized vendors that we designate for that purpose. You agree that we may designate, and own, the telephone numbers for your Licensed Location.
- 14.11 *Changes.* You acknowledge and agree that changes to technology are dynamic and not predictable within the term of this Agreement. In order to provide for inevitable but unpredictable changes to technological needs and opportunities, you agree that we will have the right to establish, in writing, reasonable new standards for the implementation of technology in the System; and you agree to abide by those reasonable new standards we establish as this Section 14 were periodically revised by us for that purpose.
- 14.12 *Electronic Communication – Including E-Mail, Fax, and Texts.* You acknowledge and agree that exchanging information with us by electronic communication methods is an important way to enable quick, effective, and efficient communication, and that we are entitled to rely upon your use of electronic communications as part of the economic bargain underlying this Agreement. To facilitate the use of electronic communication to exchange information, you authorize the transmission of those electronic communications by us and our employees, vendors, and affiliates (on matters pertaining to the business contemplated hereunder) (together, "**Official Senders**") to you during the term of this Agreement.
- 14.12.1 In order to implement the terms of this Section 14.12, you agree that: **(a)** Official Senders are authorized to send electronic communications to those of your employees as you may occasionally designate for the purpose of communicating with us and others; **(b)** you will cause your officers, directors, members, managers, and employees (as a condition of their employment or position with you) to give their consent (in an electronic communication or in a pen-and-paper writing, as we may reasonably require) to Official Senders' transmission of electronic communication to those persons, and that such persons shall not opt-out, or otherwise ask to no longer receive electronic communication, from Official Senders during the time that such person works for or is affiliated with you; and **(c)** you will not opt-out, or otherwise ask to no longer receive electronic communications, from Official Senders during the term of this Agreement.
- 14.12.2 The consent given in this Section 14.12 shall not apply to the provision of notices by either party under this Agreement using e-mail unless the parties otherwise agree in a pen-and-paper writing signed by both parties.

14.12.3 We may permit or require you to use a specific e-mail address (or address using another communicator medium) (e.g., one that will contain a Top Level Domain Name that we designate, such as jane.smith@pelicanssnoballs.com or "john.jones@pelicanssnoballsfranchisee.com) (the "**Business E-mail Address**") in connection with the operation of the Licensed Location, under the standards that we set for use of that Business E-mail Address. You will be required to sign the form E-Mail authorization letter that we may specify for this purpose. If we assign you a Business E-mail Address, then you agree that you (and your employees) will use only that e-mail account for all business associated with your Licensed Location.

15 INSURANCE

15.1 *Required Insurance Coverage.* Before starting any activities or operations under this Agreement, you agree to procure and maintain in full force and effect during the term of this Agreement (and for such period thereafter as is necessary to provide the coverages required under this Agreement for events having occurred during the Term of this Agreement), at your expense, at least the following insurance policy or policies in connection with the Licensed Location or other facilities on premises, or by reason of the construction, operation, or occupancy of the Licensed Location or other facilities on premises. Such policy or policies shall be written by an insurance company or companies we have approved, having at all times a rating of at least "A-" in the most recent Key Rating Guide published by the A.M. Best Company (or another rating that we reasonably designate if A.M. Best Company no longer publishes the Key Rating Guide) and licensed and admitted to do business in the state in which the Licensed Location is located, and shall include, at a minimum (except that we may reasonably specify additional coverages and higher policy limits for all franchisees periodically in the Manual or otherwise in writing to reflect inflation, identification of new risks, changes in the law or standards of liability, higher damage awards and other relevant changes in circumstances), the following:

15.1.1 Commercial general liability insurance, including us, and any entity in which we have an interest and any entity affiliated with us and each of our members, managers, shareholders, directors, officers, partners, employees, servants and agents as additional insureds protecting against any and all claims for personal, bodily and/or property injury occurring in or about the Store and protecting against assumed or contractual liability under this Agreement with respect to the Store and your operations, with such policy to be placed with minimum limits of One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) general aggregate per location; provided, however, that at our election, such minimum limits may be periodically increased.

15.1.2 Comprehensive automobile liability insurance, including owned, non-owned and hired car coverage providing third party liability insurance, covering all licensed vehicles owned or operated by or on behalf of you, with limits of liability not less than One Million Dollars (\$1,000,000) combined single limit for both bodily injury and property damage. Such policy shall have the contractual exclusion removed, unless you provide separate evidence that contractual liability for automobile exposure is otherwise insured.

15.1.3 Statutory workers' compensation insurance and employer's liability insurance for a minimum limit of One Million Dollars (\$1,000,000), as well as such other disability benefits type insurance as may be required by statute or rule of the state in which the Store is located.

- 15.1.4 Employment practices liability for a minimum limit of One Million Dollars (\$1,000,000) to provide coverage for employment related claims from employees and harassment and discrimination coming from other than employees. This policy must include us as a third party beneficiary and include wage and hour defense liability coverage of not less than Fifty Thousand Dollars (\$50,000).
- 15.1.5 Commercial umbrella liability insurance with limits of One Million Dollars (\$1,000,000) in excess of the combined aggregate liability limits of your general liability, automobile liability, and employers' liability insurance policies. Such umbrella liability shall provide at a minimum those coverages and endorsements required in the underlying policies.
- 15.1.6 Property insurance providing coverage for direct physical loss or damage to real and personal property for all risk perils, including the perils of flood and earthquake. Appropriate coverage shall also provide for business interruption/extra expense exposures of not less than 50% of your annual sales or twelve (12) months actual loss sustained if available. The policy or policies shall value property (real and personal) on a new replacement cost basis without deduction for depreciation and the amount of insurance shall not be less than the full replacement value of the Store, its furniture, fixtures, equipment, and stock (real and personal property). You must purchase flood/wind/earthquake insurance in geographic areas that are prone to such losses. Any deductibles contained in such policy must not be more than Five Thousand Dollars (\$5,000).
- 15.1.7 Any other insurance coverage that is required by federal, state, or municipal law.
- 15.2 *Endorsements.* All policies listed in Section 15.1 above (unless otherwise noted below) shall contain such endorsements as shall, periodically, be provided in the Manual. All policies shall waive subrogation as between us (and our insurance carriers) and you (and your insurance carriers).
- 15.3 *Notices to us.* In the event of cancellation, material change, or non-renewal of any policy, sixty (60) days' advance written notice must be provided to us in the manner provided in Section 24 below.
- 15.4 *Construction Coverages.* In connection with all significant construction, reconstruction, or remodeling of the Licensed Location during the term of this Agreement, you agree to require the general contractor, its subcontractors, and any other contractor, to effect and maintain at general contractor's and all other contractor's own expense, such insurance policies and bonds with such endorsements as are set forth in the Manual, all written by insurance or bonding companies that we have approved, having a rating as set forth in Section 15.1 above.
- 15.5 *Other Insurance Does Not Impact your Obligation.* Your obligation to obtain and maintain the foregoing policy or policies in the amounts specified shall not be limited in any way by reason of any insurance that we may maintain, nor shall your performance of that obligation relieve you of liability under the indemnity provisions set forth in Section 21.4 below. Additionally, the requirements of this Section 15 shall not be reduced, diminished, eroded, or otherwise affected by insurance that you carry (and/or claims made under that insurance) for other businesses, including, but not limited to, other Stores operated by you (and/or your affiliates) under the System.

- 15.6 *Additional Named Insured.* All public liability and property damage policies shall list us as an additional named insured, and shall also contain a provision that we, although named as an insured, shall nevertheless be entitled to recover under said policies on any loss occasioned to us or our servants, agents, or employees by reason of the negligence of you or your servants, agents, or employees.
- 15.7 *Certificates of Insurance.* At least fourteen days before you open your Store, and ten (10) days before you renew any insurance policy, you agree to deliver to us certificates of insurance evidencing the proper coverage with limits not less than those required under this Agreement. All certificates shall expressly provide that we will receive at least thirty (30) days' prior written notice if there is a material alteration to, cancellation, or non-renewal of the coverages evidenced by such certificates. Additional certificates evidencing the insurance required by Section 15.1 above must name us, and each of our affiliates, directors, agents, and employees, as additional insured parties, and shall expressly provide that any interest of same therein shall not be affected by any breach by you of any policy provisions for which such certificates evidence coverage.
- 15.8 *Proof of Coverage.* In addition to your obligations under Section 15.7 above, on the first anniversary of the Effective Date, and on each subsequent anniversary of the Effective Date, you agree to provide us with proof of insurance evidencing the proper coverage with limits not less than those required under this Agreement, in such form as we may reasonably require.
- 15.9 *Coverages are Minimums.* You acknowledge and agree that the specifications and coverage requirements in this Section 15 are minimums, and that we recommend that you review these with your own insurance advisors to determine whether additional coverage is warranted in the operation of your Licensed Location.
- 15.10 *Changes.* We will have the right, periodically, to make such changes in minimum policy limits and endorsements (even those noted above in this Section 15) as we may determine are necessary or appropriate; and you agree to abide by those changes upon reasonable written notice from us.

16 TRANSFER OF INTEREST

- 16.1 *By Us.* We will have the right to transfer or assign this Agreement and all or any part of our rights or obligations under this Agreement to any person or legal entity, and any assignee of us, which assignee will become solely responsible for all of our obligations under this Agreement from the date of assignment.
- 16.2 *Your Principals.* If you are an entity, then each party that directly or indirectly holds any interest whatsoever in you (each, a "**Principal**"), and the interest that each Principal directly or indirectly holds in you, is identified in Exhibit C to this Agreement. You represent and warrant to us, and agree, that your owners are accurately set forth on Exhibit C to this Agreement, and you also agree not to permit the identity of those owners, or their respective interests in you, to change without complying with this Agreement.
- 16.3 *Principals.* We will have a continuing right to designate any person or entity that owns a direct or indirect interest in you as a Principal, and Exhibit C shall be so amended automatically upon written notice to you.

- 16.4 *By You.* You understand and acknowledge that the rights and duties set forth in this Agreement are personal to you, and that we have granted this franchise in reliance on your (or your Principals') business skill, financial capacity, and personal character. Accordingly:
- 16.4.1 You agree not to make a transfer (and not to permit any other party to make a transfer) without our prior written consent.
- 16.4.1.1 As used in this Agreement, the term "**transfer**" is agreed to mean any sale, assignment, conveyance, pledge, encumbrance, merger, creation of a security interest in, and/or giving away of any direct or indirect interest in: **(a)** this Agreement; **(b)** you; **(c)** any or all of your rights and/or obligations under this Agreement; and/or **(d)** all or substantially all of the assets of the Licensed Location.
- 16.4.1.2 Any purported assignment or transfer not having our prior written consent as required by this Section 16 shall be null and void and shall also constitute a material breach of this Agreement, for which we may immediately terminate this Agreement without opportunity to cure, pursuant to Section 17.2.5 below.
- 16.4.2 If you are an entity (other than a partnership or a limited liability partnership), then you agree that: **(a)** without our prior written approval, you will not issue any voting securities or interests, or securities or interests convertible into voting securities; and **(b)** the recipient of any such securities shall become a Principal under this Agreement, if we designate them as such.
- 16.4.3 If you are a partnership or limited liability partnership, then the partners of that partnership shall not, without our prior written consent, admit additional general partners, remove a general partner, or otherwise materially alter the powers of any general partner. Each general partner in such a partnership shall automatically be deemed to be a Principal.
- 16.4.4 Principals shall not, without our prior written consent, transfer, pledge or otherwise encumber their interest in you.
- 16.5 *Transfer Conditions.* We will not unreasonably withhold any consent required by Section 16.4 above; provided, that if you propose to transfer your obligations under this Agreement or any material asset, or if any party proposes to transfer any direct or indirect interest in you, then we will have the right to require that you satisfy any or all of the following conditions before we grant our approval to the proposed transfer:
- 16.5.1 The transferor must have executed a general release, in a form satisfactory to us, of any and all claims against us and our affiliates, successors, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, servants, and employees in their corporate and individual capacities including, claims arising under this Agreement, any other agreement between you and us, and/or our respective affiliates, and federal, state, and local laws and rules.
- 16.5.2 The transferee of a Principal shall be designated as a Principal and each transferee who is designated a Principal shall enter into a written agreement, in a form satisfactory to us, agreeing to be bound as a Principal under the terms of this Agreement as long as such person or entity owns any interest in you; and, if your

obligations were guaranteed by the transferor, the Principal shall guarantee the performance of all such obligations in writing in a form satisfactory to us

- 16.5.3 The proposed new Principals (after the transfer) must meet our educational, managerial, and business standards; each shall possess a good moral character, business reputation, and credit rating; have the aptitude and ability to operate the Licensed Location, as may be evidenced by prior related business experience or otherwise; and have adequate financial resources and capital to operate the Licensed Location.
- 16.5.4 We will have the right to require that you execute, for a term ending on the expiration date of this Agreement, the form of franchise agreement that we are then offering to new System franchisees, and such other ancillary agreements that we may require for the business franchised under this Agreement, and those agreements shall supersede this Agreement and its ancillary documents in all respects, and the terms of which may differ from the terms of this Agreement including, a higher royalty and marketing fee.
- 16.5.5 If we request, then you must conduct Remodeling to conform to the then-current standards and specifications of new Stores then-being established in the System, and you agree to complete the upgrading and other requirements specified above in Section 8.5.2 within the time period that we specify;.
- 16.5.6 You agree to pay in full all of your monetary obligations to us and our affiliates, and to all vendors (whether arising under this Agreement or otherwise), and you must not be otherwise in default of any of your obligations under this Agreement (including your reporting obligations).
- 16.5.7 The transferor shall remain liable for all of the obligations to us in connection with the Licensed Location that arose before the effective date of the transfer, and any covenants that survive the termination or expiration of this Agreement, and shall execute any and all instruments that we reasonably request to evidence such liability.
- 16.5.8 A Principal of the transferee whom we designate to be a new Operating Principal, and those of the transferee's Specially Trained Management Employees as we may require, shall successfully complete (to our satisfaction) all training programs that we require upon such terms and conditions as we may reasonably require (and while we will not charge a fee for attendance at such training programs, the transferee shall be responsible for the salary and all expenses of the person(s) that attend training).
- 16.5.9 You agree to pay to us the costs and expenses we incur in connection with the transfer, which include, among other things, our legal, accounting, training, and other expenses.
- 16.5.10 The transferor must acknowledge and agree that the transferor shall remain bound by the covenants contained in Sections 19.3 – 19.5 below.
- 16.6 *Right of First Refusal.* If you or any of your Principals wish to accept any *bona fide* offer from a third party to purchase you, any of your material assets, or any direct or indirect interest in you, then all of the following shall apply:
- 16.6.1 You (or the Principal who proposes to sell his/her interest) shall promptly notify us in writing of the offer and provide to us the information and documentation relating to

the offer that we may require. We will have the right and option, exercisable within thirty (30) days after we have received all such information that we have requested, to send written notice to the seller that we intend to purchase the seller's interest on the same economic terms and conditions offered by the third party. After exercising our right, we will also have the right to conduct additional reasonable due diligence and to require the seller to enter into a purchase agreement in a form mutually acceptable to us and to the seller. If we elect to purchase the seller's interest, then the closing on such purchase shall occur within thirty (30) days from the date of notice to the seller of the election to purchase by us.

- 16.6.2 Any material change in the terms of the offer before closing shall constitute a new offer subject to our same rights of first refusal (as set forth in this Section 16.6) as in the case of the third party's initial offer. If we do not exercise the option afforded by this Section 16.6, that choice shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 16, with respect to a proposed transfer.
- 16.6.3 If the consideration, terms, and/or conditions offered by a third party are such that we may not reasonably be required to furnish the same consideration, terms, and/or conditions (for example, if the buyer offers a unique item as payment, such as a piece of jewelry), then we may purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties cannot agree within a reasonable time on the reasonable equivalent in cash of the consideration, terms, and/or conditions offered by the third party, they must attempt to appoint a mutually-acceptable independent appraiser to make a binding determination. If the parties are unable to agree upon one independent appraiser, then we shall promptly designate an independent appraiser and you shall promptly designate another independent appraiser and those two appraisers shall, in turn, promptly designate a third appraiser; and all three appraisers shall promptly confer and reach a single determination, which determination shall be binding upon both you and us. The cost of any such appraisal shall be shared equally by both parties.
- 16.6.4 If we exercise our rights under this Section 16.6, then we will have the right to set off all amounts due from you, including one-half ($\frac{1}{2}$) of the cost of the appraisal, if any, specified above in Section 16.6.3 against any payment to you.
- 16.7 *Death or Incapacity.* If you or any Principal dies, becomes incapacitated, or enters bankruptcy proceedings, that person's executor, administrator, personal representative, or trustee must promptly notify us of the circumstances, and apply to us in writing within three (3) months after the event (death, declaration of incapacity, or filing of a bankruptcy petition) for consent to transfer the person's interest. The transfer will be subject to the provisions of this Section 16, as applicable; however, we will not impose a transfer fee for such a transfer if you reimburse us for our out-of-pocket costs incurred in connection with reviewing, approving, and documenting your proposed transaction (including our attorneys' fees).
- 16.7.1 In addition, if the deceased or incapacitated person is the Operating Principal, we will have the right (but not the obligation) to take over operation of the Licensed Location until the transfer is completed and to charge a reasonable management fee for our services.
- 16.7.2 For purposes of this section, "**incapacity**" means any physical or mental infirmity that will prevent the person from performing his or her obligations under this Agreement: **(a)** for a period of thirty (30) or more consecutive days; or **(b)** for sixty (60) or more

total days during a calendar year. In the case of transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of Section 16.3, the executor may transfer the decedent's interest to another successor that we have approved, subject to all of the terms and conditions for transfers contained in this Agreement.

- 16.7.3 If an interest is not disposed of under this section within six (6) months after the date of death or appointment of a personal representative or trustee, then we may terminate this Agreement under Section 17.2 below.
- 16.8 *Consent to Transfer.* Our consent to a transfer that is the subject of this Section 16 shall not constitute a waiver of any claims that we may have against the transferring party, nor shall it be deemed a waiver of our right to demand exact compliance with any of the terms of this Agreement by the transferor or transferee.
- 16.9 *No Transfers to a Non-Franchisee Party to Operate a Similar Business.* You agree that neither you nor any Principal of yours will transfer or attempt to transfer any or all of your Licensed Location to a third party who will operate a similar business at the Approved Site but not under the System and the Proprietary Marks, and not under a franchise agreement with us.
- 16.10 *Bankruptcy Issues.* If you or any person holding any interest (direct or indirect) in you become a debtor in a proceeding under the U.S. Bankruptcy Code or any similar law in the U.S. or elsewhere, it is the parties' understanding and agreement that any transfer of you, your obligations, and/or rights under this Agreement, any material assets of yours, and/or any indirect or direct interest in you will be subject to all of the terms of this Section 16, including without limitation the terms of Sections 16.4, 16.5, and 16.6 above.
- 16.11 *Securities Offers.* All materials for an offering of stock, ownership, and/or partnership interests in you or any of your affiliates that are required by federal or state law must be submitted to us for review as described below before such materials are filed with any government agency. Any materials to be used in any exempt offering must be submitted to us for such review before their use.
- 16.11.1 You agree that: **(a)** no offering by you or any of your affiliates may imply (by use of the Proprietary Marks or otherwise) that we are participating in an underwriting, issuance, or offering of your securities or your affiliates; **(b)** our review of any offering will be limited solely to the relationship between you and us (and, if applicable, any of your affiliates and us); and **(c)** we will have the right, but not obligation, to require that the offering materials contain a written statement that we require concerning the limitations stated above.
- 16.11.2 You (and the offeror if you are not the offering party), your Principals, and all other participants in the offering must fully indemnify us and all of the Franchisor Parties (as defined in Section 21.5.2 below) in connection with the offering.
- 16.11.3 For each proposed offering, you agree to pay us a non-refundable fee of Seven Thousand Five Hundred Dollars (\$7,500) or such greater amount as is necessary to reimburse us for our reasonable costs and expenses (including legal and accounting fees) for reviewing the proposed offering.
- 16.11.4 You agree to give us written notice at least thirty (30) days before the date that any offering or other transaction described in this Section 16.11 commences. Any such

offering will be subject to all of the other provisions of this Section 16, including without limitation the terms set forth in Sections 16.4, 16.5, 16.6; and further, without limiting the foregoing, it is agreed that any such offering will be subject to our approval as to the structure and voting control of the offeror (and you, if you are not the offeror) after the financing is completed.

16.11.5 You must also, for the remainder of the term of the Agreement, submit to us for our review and prior written approval all additional securities documents you are required to prepare and file (or use) in connection with any offering of stock, ownership, and/or partnership interests. You must reimburse us for our reasonable costs and expenses we incur in connection with our review of those materials.

17 DEFAULT AND TERMINATION

- 17.1 *Automatic.* If any one or more of the following events take place, then you will be deemed to be in default under this Agreement, and all rights granted in this Agreement shall automatically terminate without notice to you: **(a)** if you will become insolvent or makes a general assignment for the benefit of creditors; **(b)** if you file a petition in bankruptcy or such a petition is filed against and not opposed by you (to the extent permitted under the U.S. Bankruptcy Code); **(c)** if you are adjudicated bankrupt or insolvent (to the extent permitted under the U.S. Bankruptcy Code); **(d)** if a bill in equity or other proceeding for the appointment of a receiver for you or another custodian for your business or assets is filed and consented to by you; **(e)** if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; **(f)** if proceedings for a composition with creditors under any state or federal law is instituted by or against you; **(g)** if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless unappealed or a supersedeas bond is filed); **(h)** if you are dissolved; or if execution is levied against your business or property; **(i)** if suit to foreclose any lien or mortgage against the Licensed Location premises or equipment is instituted against you and not dismissed within thirty (30) days; and/or **(j)** if the real or personal property of your Licensed Location shall be sold after levy thereupon by any sheriff, marshal, or constable.
- 17.2 *With Notice.* If any one or more of the following events occur, then you will be in default under this Agreement, and we will have the right to terminate this Agreement and all rights granted under this Agreement, without affording you any opportunity to cure the default, effective immediately upon the delivery of our written notice to you (in the manner provided in Section 24 below):
- 17.2.1 If you do not acquire or lease a site (that we have approved in writing) for the Licensed Location within the time required in the Site Selection Addendum, or if you fail to construct and open the Licensed Location within the time limits provided in Sections 5.1 and 8.2 above, and within the requirements stated in Sections 5 and 8.2 above;
- 17.2.2 If you at any time cease to operate or otherwise abandon the Licensed Location for two (2) consecutive business days (during which you are otherwise required to be open, and without our prior written consent to do so), or lose the right to possession of the premises, or otherwise forfeit the right to do or transact business in the jurisdiction where the Licensed Location is located (however, if through no fault of yours, the premises are damaged or destroyed by an event such that you cannot complete repairs or reconstruction within ninety (90) days thereafter, then you will

have thirty (30) days after such event in which to apply for our approval to relocate and/or reconstruct the premises, which approval we shall not unreasonably withhold);

- 17.2.3 If you or any of your Principals are convicted of a felony, a crime involving moral turpitude, or any other crime or offense that we believe is reasonably likely to have an adverse effect on the System, the Proprietary Marks, the goodwill associated therewith, or our interests therein;
- 17.2.4 If a threat or danger to public health or safety results from the construction, maintenance, or operation of the Licensed Location;
- 17.2.5 If you or any of your Principals purport to transfer any rights or obligations under this Agreement or any interest to any third party in a manner that is contrary to the terms of Section 16 above;
- 17.2.6 If you fail to comply with the requirements of Section 19 below;
- 17.2.7 If, contrary to the terms of Sections 10 or 11 above, you disclose or divulge the contents of the Manual or other confidential information that we provide to you;
- 17.2.8 If an approved transfer of an interest in you is not completed within a reasonable time, as required by Sections 16.7 above;
- 17.2.9 If you knowingly maintain false books or records, understate your sales in a report to us by five percent (5%) or more, or submit any false reports (including, but not limited to, information provided as part of your application for this franchise) to us;
- 17.2.10 If you commit three (3) or more defaults under this Agreement in any fifty-two (52) week period, whether or not each such default has been cured after notice;
- 17.2.11 If you sell products that we have not previously approved (other than "sno cone" flavors that you may combine according to our specifications), or purchase any product from a supplier that we have not previously approved, or if you sell any Proprietary Items anywhere other than from the Store (except as permitted under Section 1.3 above) or sell any Proprietary Items that are not authorized for sale at retail;
- 17.2.12 If you engage in any conduct or practice that is fraudulent, unfair, unethical, or a deceptive practice; and/or
- 17.2.13 If you make any unauthorized or improper use of the Proprietary Marks, or if you or any of your Principals use the Proprietary Marks in a manner that we do not permit (whether under this Agreement and/or otherwise) or that is inconsistent with our direction, or if you or any of your Principals directly or indirectly contest the validity of our ownership of the Proprietary Marks, our right to use and to license others to use the Proprietary Marks, or seek to (or actually do) register any of our Proprietary Marks with any agency (public or private) for any purpose without our prior written consent to do so.

17.3 *With Notice and Opportunity to Cure.*

- 17.3.1 Except as otherwise provided above in Sections 17.1 and 17.2 above, if you are in default of your obligations under this Agreement, then we may terminate this

Agreement by giving you written notice of termination (in the manner provided under Section 24 below) stating the nature of the default at least thirty (30) days before the effective date of termination; provided, however, that you may avoid termination by: **(a)** immediately initiating a remedy to cure such default; **(b)** curing the default to our satisfaction; and **(c)** promptly providing proof of the cure to us, all within the thirty (30) day period. If you do not cure any such default within the specified time (or such longer period as applicable law may require), then this Agreement shall terminate without further notice to you effective immediately upon the expiration of the thirty (30) day period (or such longer period as applicable law may require).

- 17.3.2 If you are in default under the terms of any other franchise agreement or other contract between you (and/or your affiliates) and us (and/or our affiliates), that will also constitute a default under Section 17.3.1 above.
- 17.4 *Bankruptcy.* If, for any reason, this Agreement is not terminated pursuant to this Section 17, and the Agreement is assumed, or assignment of the same to any person or entity who has made a *bona fide* offer to accept an assignment of the Agreement is contemplated, pursuant to the U.S. Bankruptcy Code, then notice of such proposed assignment or assumption, setting forth: **(a)** the name and address of the proposed assignee; and **(b)** all of the terms and conditions of the proposed assignment and assumption; shall be given to us within twenty (20) days after receipt of such proposed assignee's offer to accept assignment of the Agreement; and, in any event, within ten (10) days before the date application is made to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption. We will then have the prior right and option, to be exercised by notice given at any time before the effective date of such proposed assignment and assumption, to accept an assignment of the Agreement to us upon the same terms and conditions, and for the same consideration, if any, as in the *bona fide* offer made by the proposed assignee, less any brokerage commissions that may be payable by you out of the consideration to be paid by such assignee for the assignment of the Agreement.
- 17.5 *Our Rights Instead of Termination.* If we are entitled to terminate this Agreement in accordance with Sections 17.2 or 17.3 above, we will also have the right to take any lesser action instead of terminating this Agreement (including, without limitation, the loss of the territorial protections granted to you under Section 1.3 above).
- 17.6 *Reservation of Rights under Section 17.5.* If any rights, options, arrangements, or areas are terminated or modified in accordance with Section 17.5 above, such action shall be without prejudice to our right to terminate this Agreement in accordance with Sections 17.2 or 17.3 above, and/or to terminate any other rights, options or arrangements under this Agreement at any time thereafter for the same default or as a result of any additional defaults of the terms of this Agreement.
- 17.7 *Damages.* You will pay us all damages, costs, and expenses (including reasonable attorneys' fees, court costs, discovery costs, and all other related expenses), that we incur as a result of any default by you under this Agreement and any other agreement between the parties (and their respective affiliates) (in addition to other remedies that we may have).

18 OBLIGATIONS UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all rights granted under this Agreement to you shall forthwith terminate, and all of the following shall take effect:

- 18.1 *Stop Operating.* You agree to: **(a)** immediately and permanently stop operating the Licensed Location; and **(b)** never directly or indirectly represent to the public that you are a present or former franchisee of ours.
- 18.2 *Stop Using Marks and Intellectual Property.* You agree to immediately and permanently cease to use, in any manner whatsoever, any confidential methods, procedures and techniques associated with the System, the mark "Pelican's SnoBalls" and any and all other Proprietary Marks, distinctive forms, slogans, signs, symbols, and devices associated with the System, and any and all other intellectual property associated with the System. Without limiting the foregoing, you agree to stop making any further use of any and all signs, marketing materials, displays, stationery, forms, and any other articles that display the Proprietary Marks.
- 18.3 *Cancel Assumed Names.* You agree to take such action as may be necessary to cancel any assumed name or equivalent registration which contains the mark "Pelican's SnoBalls" and any and all other Proprietary Marks, and/or any other service mark or trademark of ours, and you will give us evidence that we deem satisfactory to provide that you have complied with this obligation within five (5) days after termination or expiration of this Agreement.
- 18.4 *Premises.* We will have the right (but not the obligation) to require you to assign to us any interest that you (and/or your affiliates) may have in the lease or sublease for the ground upon which the Store is operated and/or for the building in which the Store is operated.
- 18.4.1 If we do not elect (or if we are unable) to exercise any option that we may have to acquire the premises (including the lease or sublease) of the Licensed Location, or otherwise acquire the right to occupy the premises, then you agree: **(a)** to make the modifications or alterations to the premises (including the changing of the telephone number) immediately upon termination or expiration of this Agreement as we deem necessary to distinguish the appearance of those premises from that of other Stores; **(b)** make the additional changes to the premises that we may reasonably request for that purpose; and **(c)** cease use of all telephone numbers and any domain names, websites, e-mail addresses, Online Sites, and any other print and online identifiers (whether or not authorized by us) that you have used while operating the Licensed Location; and **(d)** promptly execute such documents and take such steps necessary to remove reference to the Licensed Location from all trade or business directories, including online directories, or (at our request) transfer those to our ownership.
- 18.4.2 If you fail or refuse to comply with all of the requirements of this Section 18.4, then we (or our designee) shall have the right to enter upon the premises of the Licensed Location, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at your cost, which expense you agree to pay upon demand.
- 18.5 *Our Option to Buy Your Assets.* We will have the right (but not the obligation), which we may exercise at any time within thirty (30) days after expiration, termination, or default under this Agreement and/or default under your lease/sublease for the premises, to buy from you (and/or your affiliates) any or all of your furnishings, equipment, signs, fixtures, supplies, or inventory related to the operation of the Licensed Location, at the lesser of your cost or fair

market value. The parties agree that "cost" shall be determined based upon a five (5) year straight-line depreciation of original costs. For equipment and fixtures that are five (5) or more years old, the parties agree that fair market value shall be deemed to be ten percent (10%) of the equipment's original cost. If we elect to exercise any option to purchase provided in this Section, we shall have the right to set off all amounts due from you.

- 18.6 *No Use of the Marks in Other Businesses.* You agree, if you continue to operate or subsequently begin to operate any other business, not to use any reproduction, counterfeit copy, or colorable imitation of the Proprietary Marks, either in connection with such other business or the promotion thereof, which is likely to cause confusion, mistake, or deception, or which is likely to dilute our rights in and to the Proprietary Marks. You further agree not to use, in any manner whatsoever, any designation of origin, description, trademark, service mark, or representation that suggests or implies a past or present association or connection with us, the System, the Products, and/or the Proprietary Marks.
- 18.7 *Pay All Sums Due.* You agree to promptly pay all sums owing to us and our affiliates (regardless whether those obligations arise under this Agreement or otherwise). In the event of termination for any of your defaults, those sums shall include all damages, costs, and expenses (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses), that we incur as a result of the default.
- 18.8 *Pay Damages.* You agree to pay us all damages, costs, and expenses (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur as a result of your default under this Agreement and/or subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Section 18.
- 18.9 *Return Confidential Information.* You agree to immediately return to us the Manual and all other manuals, records, and instructions containing confidential information (including, any copies thereof, even if such copies were made in violation of this Agreement), all of which are acknowledged to be our property.
- 18.10 *Right to Enter and Continue Operations.* In order to preserve the goodwill of the System following termination, we (or our designee) shall have the right to enter the Licensed Location (without liability to you, your Principals, or otherwise) for the purpose continuing the Licensed Location's operation and maintaining the goodwill of the business.
- 18.11 *Lost Future Royalties.* If we terminate this Agreement based on your default, or if you abandon or otherwise cease to operate the Licensed Location, you agree to pay to us, as liquidated damages, an amount calculated as follows: **(a)** the average of your monthly Royalty Fees that are due under this Agreement for the twelve (12) months immediately before your abandonment or our delivery of the notice of default (or, if you have been operating for less than twelve (12) months, the average of your monthly Royalty Fees for the number of months you have operated the Store); **(b)** multiplied by the lesser of eight (8) or the number of months remaining in the then-current term of this Agreement under Section 2 above (reduced to present value by applying the discount rate published in The Wall Street Journal on the day that the termination takes effect (or, if that is not a business day, then the previous business day)).
- 18.12 *Our Rights.* You agree not to do anything that would potentially interfere with or impede the exercise of our rights under this Section 18.

19 COVENANTS

- 19.1 *Full Time Efforts.* You agree that during the term of this Agreement, except as we have otherwise approved in writing, you (or the Operating Principal) shall devote full time, energy, and best efforts to the management and operation of the Licensed Location.
- 19.2 *Understandings.*
- 19.2.1 You acknowledge and agree that: **(a)** pursuant to this Agreement, you will have access to valuable trade secrets, specialized training and Confidential Information from us and our affiliates regarding the development, operation, management, purchasing, sales and marketing methods and techniques of the System; **(b)** the System and the opportunities, associations and experience we have established and that you will have access to under this Agreement are of substantial and material value; **(c)** in developing the System, we and our affiliates have made and continue to make substantial investments of time, technical and commercial research, and money; **(d)** we would be unable to adequately protect the System and its trade secrets and Confidential Information against unauthorized use or disclosure and would be unable to adequately encourage a free exchange of ideas and information among franchisees in our system if franchisees were permitted to hold interests in Competitive Businesses (as defined below); and **(e)** restrictions on your right to hold interests in, or perform services for, Competitive Businesses will not unreasonably or unnecessarily hinder your activities.
- 19.2.2 As used in this Section 19, the term "**Competitive Business**" is agreed to mean any business where flavored ice products comprise thirty percent (30%) or more of the revenue of that business.
- 19.3 *Covenant Not to Compete or Engage in Injurious Conduct.* Accordingly, you covenant and agree that, during the term of this Agreement and for a continuous period of two (2) years after the expiration or termination of this Agreement, and/or a transfer as contemplated in Section 16 above, you shall not directly, indirectly, for yourself, or through, on behalf of, or in conjunction with any party, in any manner whatsoever, do any of the following:
- 19.3.1 Divert or attempt to divert any actual or potential business or customer of any "Pelican's SnoBalls" Store to any competitor or otherwise take any action injurious or prejudicial to the goodwill associated with the Marks and the System.
- 19.3.2 Own, maintain, develop, operate, engage in, franchise or license, make loans to, lease real or personal property to, and/or have any whatsoever interest in, or render services or give advice to, any Competitive Business.
- 19.4 *Where Restrictions Apply.* During the term of this Agreement, there is no geographical limitation on the restrictions set forth in Section 19.3 above. During the two-year period following the expiration or earlier termination of this Agreement, or a transfer as contemplated under Section 16 above, these restrictions shall apply only within ten (10) miles of the Approved Site and within ten (10) miles of other Stores that are then-operated under the System. These restrictions shall not apply to Stores that you operate that we (or our affiliates) have franchised to you pursuant to a franchise agreement that is then in effect.
- 19.5 *Application to Transfers.* You further covenant and agree that, for a continuous period of two (2) years after the expiration or termination of this Agreement, and/or a transfer as contemplated in Section 16 above, you will not, either directly or indirectly, for yourself, or

through, on behalf of, or in conjunction with any person, firm, partnership, corporation, or other entity, sell, assign, lease or transfer the Approved Site to any person, firm, partnership, corporation, or other entity that you know, or have reason to know, intends to operate a Competitive Business at the Approved Site. You, by the terms of any conveyance selling, assigning, leasing or transferring your interest in the Approved Site, shall include these restrictive covenants as are necessary to ensure that a Competitive Business that would violate this Section is not operated at the Approved Site for this two-year period, and you shall take all steps necessary to ensure that these restrictive covenants become a matter of public record.

- 19.6 *Periods of Non-Compliance.* Any period of non-compliance with the requirements of this Section 19, whether such non-compliance takes place after termination, expiration, and/or a transfer, will not be credited toward satisfying the two-year obligation specified above.
- 19.7 *Publicly-Held Entities.* Section 19.3.3 above shall not apply to your ownership of less than five percent (5%) beneficial interest in the outstanding equity securities of any publicly-held corporation. As used in this Agreement, the term “publicly-held corporation” shall be deemed to refer to a corporation which has securities that have been registered under the Securities Exchange Act of 1934.
- 19.8 *Personal Covenants.* You agree to require and obtain execution of covenants similar to those set forth in Sections 9.3, 11, 16, 18 above, and this Section 19 (as modified to apply to an individual), from your Specially Trained Management Employees and Principals (but not from other non-managerial employees). The covenants required by this section shall be in the form provided in Exhibit G to this Agreement. If you do not obtain execution of a covenant required by this section and deliver to us those signed covenants, that shall constitute a default under Section 17.2.6 above.
- 19.9 *Construction.* The parties agree that each of the foregoing covenants will be construed as independent of any other covenant or provision of this Agreement. We have the right to reduce in writing the scope of any part of this Section 19 and, if we do so, you agree to comply with the obligations as we have reduced them.
- 19.10 *Claims Not a Defense.* You agree that the existence of any claims you may have against us, whether or not arising from this Agreement, shall not constitute a defense to our enforcement of the covenants in this Section 19. You agree to pay all costs and expenses (including without limitation reasonable attorneys’ fees, court costs, discovery costs, and all other related expenses) that we incur in connection with the enforcement of this Section 19.
- 19.11 *Covenant as to Anti-Terrorism Laws.* You and the owners of your business (“**Owners**”) agree to comply with and/or to assist us to the fullest extent possible in our efforts to comply with Anti-Terrorism Laws (as defined below). In connection with such compliance, you and the Owners certify, represent, and warrant that none of their respective property or interests are “blocked” under any of the Anti-Terrorism Laws and that neither you nor any of the Owners are in violation of any of the Anti-Terrorism Laws. You also agree not to knowingly hire or do business with (or continue to employ or do business with) any party who is blocked under any of the Anti-Terrorism Laws. The term “**Anti-Terrorism Laws**” means Executive Order 13224 issued by the President of the United States, as supplemented, the USA PATRIOT Act, and all other laws and regulations addressing or in any way relating to terrorist acts and/or acts of war.
- 19.12 *Defaults.* You acknowledge and agree that your violation of the terms of this Section 19 would result in irreparable injury to us for which no adequate remedy at law may be

available, and you accordingly consent to the issuance of an injunction prohibiting any conduct in violation of the terms of this Section 19.

20 TAXES, PERMITS, AND INDEBTEDNESS

- 20.1 *Payment of Taxes.* You agree to promptly pay when due all taxes levied or assessed, including, unemployment and sales taxes, and all accounts and other indebtedness of every kind that you incur in the conduct of the business franchised under this Agreement. You agree to pay us an amount equal to any sales tax, gross receipts tax, or similar tax (other than income tax) imposed on us with respect to any payments that you make to us as required under this Agreement, unless the tax is credited against income tax that we otherwise pay to a state or federal authority.
- 20.2 *Payment of Trade Creditors.* You agree to promptly pay when due all trade creditors and vendors (including any that are affiliated with us) that supply goods or services to you and/or the Licensed Location.
- 20.3 *Your Right to Contest Liabilities.* If there is a bona fide dispute as to your liability for taxes assessed or other indebtedness, you may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law; however, in no event will you permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the premises of the Licensed Location, or any improvements thereon.
- 20.4 *Compliance with Law.* You agree to comply with all federal, state, and local laws, rules, and regulations, and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the business franchised under this Agreement, including, licenses to do business, health certificates, liquor licenses, food handler's permits, fictitious name registrations, sales tax permits, and fire clearances. To the extent that the requirements of any such laws are in conflict with the terms of this Agreement, the Manual, or our other instructions, you agree to: **(a)** comply with said laws; **(b)** immediately provide us with written notice describing the nature of the conflict; and **(c)** cooperate with us and our counsel in developing a way to comply with the terms of this Agreement, as well as applicable law, to the extent that it is possible to do so.
- 20.5 *Notice of Violations and Actions.* You agree to notify us in writing within five (5) days after you receive notice of any health or safety violation, the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, or within five (5) days occurrence of any accident or injury which may adversely affect the operation of the Licensed Location or your financial condition, or give rise to liability or a claim against either party to this Agreement.

21 INDEPENDENT CONTRACTOR AND INDEMNIFICATION

- 21.1 *Independent Contractor Relationship.* The parties acknowledge and agree that:
- 21.1.1 this Agreement does not create a fiduciary relationship between them;
- 21.1.2 you are the only party that will be in day-to-day control of your Licensed Location, even though we will share the brand and Proprietary Marks as specified in this Agreement, and neither this Agreement nor any of the systems, guidance, computer programs, processes, or requirements under which you operate alter that basic fact;

- 21.1.3 nothing in this Agreement and nothing in our course of conduct is intended to make either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever; and
- 21.1.4 neither this Agreement nor our course of conduct is intended, nor may anything in this Agreement (nor our course of conduct) be construed, to state or imply that we are the employer of your employees and/or independent contractors, nor vice versa
- 21.2 *Notice of Status.* At all times during the term of this Agreement and any extensions hereof, you will hold yourself out to the public as an independent contractor operating the business pursuant to a franchise from us. You agree to take such action as may be necessary to do so, including, exhibiting a notice of that fact in a conspicuous place at the Approved Site, the content of which we reserve the right to specify.
- 21.3 *No Contracts in our Name.* It is understood and agreed that nothing in this Agreement authorizes you to make any contract, agreement, warranty, or representation on our behalf, or to incur any debt or other obligation in our name; and that we will in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action; nor shall we be liable by reason of any act or omission in your conduct of the Licensed Location or for any claim or judgment arising therefrom against either party to this Agreement.
- 21.4 *Indemnification.* You agree to indemnify and hold each of the Franchisor Parties harmless against any and all Assertions arising directly or indirectly from any Demand as well as from your breach of this Agreement. Your indemnity obligations shall survive the expiration or termination of this Agreement, and shall not be affected by the presence of any applicable insurance policies and coverages that we may maintain. If a Demand is asserted against any Franchisor Party, then that party shall have the right to select and retain their own counsel.
- 21.5 *Definitions.* As used in Section 21.4 above, the parties agree that the following terms shall have the following meanings:
- 21.5.1 **“Assertions”** means all claims, demands, causes of action, suits, damages, liabilities, fines, penalties, assessments, judgments, losses, and expenses (including without limitation all of the expenses, costs, and lawyers’ fees incurred for any indemnified party’s primary defense or for enforcement of its indemnification rights).
- 21.5.2 **“Demand”** means any allegation, claim, and/or complaint that is the result of, or in connection with, your exercise of your rights and/or carrying out of your obligations under this Agreement (including, but not limited to, any claim associated with your operation of the Licensed Location or otherwise), or any default by you under this Agreement, notwithstanding any claim that any Franchisor Party was or may have been negligent.
- 21.5.3 **“Franchisor Parties”** means us, our predecessors, and affiliates, and all of those parties’ respective shareholders, parents, subsidiaries, and affiliates, and their respective officers, directors, members, managers, employees, and agents.

22 FORCE MAJEURE

- 22.1 *Impact.* Neither party shall be responsible to the other for non-performance or delay in performance occasioned by causes beyond its control, including without limiting the generality of the foregoing: **(a)** acts of nature; **(b)** acts of war, terrorism, or insurrection; **(c)** strikes, lockouts, labor actions, boycotts, floods, fires, hurricanes, tornadoes, and/or other

casualties; and/or **(d)** our inability (and that of our affiliates and/or suppliers) to manufacture, purchase, and/or cause delivery of any Products used in the operation of the Licensed Location.

- 22.2 *Transmittal of Funds.* The inability of either party to obtain and/or remit funds shall be considered within control of such party for the purpose of Section 22.1 above. If any such delay occurs, any applicable time period shall be automatically extended for a period equal to the time lost; provided, however, that the party affected makes reasonable efforts to correct the reason for such delay and gives to the other party prompt notice of any such delay; and further provided, however, that you will remain obligated to promptly pay all fees owing and due to us under this Agreement, without any such delay or extension.

23 APPROVALS AND WAIVERS

- 23.1 *Request for Approval.* Whenever this Agreement requires our prior approval or consent, you agree to make a timely written request to us for that approval or consent, and you agree that our approval or consent will not have any effect unless it is in writing.
- 23.2 *No Warranties or Guarantees.* You acknowledge and agree that we make no warranties or guarantees upon which you may rely, and that we assume no liability or obligation to you, by providing any waiver, approval, consent, or suggestion to you in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.
- 23.3 *No Waivers.* No delay, waiver, omission, or forbearance on our part to exercise any right, option, duty, or power arising out of any breach or default by you or any other franchisee under any of the terms, provisions, covenants, or conditions of this Agreement, and no custom or practice by the parties at variance with the terms of this Agreement, shall constitute our waiver of our right to enforce any such right, option, duty, or power as against you, or as to subsequent breach or default by you. If we accept late payments from you or any payments due, that shall not be deemed to be our waiver of any earlier or later breach by you of any terms, provisions, covenants, or conditions of this Agreement. No course of dealings or course of conduct will be effective to amend the terms of this Agreement.

24 NOTICES

Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by certified U.S. mail, email, or by other means which affords the sender evidence of delivery, of rejected delivery, or attempted delivery to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means that gives the sender evidence of delivery, rejected delivery, or delivery that is not possible because the recipient moved and left no forwarding address shall be deemed to have been given at the date and time of receipt, rejected, and/or attempted delivery. The Manual, any changes that we make to the Manual, and/or any other written instructions that we provide relating to operational matters, are not considered to be "notices" for the purpose of the delivery requirements in this Section 24.

25 ENTIRE AGREEMENT AND AMENDMENT

- 25.1 *Entire Agreement.* This Agreement and the exhibits referred to in this Agreement constitute the entire, full, and complete Agreement between the parties to this Agreement concerning the subject matter hereof, and supersede all prior agreements, communications, and understandings. The parties confirm that: **(a)** they were not induced by any representations

other than the words of this Agreement (and the FDD) before deciding whether to sign this Agreement; and **(b)** they relied only on the words printed in this Agreement in deciding whether to enter into this Agreement. Nothing in this Section is intended to be a disclaimer of any representation that we have made in our Franchise Disclosure Document (“**FDD**”), including its exhibits.

- 25.2 *Amendment.* Except for those changes that we are permitted to make unilaterally under this Agreement, no amendment, change, or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

26 SEVERABILITY AND CONSTRUCTION

- 26.1 *Introductory Paragraphs.* The parties agree that the introductory paragraphs of this Agreement, under the heading “Introduction,” are accurate, and the parties agree to incorporate those paragraphs into the text of this Agreement as if they were printed here.
- 26.2 *Severability.* Except as expressly provided to the contrary herein, each portion, section, part, term, and/or provision of this Agreement shall be considered severable; and if, for any reason, any section, part, term, and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, and/or provisions of this Agreement as may remain otherwise intelligible; and the latter shall continue to be given full force and effect and bind the parties hereto; and said invalid portions, sections, parts, terms, and/or provisions shall be deemed not to be a part of this Agreement.
- 26.3 *No Third Party Rights.* Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than you, we, and such of our respective successors and assigns as may be contemplated (and, as to you, permitted) by Section 16.4 above, any rights or remedies under or by reason of this Agreement.
- 26.4 *Captions Don't Amend Terms.* All captions in this Agreement are intended solely for the convenience of the parties, and no caption shall be deemed to affect the meaning or construction of any provision hereof.
- 26.5 *Phrases.* The parties agree that when used in this Agreement, the term “including” means “including but not limited to”.
- 26.6 *Survival.* All provisions of this Agreement which, by their terms or intent, are designed to survive the expiration or termination of this Agreement, shall so survive the expiration and/or termination of this Agreement.
- 26.7 *How We Exercise Our Rights.* Although we may exercise any of our rights, carry out any of our obligations, or otherwise discharge any of our duties under this Agreement directly, through the use of employees, independent contractors, professional advisors (for example, a CPA), or otherwise, we will still remain responsible for the proper performance of our obligations to you under this Agreement. You agree that in any instance in which we have a right as set out in this Agreement, we may exercise that right (unless otherwise provided) once and/or at any additional times that we deem it appropriate to do so.

26.8 *Expenses.* Each party shall bear all of the costs of exercising its rights and carrying out its responsibilities under this Agreement, except as otherwise provided.

26.9 *Counterparts.* This Agreement may be signed in counterparts, and signature pages may be exchanged by fax, each such counterpart, when taken together with all other identical copies of this Agreement also signed in counterpart, shall be considered as one complete Agreement.

27 APPLICABLE LAW AND DISPUTE RESOLUTION

27.1 *Choice of Law.* This Agreement shall be interpreted and construed exclusively under the laws of the State of North Carolina, which laws shall prevail in the event of any conflict of law (without regard to, and without giving effect to, the application of North Carolina choice-of-law rules); provided, however, that the covenants in Section 19 of this Agreement shall be interpreted and construed under the laws of the state in which the Licensed Location is located. Nothing in this Section 27.1 is intended by the parties to invoke the application of any franchise, business opportunity, antitrust, implied covenant, unfair competition, fiduciary, and/or other doctrine of law of the State of North Carolina (or any other state) that would not otherwise apply absent this Section 27.1.

27.2 *Choice of Venue.* Subject to Section 27.3 below, the parties agree that any action that you bring against us, in any court, whether federal or state, must be brought only within such state and in the judicial district in which we have our principal place of business. Any action brought by us against you in any court, whether federal or state, may be brought within the state and judicial district in which we maintain our principal place of business.

27.2.1 The parties agree that this Section 27.2 shall not be construed as preventing either party from removing an action from state to federal court; provided, however, that venue shall be as set forth above.

27.2.2 The parties waive all questions of personal jurisdiction or venue for the purpose of carrying out this provision.

27.2.3 Any such action shall be conducted on an individual basis, and not as part of a consolidated, common, or class action.

27.3 *Mediation.* Before any party may bring an action in court against the other, the parties agree that they must first meet to mediate the dispute (except as otherwise provided in Section 27.5 below). Any such mediation shall be non-binding and shall be conducted in accordance with the then-current rules for mediation of commercial disputes of JAMS (formerly, "Judicial Arbitration and Mediation Services, Inc.") at its location then-nearest to our principal place of business.

27.4 *Parties Rights Are Cumulative.* No right or remedy conferred upon or reserved to us or you by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

27.5 *Injunctions.* Nothing contained in this Agreement shall bar our right to obtain injunctive relief against threatened conduct that will cause us loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

- 27.6 **WAIVER OF JURY TRIALS.** EACH PARTY TO THIS AGREEMENT IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.
- 27.7 **MUST BRING CLAIMS WITHIN ONE YEAR.** EACH PARTY TO THIS AGREEMENT AGREES THAT ANY AND ALL CLAIMS AND ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES' RELATIONSHIP, AND/OR YOUR OPERATION OF THE LICENSED LOCATION, BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER, SHALL BE COMMENCED WITHIN ONE (1) YEAR FROM THE OCCURRENCE OF THE FACTS GIVING RISE TO SUCH CLAIM OR ACTION, OR, IT IS EXPRESSLY ACKNOWLEDGED AND AGREED BY ALL PARTIES, SUCH CLAIM OR ACTION SHALL BE IRREVOCABLY BARRED. THIS SECTION 27.7 DOES NOT APPLY TO CLAIMS FOR INDEMNIFICATION UNDER THIS AGREEMENT.
- 27.8 **WAIVER OF PUNITIVE DAMAGES.** EACH PARTY TO THIS AGREEMENT WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER, AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES IT HAS SUSTAINED (THE PARTIES AGREE THAT THE PROVISIONS OF SECTION 18.11 ARE CONSISTENT WITH THIS PROVISION AND SHALL BE ENFORCED NOTWITHSTANDING THE WAIVER IN THIS SECTION 27.8).
- 27.9 *Payment of Legal Fees.* You agree to pay us all damages, costs and expenses (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur in: **(a)** obtaining injunctive or other relief for the enforcement of any provisions of this Agreement (including without limitation Sections 9 and 17 above); and/or **(b)** successfully defending a claim from you that we misrepresented the terms of this Agreement, fraudulently induced you to sign this Agreement, that the provisions of this Agreement are not fair, were not properly entered into, and/or that the terms of this Agreement (as it may be amended by its terms) do not exclusively govern the parties' relationship.
- 27.10 *Effect.* This Agreement takes effect only when both parties have signed this document.

28 ACKNOWLEDGMENTS

- 28.1 *Your Investigation of the Business Possibilities.* You acknowledge and agree that you have conducted an independent investigation of the business franchised under this Agreement, recognize that this business venture involves business risks, and that your success will be largely dependent upon your ability (or, if you are an entity, your owners as independent businesspersons).
- 28.2 *No Warranties or Guarantees.* We expressly disclaim the making of, and you acknowledge and agree that you have not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.
- 28.3 *Receipt of FDD and Complete Agreement.* You acknowledge and agree receipt of a copy of this Agreement, the exhibit(s), and agreements relating to this Agreement (if any), with all of the blank lines filled in, with ample time within which to review with applicable advisors. You also acknowledge that you received the FDD at least fourteen (14) days before the date on which this Agreement was signed, or as otherwise provided under applicable state law.

- 28.4 *You Have Read the Agreement.* You acknowledge and agree that you have read and understood the FDD, this Agreement, and the exhibits to this Agreement.
- 28.5 *Your Advisors.* You acknowledge that we have recommended that you seek advice from advisors of your own choosing (including a lawyer and an accountant) about the potential benefits and risks of entering into this Agreement, and that you have had sufficient time and opportunity to consult with those advisors.
- 28.6 *No Conflicting Obligations.* Each party represents and warrants to the others that there are no other agreements, court orders, or any other legal obligations that would preclude or in any manner restrict such party from: **(a)** negotiating and entering into this Agreement; **(b)** exercising its rights under this Agreement; and/or **(c)** fulfilling its responsibilities under this Agreement.
- 28.7 *Your Responsibility for the Choice of the Approved Site.* You acknowledge and agree that you have sole and complete responsibility for the choice of the Approved Site; that we have not (and shall not be deemed to have, even by our approval of the site that is the Approved Site) given any representation, promise, or guarantee of your success at the Approved Site; and that you will be solely responsible for your own success at the Approved Site.
- 28.8 *Your Responsibility for Operation of the Licensed Location.* Although we retain the right to establish and periodically modify System standards, which you have agreed to maintain in the operation of your franchised Store, you retain the right and sole responsibility for the day-to-day management and operation of the Licensed Location and the implementation and maintenance of system standards at the Licensed Location.
- 28.9 *The Terms of this Agreement.* You understand that the requirements that we have included in this Agreement are specified for the sake of enhancing, promoting, and protecting the "Pelican's SnoBalls" brand and the goodwill associated with our Proprietary Marks.
- 28.10 *Different Franchise Offerings to Others.* You acknowledge and agree that we may modify the terms under which we will offer franchises to other parties in any manner and at any time, which offers and agreements have or may have terms, conditions, and obligations that may differ from the terms, conditions, and obligations in this Agreement.
- 28.11 *Our Advice.* You acknowledge and agree that our advice is just that; that our advice is not a guarantee of success; and that you are the party that must reach and implement your own decisions about how to operate your Licensed Location on a day-to-day basis under the System.
- 28.12 *Your Independence.* You acknowledge and agree that:
- 28.12.1 you are the only party that employs your employees (even though we may provide you with advice, guidance, and training);
- 28.12.2 we are not the employer of any of your employees, and even if we express an opinion or provide advice, we will play no role in your decisions regarding their employment (including matters such as recruitment, hiring, compensation, scheduling, employee relations, labor matters, review, discipline, and/or dismissal);
- 28.12.3 the guidance that we provide, and requirements under which you will operate, are intended to promote and protect the value of the brand and the Proprietary Marks;

- 28.12.4 when forming and in operating your business, you had to adopt standards to operate that business, and that instead of developing and implementing your own standards (or those of another party), you chose to adopt and implement our standards for your business (including our System and the requirements under this Agreement); and
- 28.12.5 you have made (and will remain responsible at all times for) all of the organizational and basic decisions about establishing and forming your entity, operating your business (including adopting our standards as your standards), and hiring employees and employment matters (including matters such as recruitment, hiring, compensation, scheduling, employee relations, labor matters, review, discipline, and/or dismissal), engaging professional advisors, and all other facets of your operation.
- 28.13 *Success Depends on You.* You acknowledge and agree that the success of the business venture contemplated under this Agreement is speculative and depends, to a large extent, upon your ability as an independent businessperson, your active participation in the daily affairs of the business, market conditions, area competition, availability of product, quality of services provided as well as other factors. We do not make any representation or warranty express or implied as to the potential success of the business venture contemplated hereby.
- 28.14 *Two or More Signatories.* If two or more persons are signing this Agreement as the "Franchisee" (each, a "**Signatory**"), the parties agree that:
- 28.14.1 Each Signatory shall have the power to individually bind "Franchisee" with respect to us and third parties;
- 28.14.2 We have the right to treat each Signatory as having the full authority to bind all other Signatories in any and all matters;
- 28.14.3 We have the right to treat each Signatory as if s/he represents and can act on behalf of all the other Signatory(ies) in all matters;
- 28.14.4 Even though there may be more than one Signatory, all of the Signatories' rights will be one and the Signatories agree not to exercise their rights independent of (and/or apart from) one another;
- 28.14.5 We have the right to communicate with or provide notice to any Signatory, and such communication or notice shall be deemed as having been given to all Signatories; and
- 28.14.6 If there is a conflict among the Signatories (including us receiving conflicting information from or requests between the Signatories), we have the right to select from among any conflicting or inconsistent requests by, or information from, any of the Signatories, and our selection in such case will be final and dispositive with respect to any such conflict.
- 28.15 *General Release.* If this and our predecessor's Agreement is not the first contract between you (and your affiliates) and us (and our affiliates), then you agree to the following:
- You (on behalf of yourself and your parent, subsidiaries and affiliates and their respective past and present members, officers, directors, shareholders, agents and employees, in their corporate and individual capacities) and all guarantors of your obligations under this Agreement (collectively, "**Releasors**") freely and without any influence forever release and*

covenant not to sue us, our parent, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities (collectively "Releasees"), with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, "claims"), which any Releasor now owns or holds, may ever have owned or held, or may in the future own or hold (including claims arising under federal, state and local laws, rules and ordinances and claims arising out of, or relating to this Agreement and all other agreements between any Releasor and any Releasee, the sale of any franchise to any Releasor, the development and operation of the Stores and the development and operation of all other Stores operated by any Releasor that are franchised by any Releasee). You understand as well that you may later learn of new or different facts, but still, it is your intention to fully, finally, and forever release all of the claims that are released above. This includes your waiver of state laws that may otherwise limit a release (for example, Calif. Civil Code Section 1542, which states that "[a] general release does not extend to claims which the creditor does not know or suspect exist in his [or her] favor at the time of executing the release, which if known by him [or her] must have materially affected his [or her] settlement with the debtor"). You expressly agree that fair consideration has been given by us for this General Release and you fully understand that this is a negotiated, complete and final release of all claims. This General Release does not release any claims arising from representations made in our FDD and its exhibits or otherwise impair or affect any claims arising after the date of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly signed and delivered this Agreement in duplicate on the day and year first above written.

Pelican's SnoBalls USA, LLC
Franchisor

Franchisee Entity

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Effective Date: _____

By: _____

Name: _____

Title: _____

Address for Notices:

Address for Notices:

801 East 2nd Avenue

Gastonia, North Carolina 28054

Telephone: 919.906.7108

Attn: Franchise Agreements

email: pelicansmiles@gmail.com

Telephone: _____

Attn: _____

email: _____

PELICAN'S SNOBALLS USA, LLC
 FRANCHISE AGREEMENT
 EXHIBIT A
 DATA ADDENDUM

¶	Section Cross-Reference	Item
1	1.2	The Approved Site under this Agreement shall be: _____ _____
2	1.3	Subject to the provisions of Section 1.3 of this Agreement, the Protected Territory under this Agreement shall be a circle with its center at the front door of the Store and a radius of _____ miles.
3	13.9	The minimum amount to be spent on the Market Introduction Program is: One Thousand Dollars (\$1,000).

Initials

 Franchisee

 Franchisor

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT B
PERSONAL GUARANTEE

In order to induce Pelican's SnoBalls USA, LLC ("**Franchisor**") to sign the Pelican's SnoBalls Franchise Agreement between Franchisor and ("**Franchisee**"), dated _____, 202____ (the "**Agreement**"), each of the undersigned parties, jointly and severally, unconditionally guarantee to Franchisor and its successors and assigns that all of Franchisee's obligations (monetary and otherwise) under the Agreement as well as any other contract between Franchisee and Franchisor (and/or Franchisor's affiliates) will be punctually paid and performed.

Each individual signing this Personal Guarantee acknowledges and agrees, jointly and severally, that:

- Upon Franchisor's demand, s/he shall immediately make each payment required of Franchisee under the Agreement and/or any other contract with Franchisor and/or its affiliates.
- S/he waives any right to require Franchisor to: **(a)** proceed against Franchisee for any payment required under the Agreement (and/or any other contract with Franchisor and/or its affiliates); **(b)** proceed against or exhaust any security from Franchisee; **(c)** pursue or exhaust any remedy, including any legal or equitable relief, against Franchisee; and/or **(d)** give notice of demand for payment by Franchisee.
- Without affecting the obligations of the undersigned persons under this Guarantee, Franchisor may, without notice to the undersigned, extend, modify, or release any indebtedness or obligation of Franchisee, or settle, adjust, or compromise any claims against Franchisee. Each of the undersigned persons undersigned waive notice of amendment of the Agreement (and any other contract with Franchisor and Franchisor's affiliates) and notice of demand for payment by Franchisee, and agree to be bound by any and all such amendments and changes to the Agreement (and any other contract with Franchisor and Franchisor's affiliates).
- S/he will defend, indemnify and hold Franchisor harmless against any and all losses, damages, liabilities, costs, and expenses (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) resulting from, consisting of, or arising out of or in connection with any failure by Franchisee to perform any obligation of Franchisee under the Agreement (and any other contract with Franchisor and Franchisor's affiliates) and/or any amendment to the Agreement.
- S/he will be personally bound by all of Franchisee's covenants, obligations, and promises in the Agreement.
- S/he understands that the Franchisee's covenants, obligations, and promises include, among others, the provisions in the following parts of the Agreement: **Section 9.3** (generally regarding trademarks), **Section 11** (generally regarding confidentiality), **Section 16** (generally regarding Transfers), **Section 18** (generally regarding obligations upon termination or expiration of this Agreement), and **Section 19** (generally regarding covenants against competition).

- S/he understands that: **(a)** this Guarantee does not grant her/him any rights under the Agreement (including but not limited to the right to use any of Franchisor's marks such as the "Pelican's SnoBalls" marks) and/or the system licensed to Franchisee under the Agreement; **(b)** s/he has read, in full, and understands, all of the provisions of the Agreement, and that s/he intends to fully comply with those provisions of the Agreement as if they were printed here; and **(c)** that s/he had the opportunity to consult with a lawyer of her/his own choosing in deciding whether to sign this Guarantee.

This Guarantee shall be interpreted and construed in accordance with **Section 27** of the Agreement (including but not limited to the waiver of punitive damages, waiver of jury trial, agreement to bring claims within one year, and agreement not to engage in class or common actions). Among other things, that means that this Guarantee shall be interpreted and construed exclusively under the laws of the State of North Carolina, and that in the event of any conflict of law, North Carolina law will prevail (without applying North Carolina conflict of law rules).

IN WITNESS WHEREOF, each of the undersigned persons has signed this Guarantee as of the date of the Agreement.

_____	_____	_____
(in his/her personal capacity)	(in his/her personal capacity)	(in his/her personal capacity)
Printed Name: _____	Printed Name: _____	Printed Name: _____
Date: _____	Date: _____	Date: _____
Home Address: _____	Home Address: _____	Home Address: _____
_____	_____	_____
_____	_____	_____

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT C
LIST OF PRINCIPALS

Name of Principal	Home Address	Interest %

Initials

Franchisee

Franchisor

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT D

**AUTHORIZATION AGREEMENT FOR ACH PAYMENTS
(DIRECT DEBITS FOR ROYALTY AND OTHER FEES)**

_____ (Name of Person or Legal Entity)

_____ (ID Number)

The undersigned depositor ("**Depositor**" or "**Franchisee**") authorizes PELICAN'S SNOBALLS USA, LLC ("**Franchisor**") to initiate debit entries and/or credit correction entries to the undersigned's checking and/or savings account(s) indicated below and the depository designated below ("**Depository**" or "**Bank**") to debit or credit such account(s) pursuant to our instructions.

_____ Depository

_____ Branch

_____ City

_____ State

_____ Zip Code

_____ Bank Transit/ABA Number

_____ Account Number

This authorization is to remain in full and force and effect until sixty days after we have received written notification from Franchisee of its termination.

Printed Name
of Depositor: _____

Signed By: _____

Printed Name: _____

Title: _____

Date: _____

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT E
ADA CERTIFICATION

Pelican's SnoBalls USA, LLC ("**Franchisor**" or "**us**") and ("**Franchisee**" or "**you**") are parties to a franchise agreement dated _____, 202__ (the "**Franchise Agreement**") for the operation of a "Pelican's SnoBalls" store at _____ (the "**Licensed Location**").

- In accordance with Section 5.7 of the Franchise Agreement, you certify to us that, to the best of your knowledge, the Licensed Location and its adjacent areas comply with all applicable federal, state, and local accessibility laws, statutes, codes, rules, regulations, and standards, including the Americans with Disabilities Act.
- You acknowledge that you are an independent contractor and the requirement of this certification by Franchisor does not constitute ownership, control, leasing, or operation of the Licensed Location.
- You acknowledge that we have relied on the information contained in this certification.
- You agree to indemnify us and our officers, directors, and employees in connection with any and all claims, losses, costs, expenses, liabilities, compliance costs, and damages incurred by the indemnified party(ies) as a result of any matters associated with your compliance with the Americans with Disabilities Act, as well as the costs (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) related to the same.

Acknowledged and Agreed:

Franchisee:

By:_____

Printed Name:_____

Title:_____

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT F
LEASE ADDENDUM

THIS LEASE ADDENDUM (the "**Addendum**") has been executed as of _____, 202__, by and between _____ ("**Franchisee**") and _____ ("**Landlord**"), as an addendum to the lease, as modified, amended, supplemented, renewed and/or extended from time to time as contemplated herein ("**Lease**") dated as of _____, 202__ for the premises located at _____, (address) in the State of _____ ("**Premises**").

Franchisee has also entered (or will also enter) into a Franchise Agreement ("**Franchise Agreement**") with PELICAN'S SNOBALLS USA, LLC ("**Franchisor**") for the development and operation of a "Pelican's SnoBalls" shop at the Premises. As a condition to obtaining Franchisor's approval of the Lease, the Lease must contain the provisions of this Addendum.

NOW THEREFORE, in consideration of mutual covenants set forth herein, the execution and delivery of the Lease, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord and Franchisee agree as follows:

1. The Premises may be used solely for the operation of a "Pelican's SnoBalls" business. Franchisee, as the tenant under the Lease, shall have the right to display and use the "Pelican's SnoBalls" marks and signs in the manner required by the Franchisor, provided that such signs comply with applicable sign ordinances.
2. Franchisor, along with its successors and assigns, is an intended third party beneficiary of the provisions of this Addendum.
3. Franchisee and Landlord acknowledge and agree that Franchisor shall have no liability or obligation whatsoever under the Lease unless and until Franchisor assumes the Lease in writing pursuant to this Addendum. The parties also agree that by signing this Addendum, Franchisor has not guaranteed Franchisee's obligations to Landlord.
4. Franchisee and Landlord agree that they will not modify, amend, supplement, and/or extend, nor (in the case of Franchisee) assign the Lease rights, without Franchisor's prior written consent, which shall not be unreasonably withheld. (The parties acknowledge that it would be reasonable for Franchisor not to consent to an assignment of Franchisee's rights to another flavored ice store operator, or another similar competitor. Landlord and Franchisee acknowledge and agree that under the Franchise Agreement, Franchisee has agreed to assign to Franchisor all of Franchisee's rights, title and interests to and under the Lease upon any termination or non-renewal of the Franchise Agreement, but no such assignment shall be effective unless and until: **(a)** the Franchise Agreement is terminated or expires without renewal; **(b)** Franchisor has exercised its Option to Purchase under the Franchise Agreement; and **(c)** Franchisor notifies the Franchisee and Landlord in writing that Franchisor assumes Franchisee's obligations under the Lease.
5. Landlord agrees to deliver to Franchisor a copy of any notice of default or termination of the Lease at the same time such notice is delivered to Franchisee. Franchisor agrees to deliver to Landlord a copy of any notice of termination of the Franchise Agreement at the same time

such notice is delivered to Franchisee. Franchisee consents to those copies being sent by the Landlord and/or the Franchisor.

6. Franchisor shall have the right, but not the obligation, to cure any breach of the Lease upon giving written notice of its election to Franchisee and Landlord, and, if so stated in the notice, to also succeed to Franchisee's rights, title and interests thereunder. If Franchisor assumes the Lease as provided above, Franchisor may, with Landlord's prior written consent, which shall not be unreasonably withheld, further assign the Lease to another franchisee of Franchisor to operate a "Pelican's SnoBalls" shop at the Premises. Landlord and Franchisee agree to execute such further documentation to confirm Landlord's consent to the assignment permitted under this Addendum as Franchisor or Landlord may reasonably request for that purpose. Upon such assignment, Franchisor shall be released from any further liability under the terms and conditions of the Lease.
7. Landlord and Franchisee acknowledge that Franchisee has agreed under the Franchise Agreement that Franchisor and its employees or agents shall have the right to enter the Premises for certain purposes. Landlord agrees not to interfere with or prevent such entry. Landlord and Franchisee further acknowledge that if the Franchise Agreement expires (without renewal) or is terminated, then Franchisee has an obligation under the Franchise Agreement to take certain steps to properly de-identify the Premises as a "Pelican's SnoBalls" shop (unless Franchisor takes an assignment of the lease, as provided above). Landlord agrees to permit Franchisor, its employees or agent, to enter the Premises and remove signs (both interior and exterior), décor and materials displaying any marks, designs or logos owned by Franchisor, provided that Franchisor shall provide at least five (5) days' notice to Landlord before entering the site and shall bear the expense of repairing any damage to the Premises as a result thereof.
8. Landlord and Franchisee agree that the terms in this Addendum shall supersede any terms to the contrary set forth in the Lease.
9. Landlord and Franchisee agree that copies of any and all notices required or permitted under this Addendum, or under the Lease, shall also be sent to Franchisor at 801 East 2nd Avenue, Gastonia, North Carolina 28054 (attention President), or to another that Franchisor may specify by giving written notice to Landlord.

--- Signatures on following page ---

The parties to this Addendum have signed and delivered this Addendum as of the date(s) noted below.

Landlord:

PELICAN'S SNOBALLS
USA, LLC *

Franchisee:

Date:

Date:

Date:

Subscribed and sworn to
before me this ____ day of
_____, 202____.

Subscribed and sworn to
before me this ____ day of
_____, 202____.

Subscribed and sworn to
before me this ____ day of
_____, 202____.

Notary Public

Notary Public

Notary Public

My Commission expires:

My Commission expires:

My Commission expires:

** The Franchisor has signed
this lease addendum only to
acknowledge its terms and
not to accept any obligations
under the lease.*

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT G

SAMPLE FORM OF
NON-DISCLOSURE AND NON-COMPETITION AGREEMENT

(to be signed by franchisee and its managerial personnel)

THIS NON-DISCLOSURE AND NON-COMPETITION AGREEMENT ("Agreement") is made this ____ day of _____, 202____, by and between:

- _____ (the "Franchisee"), and
- _____, who is a Principal, manager, supervisor, member, partner, or a person in a managerial position with, Franchisee (the "Member").

RECITALS:

WHEREAS, PELICAN'S SNOBALLS USA, LLC ("**Company**") owns a format and system (the "**System**") relating to the establishment and operation of "Pelican's SnoBalls" Stores operating in structures that bear Company's interior and exterior trade dress, and under its Proprietary Marks, as defined below (each, a "**Store**");

WHEREAS, Each Store will offer services and certain educational toys and gift items, as well as certain snacks ("**Products**"). We may introduce private labeled Products (referred to in this Agreement as "**Proprietary Items**");

WHEREAS, Company identifies "Pelican's SnoBalls" Stores by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin (including for example the mark "Pelican's SnoBalls") and certain other trade names, service marks, and trademarks that Company currently and may in the future designate in writing for use in connection with the System (the "**Proprietary Marks**");

WHEREAS, Company and Franchisee have executed a Franchise Agreement ("**Franchise Agreement**") granting Franchisee the right to operate a "Pelican's SnoBalls" Store (the "**Licensed Location**") and to offer and sell Products, Proprietary Items, services, and other ancillary products approved by Company and use the Proprietary Marks in connection therewith under the terms and conditions of the Franchise Agreement;

WHEREAS, the Member, by virtue of his or her position with Franchisee, will gain access to certain of Company's Confidential Information, as defined herein, and must therefore be bound by the same confidentiality and non-competition agreement that Franchisee is bound by.

IN CONSIDERATION of these premises, the conditions stated herein, and for other good and valuable consideration, the sufficiency and receipt of which are acknowledged, the parties agree as follows:

1. Confidential Information. Member shall not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, or know-how

concerning the methods of operation of the business franchised thereunder which may be communicated to Member or of which Member may be apprised by virtue of your operation under the terms of the Franchise Agreement. Any and all information, knowledge, know-how, and techniques which Company designates as confidential shall be deemed confidential for purposes of this Agreement, except information which Franchisee can demonstrate came to its attention before disclosure thereof by Company; or which, at or after the time of disclosure by Company to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.

2. Covenants Not to Compete.

(a) Member specifically acknowledges that, pursuant to the Franchise Agreement, and by virtue of his/her position with Franchisee, Member will receive valuable specialized training and confidential information, including, information regarding the operational, sales, promotional, and marketing methods and techniques of Company and the System.

(b) Member covenants and agrees that during the term of the Franchise Agreement, except as otherwise approved in writing by Company, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity:

(i) Divert or attempt to divert any business or customer of the Licensed Location or of any Licensed Location using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with Company's Proprietary Marks and the System; or

(ii) Either directly or indirectly for him/herself or on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Licensed Location.

(c) Member covenants and agrees that during the Post-Term Period (defined below), except as otherwise approved in writing by Company, Member shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, Member shall not own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Licensed Location and which business is, or is intended to be, located within a three (3) mile radius of the Approved Site.

(d) As used in this Agreement, the term "same as or similar to the Licensed Location" shall include, but not be limited to, any business that prominently features the sale flavored ice products.

(e) As used in this Agreement, the term "Post-Term Period" shall mean a continuous uninterrupted period of two (2) years from the date of: **(i)** a transfer as contemplated under Section 16 of the Franchise Agreement; **(ii)** expiration or termination of the Franchise Agreement (regardless of the cause for termination); **(iii)** termination of Member's employment with Franchisee; and/or **(iv)** a final order of a duly authorized arbitrator, panel of arbitrators, or a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to the enforcement of this Agreement; either directly or indirectly (through, on behalf of, or in conjunction with any persons, partnership, corporation or entity).

3. Injunctive Relief. Member acknowledges that any failure to comply with the requirements of this Agreement will cause Company irreparable injury, and Member agrees to pay all costs (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all

other related expenses) incurred by Company in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

4. Severability. All agreements and covenants contained herein are severable. If any of them, or any part or parts of them, shall be held invalid by any court of competent jurisdiction for any reason, then the Member agrees that the court shall have the authority to reform and modify that provision in order that the restriction shall be the maximum necessary to protect Company's and/or Member's legitimate business needs as permitted by applicable law and public policy. In so doing, the Member agrees that the court shall impose the provision with retroactive effect as close as possible to the provision held to be invalid.

5. Delay. No delay or failure by the Company or Franchisee to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right provided herein, and no waiver of any violation of any terms and provisions of this Agreement shall be construed as a waiver of any succeeding violation of the same or any other provision of this Agreement.

6. Third-Party Beneficiary. Member acknowledges and agrees that Company is an intended third-party beneficiary of this Agreement with the right to enforce it, independently or jointly with Franchisee.

IN WITNESS WHEREOF, the Franchisee and the Member attest that each has read and understands the terms of this Agreement, and voluntarily signed this Agreement on the date first written above.

FRANCHISEE

MEMBER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

PELICAN'S SNOBALLS USA, LLC
FRANCHISE AGREEMENT
EXHIBIT H

SITE SELECTION ADDENDUM

THIS SITE SELECTION ADDENDUM TO THE FRANCHISE AGREEMENT (the "**Addendum**") is made and entered into as of _____, 202____, by and between:

- Pelican's SnoBalls USA, LLC, a North Carolina limited liability company ("**we**," "**us**," "**our**", or the "**Franchisor**"); and
- _____ ("**you**" or the "**Franchisee**").

Franchisor and Franchisee have entered into a contract entitled the "Pelican's SnoBalls Franchise Agreement" ("**Franchise Agreement**") and wish to supplement its terms as set out below in this Addendum. Accordingly, the parties agree as follows:

1. **Time to Locate Site:** Within two hundred and seventy (270) days after the date of this Addendum, you agree to acquire or lease/sublease, at your own expense, commercial real estate that is properly zoned for the use of the business that you will conduct under the Franchise Agreement (the "**Licensed Location**") at a site that we will have approved in writing as provided below. If you have made diligent efforts to locate an approved Licensed Location and are unable to do so within the allotted 270 days, you may request a 90 day extension of time to locate the site. We reserve the right to approve or deny this request at our discretion and charge an extension fee of up to \$5,000.

a. The location shall be within the following area: _____

(the "**Site Selection Area**").

b. The only reason that the Site Selection Area is described is for the purpose of selecting a site for the Licensed Location.

c. If you do not acquire or lease a site (that we have approved in writing) for the Licensed Location within the time required in Section 1 above, that will constitute a default under Section 17.2 of the Franchise Agreement and also under this Addendum, and we will have the right to terminate the Franchise Agreement and this Addendum pursuant to the terms of Section 17.2 of the Franchise Agreement; provided, that if we elect to terminate the Franchise Agreement pursuant to this Paragraph 1.d, you will not be refunded any amount of the Initial Franchise Fee or extension fee that you have paid to us, which you acknowledge and agree that we have the right to retain.

2. **Site Evaluation Services:** We will provide site selection counseling and assistance as we deem necessary. We may perform such on site evaluations as we deem advisable in response to your requests for site approval; provided, however, that we may not, at our discretion, provide on site evaluation for any proposed site before we have received from you a completed site approval form for the site (prepared as set forth in Paragraph 3 below).

3. **Site Selection Package Submission and Approval:** You must submit to us, in the form that we specify: (a) a completed site approval form (in the form that we require); (b) any additional information and/or materials that we may reasonably require; and (c) a lease, sublease, option

contract, letter of intent, or other evidence satisfactory to us that confirms your favorable prospects for obtaining the right to use the site. You acknowledge that time is of the essence. We will have thirty (30) business days after receipt of all such information and materials from you to approve or disapprove the proposed site as the location for the Licensed Location. We have the right to approve or disapprove any such site. If we do not approve a proposed site by giving you written notice within the 30-day period, then we will be deemed to have disapproved the site.

4. **Lease Responsibilities:** After we have approved a site, you must execute a lease, which must be coterminous with the Franchise Agreement, or a binding agreement to purchase the site. Our approval of any lease will be conditioned upon inclusion in the lease of the Lease Addendum attached to the Franchise Agreement as Exhibit F. However, even if we examine the Lease, we are not responsible for review of the Lease for any terms other than those contained in the Lease Addendum.

5. **Approved Site:** After we have approved the location for the Licensed Location and you have leased or acquired that location, the location shall constitute the **Approved Site** described in Section 1.2 of the Franchise Agreement. The Approved Site shall be specified on Exhibit A to the Franchise Agreement, and shall become a part the Franchise Agreement. The Protected Territory, as defined under Section 1.3 of the Franchise Agreement, shall be the geographic area that is described in Exhibit A to the Franchise Agreement.

a. You hereby acknowledge and agree that our approval of a site does not constitute an assurance, representation, or warranty of any kind, express or implied, as to the suitability of the site for the Licensed Location or for any other purpose. Our approval of the site indicates only that we believe the site complies with our minimum acceptable criteria solely for our own purposes as of the time of the evaluation. The parties each acknowledge that application of criteria that have been effective with respect to other sites and premises may not be predictive of potential for all sites and that, subsequent to our approval of a site, demographic and/or economic factors, such as competition from other similar businesses, included in or excluded from criteria that we used could change, thereby altering the potential of a site. Such factors are unpredictable and are beyond our control.

b. We will not be responsible if a site (even if we have approved that site) does not meet your expectations as to revenue or operational performance.

c. You acknowledge and agree that your acceptance of a franchise for the operation of a "Pelican's SnoBalls" franchise at the site is based on your own independent investigation of the suitability of the site.

6. **Construction:** This Addendum is an integral part of the Franchise Agreement, and the terms of this Addendum shall control with respect to the subject matter covered by this Addendum. Except as modified or supplemented by this Addendum, the terms of the Franchise Agreement are unchanged.

IN WITNESS WHEREOF, intending to be legally bound, each party has caused its duly authorized representative to duly execute and deliver this Addendum on the date first above written.

Pelican's SnoBalls USA LLC
Franchisor

Franchisee

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT B**LIST OF PELICAN'S SNOBALLS FRANCHISEES****(As of December 31, 2022)**

Franchisee Name	Store Address	City	State, Zip Code	Phone Number
Diane LeBlanc	23825 U.S. Highway 98	Fairhope	AL 36532	310-686-1428
Dave & Diane LeBlanc	1001 N McKenzie Street	Foley	AL 36535	804-832-0335
Kathy & Terry Allen	1805 U.S. Highway 78	Oxford	AL 36202	770-833-7299
Andrew Cox	1293 Talladega Highway	Sylacauga	AL 35150	334-595-3844
Desiree & LaShanton Jones	919 North Stone Avenue, Suite 103 & 104	Tucson	AZ 85705	Desiree: 845-249-6152 LaShanton: 404-423-4909
Craig Wohlgemuth	959 Clovis Avenue	Clovis	CA 93612	559-250-1543
Mike Stype	1530 Lincoln Street	Kingsburg	CA	559-558-6374
Joe Peltier	1020 US-92	Auburndale	FL 33823	863-514-9542
Kalie Samaroo	9030 Bonita Beach Road SE	Bonita Springs	FL 34135	239-898-7459
Jimmy Diaz	1901 Cortez Road W	Bradenton	FL 34207	941-447-6075
Paul & Trina Everhart	1702/1706 Skyline Boulevard	Cape Coral	FL 33971	239-898-4742
Yordan & Jennifer Guzman	1305-B South Military Trail	Deerfield Beach	FL 33442	757-637-5306
Roy & Cynthia Bailey & Andrea & Isaac Garcia	17260 San Carlos Boulevard	Ft Myers Beach	FL 33931	706-405-9573
Jeremy Resnick	1100 Idlewild	Green Cove Springs	FL 32043	904-855-7662
Jeremy Resnick	1027 & 1029 3 rd Street North	Jacksonville Beach	FL 32250	904-855-7662
Brandi & Chris Cooper	55 Yeomans Avenue	Labelle	FL 33935	239-691-5930
Joe Peltier	2510 South Florida Avenue	Lakeland	FL 33803	863-514-9542
Roy & Cynthia Bailey, Andrea & Isaac Garcia	601 Williams Avenue	Lehigh Acres	FL 33972	706-405-9573
Paul Everhart	4150 Hancock Bridge Parkway, Unit 32	North Fort Myers	FL 33903	239-898-4742
Paul & Robin Bedford	29 West McKey Street	Ocoee	FL 34761	407-342-3222
Geoffrey & Elizabeth Lowe	806 6th Street West	Palmetto	FL 34211	864-787-4559
Gregory Davis & Billie Jo Davis	610 South Collins Street	Plant City	FL 33563	813-716-4393
Hunter Schenk	4045 Tamiami Trail	Port Charlotte	FL 33952	360-319-0402
Mike McMillen	1598 Lakeview Drive	Sebring	FL 33870	863-608-5216
Mike McMillen	3064 Cypress Gardens Road	Winter Haven	FL 33884	863-670-8845
Collins Cromie, Michael Cromie, Sherry Bradshaw, Vera (Bebe) Carter	510 Baxter Street	Athens	GA 30605	803-429-6686
Joseph & Lisa Christie	3326 Peach Orchard Road	Augusta	GA 30906	706-306-8190
Joseph & Lisa Christie	3644 Walton Way Extension	Augusta	GA 30909	706-306-8190
Tamra Head	3397 East 1 st Street	Blue Ridge	GA 30513	706-455-8496
Charles Bishop	401 Bankhead Highway	Carrollton	GA 30117	404-925-3266
Joseph & Lisa Christie	3184 Salem Road	Conyers	GA 30013	706-306-8190
Jeb, Eddie, James, Richard, & Steve Scoggins	1501 Cleveland Highway	Dalton	GA 30721	423-715-1721
Erik Goodin	6482 E Broad Street	Douglasville	GA 30134	919-995-3489
Erik Goodin	685 North Jeff Davis Drive	Fayetteville	GA 30214	919-995-3489
Erik Goodin	732 West Taylor Street	Griffin	GA 30223	919-995-3489
Joseph & Lisa Christie	101 East Robinson Avenue	Grovetown	GA 30813	706-306-8190
Melissa Rice	0 Delk Street	Hartwell	GA 30643	706-680-5183

Franchisee Name	Store Address	City	State, Zip Code	Phone Number
Danielle Bourne	7556 Tara Blvd	Jonesboro	GA 30236	504-628-5826
Raymond Bourne Jr.	3081 Old 41 Highway NW	Kennesaw	GA 30144	504-905-6916
Tracy & Franky Lawrence	4501 Lawrenceville Road	Loganville	GA 30052	Tracy: 678-644-2585 Franky: 404-884-0403
James & Zalika Dozier	3600 Canton Road	Marietta	GA 30066	704-607-5712
James & Zalika Dozier	1642 Roswell Road	Marietta	GA 30127	704-607-5712
Charles Bishop	471 Highway 29 N	Newnan	GA 30263	404-925-3266
Joseph & Lisa Christie	709 Edgefield Road	North Augusta	GA 29841	706-306-8190
Michelle & Thomas Williams	2302 Shorter Avenue	Rome	GA 30165	228-861-9124
Alan & Laura Yarberry	609 East Montgomery Cross Road	Savannah	GA 31406	865-661-6035
Danielle Bourne	4059 Lawrenceville Highway	Tucker	GA 30084	504-628-5827
JP Courtier	150 North Broad Street	Winder	GA 30680	704-578-6002
Paul & Cicily Bentivegna	8099 Main Street	Woodstock	GA 30188	470-553-8542
Amanda Zahn & Jonielle Spillers	2702 6 th Street SW	Cedar Rapids	IA 52404	Amanda: 319-693-8102 Jonielle: 360-631-8404
Troy Perkins	1355 Veteran's Memorial Lane, Suite 105	Bowling Green	KY 42101	615-804-6686
Troy Perkins	8233 Nashville Road	Bowling Green	KY 42101	615-804-6686
Troy Perkins	5844 Scottsville Road	Bowling Green	KY 42104	615-804-6686
Jill Moore & Salezm Lockhart	5960 Louisville Road	Bowling Green	KY 42134	Jill: 270-791-4275 Salem: 270-202-5391
Jill Moore & Salem Lockhart	608 North Main Street	Franklin	KY 42134	Jill: 270-791-4275 Salem: 270-202-5391
Steve & Melissa Ablert	524 Happy Valley Road	Glasgow	KY 42141	Steve: 615-310-6431 Melissa: 270-799-3695
Melissa Kyle	1890 Florida Street	Mandeville	LA 70448	985-264-3117
Jean Francois Jean Louis	17 Dyke Road	Marshfield	MA 02050	774-204-2582
Jennifer Hurley	4311 Gex Road	Diamondhead	MS 39525	985-788-7281
Harry & Sonia Smith	1240 East Main Street	Albemarle	NC 28001	980-722-3003
Lowell Ziegler	441 West Williams Street	Apex	NC 27502	919-271-6771
John Fisher & David Widmar	309 Washington Avenue	Asheboro	NC 27205	336-675-5445
Jaysun Lyles & Lisa Taylor	2601 Sweeten Creek Road	Asheville	NC 28803	828-403-7535
Jacob & Emily Freeman	235 Weaverville Highway	Asheville	NC 28804	828-206-1134
Randall Wright & Tracy Lemmons Wright **	6037 Wilkinson Boulevard	Belmont	NC 28012	704-300-6477
Delana Cagle & Stephanie Hinson	111 Montgomery Crossing	Biscoe	NC 27205	910-975-1839
Lisa Taylor & Jaysun Lyles	304 West State Street	Black Mountain	NC 28752	828-925-0092
Steve & Brandy Wilson	1147-A St. Marks Church Road	Burlington	NC 27215	919-641-9073
John Huerta	11 Boardwalk, Unit 130	Carolina Beach	NC 28428	214-923-6395
Shomari Louissaint	1200 North Davidson Street	Charlotte	NC 28206	704-608-6771
Josh & Charyl Davis	5639 Statesville Road	Charlotte	NC 28269	704-726-9910

Franchisee Name	Store Address	City	State, Zip Code	Phone Number
Jovan Henderson & Stephen Lopez	7833 South Boulevard	Charlotte	NC 28273	919-282-2047
Daniel Murray	9180 Cleveland Road	Clayton	NC 27520	919-614-0293
Ryan & Nicole Rudisill	431 Athletic Club Boulevard	Clayton	NC 27527	919-616-1853
K'Nesha Maddox & Aquilla Gant	20832 Catawba Avenue	Cornelius	NC 28031	704-777-7609
Miana McCoy & Jason Carpenter	103 West Lake Road	Creedmoor	NC 27522	919-410-2415
Chase & Stephenie Causey	120 West Wilkins Street	Dallas	NC 28034	364-460-2848
Randall Wright & Tracy Lemmons Wright **	1410 State Road 16	Denver	NC 28037	704-300-6477
Miana McCoy & Jason Carpenter	606 Fayetteville Street	Durham	NC 27701	919-410-2415
Miana McCoy & Jason Carpenter	3217 North Roxboro Street	Durham	NC 27704	919-410-2415
Bobby Buffaloe	112 West Jackson Boulevard	Erwin	NC 28339	919-523-9960
Erik Goodin	4621 Yadkin Road	Fayetteville	NC 28303	910-890-3611
Randy Smith	5846 Ramsey Street	Fayetteville	NC 28311	910-890-3611
Kelly Anderson	268 West Main Street	Forest City	NC 28043	864-706-3212
Jovan Henderson	1605 Neal Hawkins Road	Gastonia	NC 28056	919-282-2047
Steven & Laura Sherrod	506 N Berkeley Boulevard	Goldsboro	NC 27534	252-230-7837
Deidra Moore	705 Milner Road	Greensboro	NC 27377	336-558-4799
Jovan Henderson & Stephen Lopez	2405 Randleman Road	Greensboro	NC 27406	919-282-2047
Lisa Jump	1122 Greenville Boulevard SW	Greenville	NC 27834	252-235-5957
Cody & Rebecca Hagen	4601 East 10 th Street	Greenville	NC 27858	252-714-6897
Josh Davis & Charles Hunt	5226 Highway 49 S	Harrisburg	NC 28075	704-726-9910
Jason Carpenter & Miana McCoy	420 North Garnett Street	Henderson	NC 27536	919-410-2415
Nekki & Scott Osteen	2018 Asheville Highway	Hendersonville	NC 28791	828-674-1812
Adam & Makenzie Aldridge	1970 27 th Street Place NE	Hickory	NC 28601	704-477-3402
Jason & Deborah Dillingham	810 U.S. Highway 321 NW	Hickory	NC 28601	828-455-1853
Clint Hatcher	200 South Marine Boulevard	Jacksonville	NC 28540	803-577-0302
Harry & Sonia Smith	3000 South Cannon Boulevard	Kannapolis	NC 28025	980-722-9317
K'Nesha Maddox & Aquilla Gant	1000 Shelby Road	Kings Mountain	NC 28086	704-777-7609
Steven & Laura Sherrod	211 E New Bern Road	Kinston	NC 28504	252-230-7837
Danny & Wendy Taylor	1004 Big Oak Court	Knightdale	NC 27545	252-230-6851
Jason & Deborah Dillingham	520 Realty Street SW	Lenoir	NC 28645	828-455-1853
Randall Wright & Tracy Lemmons Wright **	2224 Hartman Street	Lincolnton	NC 28092	704-300-6477
Jaysun Lyles	174 US 70 West	Marion	NC 28752	828-925-0092
Jon Bolick	1300 Yadkinville Road	Mocksville	NC 27028	828-851-3328
Malvin Seale	120 East Sunset Drive	Monroe	NC 28112	704-604-5784
Adam & Makenzie Aldridge	430 North Main Street	Mooresville	NC 28115	704-477-3402
Jon Bolick	1214 Burkemont Avenue	Morganton	NC 28655	828-851-3328
Clint & Denise Hatcher	1919B South Glenburnie Road	New Bern	NC 28562	803-577-0302
Adam Aldridge	1918 North Main Avenue	Newton	NC 28658	704-300-6477
Austin & Hailey Johnson	5715 Fayetteville Road	Raleigh	NC 27603	919-662-3979
Bobby, Drew, Ricky, Richard Buffaloe	5900 Oak Forest Road	Raleigh	NC 27616	919-523-9960

Franchisee Name	Store Address	City	State, Zip Code	Phone Number
Kristen & Devin Hicks	1211 North Wesleyan Boulevard	Rocky Mount	NC 27804	Kristen: 252-290-9298 Devin: 919-417-4599
Jon Bolick	90 Ridge Street	Rutherford College	NC 28671	828-851-3328
Eric Harris	1708 East Innes Street	Salisbury	NC 28146	434-334-8208
Barbara Cabrera & Yassenys Medina	1102 South Horner Boulevard	Sanford	NC 27330	Barbara: 336-517-6785 Yassenys: 336-254-3368
Carol & Mike Brown	108 Roxy Drive	Selma	NC 27576	252-245-0194
James & Patricia Chesnut	5460 South Main Street	Shallotte	NC 28470	240-549-2584
Jetina & Ethan Brown	114 South Post Road	Shelby	NC 28152	803-517-9032
Kelly Anderson	100 Town Commons Drive, Unit B	Shelby	NC 28152	828-305-8715
Kevin & Christina Kidd	601 Sheffield Drive	Siler City	NC 27344	336-669-8107
Clint Hatcher	2074 NC-172	Sneads Ferry	NC 28460	803-577-0302
Luke Stamey	12807 South Highway 226	Spruce Pine	NC 28777	828-467-2400
Denard & Gabrielle Houey	232 North Center Street	Statesville	NC 28677	704-451-8646
Carol Knight	204 North New River Drive	Surf City	NC 28445	910-515-1918
Lisa Jump	1717 North Main Street	Tarboro	NC 27886	252-235-5957
Jon Bolick	402 Lexington Avenue	Thomasville	NC 27360	828-851-3329
Michael Snee	703 North Main Street	Wake Forest	NC 27587	919-961-2521
Dwayne & Kimberly Johnson	318 East South Main Street	Waxhaw	NC 28173	704-562-7454
Patricia Merritt, Amanda Valmossi, Kevin Merritt	5172 Wendell Boulevard	Wendell	NC 27591	Amanda: 919-545-2184 Patricia: 919-649-6982
Elizabeth & Nathan Henderson	513 Curtis Bridge Road	Wilkesboro	NC 28697	704-798-9989
John Huerta	4802 Market Street	Wilmington	NC 28405	214-923-6396
John Huerta	3704 Carolina Beach Road	Wilmington	NC 28412	214-923-6395
John Huerta	7617 Carolina Beach Road	Wilmington	NC 28412	214-923-6397
Mike & Patty Davis	1000 Tarboro Street	Wilson	NC 27893	252-236-5770
Mike & Patty Davis	4011 Nash Street NW	Wilson	NC 27896	252-236-5770
Cedrick & April Ratliff	5425 University Parkway	Winston-Salem	NC 27105	704-930-8426
Randy & Jolee Hagan	101 Creek Road	Mt. Laurel	NJ 08054	973-713-2090
Randy & Jolee Hagan	1301 Long Beach Boulevard	North Beach Haven	NJ 08008	973-713-2090
Randy & Jolee Hagan	3 North Long Beach Boulevard	Surf City	NJ 08008	973-713-2090
Derek Johnson, Alycia Benjamin-Peebles	254 Rockaway Parkway	Valley Stream	NY 11580	718-216-9996
Ryan & Emily Findak	5816 Andrews Road	Mentor on the Lake	OH 44060	440-477-1504
Jessica & Glen Brown	219 South Water Street	Bellefonte	PA 16823	Jessica: 570-404-2458 Glen: 570-404-2457
James Hughes	807 West Lancaster Avenue	Downington	PA 19335	610-732-8392
Jessica & Glen Brown	104 North 8 th Street	Mifflinburg	PA 17844	570-404-2458
Jade & Tim Boetsch	152 Shikellamy Avenue	Sunbury	PA 17801	570-847-8617
Kristi Gibbs & Kim McMurry	210 East Gate Drive	Aiken	SC 29803	803-413-8007

Franchisee Name	Store Address	City	State, Zip Code	Phone Number
Vera (Bebe Carter, Sherry Bradshaw, Luke Lynn)	146 Civic Center Boulevard	Anderson	SC 29625	Vera: 803-261-0631 Sherry: 803-429-8008
Erin Chinnners	123 West Church Street	Batesburg	SC 29006	803-608-5647
Brian & Barbara Keller	1529 Jefferson Davis Highway	Camden	SC 29020	803-201-9652
Merewyn Summers & AC Greene	107 Murray Linder Road	Chapin	SC 29036	803-920-2394
Matt Marcom	442 Meeting Street West	Columbia	SC 29169	919-614-2080
Matt Marcom	2845 North Main Street	Columbia	SC 29201	919-614-2080
Matt Marcom	1912 Rosewood Drive	Columbia	SC 29205	919-614-2080
Matt Marcom	2768 Decker Boulevard,	Columbia	SC 29206	919-614-2080
Michael Houmiel	6165 St. Andrews Road	Columbia	SC 29212	803-413-5369
Brian & Barbara Keller	202 Graces Way	Columbia	SC 29229	803-201-9652
Gregg Fatoool & Randall Wright ***	3502 SC-544	Conway	SC 29526	919-906-7108
Vera (Bebe) Carter, Wilson Carter, Sherry Bradshaw, Brewer Bradshaw	6327 Calhoun Memorial Highway	Easley	SC 29640	803-261-0631
Brian & Barbara Keller	2291 US-1	Elgin	SC 29045	803-201-9652
William Stout	411 Pamplico Highway	Florence	SC 29505	304-551-3188
Tommy Owen	10005 Charlotte Highway, Suite 101	Fort Mill	SC 29707	803-389-4532
Gregg Fatoool *Linda Jones	545 Crossroads Plaza	Fort Mill	SC 29708	919-906-7108 803-207-9131
Taylor Stanford	503 North Logan Street	Gaffney	SC 29341	864-491-9737
Elliot Stone	298 South Pleasantburg Drive	Greenville	SC 29607	803-493-2775
Elliot Stone	2619 Poinsett Highway	Greenville	SC 29609	803-493-2775
Cody Poole	Montague Avenue	Greenwood	SC 29649	864-979-2052
William Freeman, William Humcke, & Bob Walch	846 S Buncombe Road	Greer	SC 29650	864-238-0103
William Freeman, William Humcke, & Bob Walch	102 Park Avenue	Greer	SC 29651	864-238-0103
Carla Bridges	11631 Asheville Highway, Suite E	Inman	SC 29349	704-473-7666
Merewyn Summers	1600 Dutch Fork Road	Irmo	SC 29063	803-920-2394
Kurt Brown	156 South Ron McNair Boulevard	Lake City	SC 29560	843-598-1685
Lonnie & Teresa England Chris & Paul Kaoud	5400 State Highway 55 E	Lake Wylie	SC 29710	803-431-1425 931-607-4433
Caleb Clayton-Molby	331 South Main Street	Lancaster	SC 29720	785-766-2626
Paul Kaoud	431 North Harper Street	Laurens	SC 29360	352-303-6262
Erin Chinnners	517 North Lake Drive	Lexington	SC 29072	803-608-5647
Erin Chinnners	1848 South Lake Drive	Lexington	SC 29073	803-608-5647
Kelsey Reed	3225 Old U.S. 52	Moncks Corner	SC 29461	803-468-9436
Chris Wiksell	2447 North Highway 17	Mt. Pleasant	SC 29466	843-864-5489
Gregg Fatoool & Randall Wright ***	2813 Highway 17 S Business	Murrells Inlet	SC 29576	919-906-7108 843-340-1965
Gregg Fatoool & Randall Wright ***	200 North Kings Highway	Myrtle Beach	SC 29577	919-906-7108
Mike Houmiel	1433 Wilson Road	Newberry	SC 29108	803-413-5369
Brandy & Bryan Beason	1988 St. Matthews Road	Orangeburg	SC 29115	803-682-0416

Franchisee Name	Store Address	City	State, Zip Code	Phone Number
Gregg Fatool *	1143 North Anderson Road	Rock Hill	SC 29730	919-906-7108
Gregg Fatool *	764 Saulda Street	Rock Hill	SC 29730	919-906-7108
Tonja Goudelock	2640 Stone Station Road	Roebuck	SC 29376	864-266-6154
Vera (Bebe) Carter	10947 Clemson Boulevard	Seneca	SC 29672	803-261-0631
Aaron Persing & Raven Fatool	630 West Main Street	Spartanburg	SC 29301	570-898-2005
Stephen Collins	2601 East Main Street	Spartanburg	SC 29307	864-706-1185
Mark Grider	329 East 5 th North Street	Summerville	SC 29483	803-727-8563
Brian & Barabra Keller	471 North Guignard Drive	Sumter	SC 29150	803-201-9652
Bryan & Brandy Beason	617 Wichman Street	Walterboro	SC 29488	803-682-0416
Raven Fatool & Aaron Persing	7327 Reidville Road	Woodruff	SC 29388	570-975-7415
Brian & Mia Fatool	975 East Liberty Street	York	SC 29745	864-346-1986
Jeb, Steve, James, Brian Cand, Richard Scoggins	610 Inman Street West	Cleveland	TN 37311	423-310-0860
Tracy & Travis Hughes	552 East 10 th Street	Cookeville	TN 38501	931-529-2372
Jeb, Eddie, James, Richard, & Steve Scoggins	5830 Ringold Road	East Ridge	TN 37412	423-715-1721
Teresa England	629 West Elk Avenue	Elizabethton	TN 37643	931-607-4433
Eric Miller	817 South Water Avenue	Gallatin	TN 37066	423-384-0240
Robby & Shanna Sharp, Ed Peters	1016 Tusculum Boulevard	Greenville	TN 37745	423-552-5429
Tanya Morrison	5900 Kingston Pike	Knoxville	TN 37919	912-414-4999
Erin & Jason Roberts	420 Highway 52 Bypass West	Lafayette	TN 37083	615-655-4120
Tanya Morrison	303 Foothills Mall Drive	Maryville	TN 37801	912-414-4999
John & Henry Sletcha	1841 Buffalo Trail	Morristown	TN 37814	239-848-5020
John & Henry Sletcha	3505 West Andrew Johnson Highway	Morristown	TN 37814	239-848-5020
Eric Miller	11853 Lebanon Road, #6	Mount Juliet	TN 27122	423-384-0240
Lindsey Hamm & Cassie Palmer	202 Highway 52	Portland	TN 37148	Lindsey: 615-969-6432 Cassie: 615-948-0461
Ken Maust	6517 Camp Bowie Boulevard	Fort Worth	TX 76116	808-343-2904
Ken Maust	409 East Bryon Nelson Boulevard	Roanoke	TX 76262	808-3432904
Gregg Fatool & Randall Wright ***	1124 North George Washington Highway	Chesapeake	VA 23323	919-906-7108
Lisa Renee Anderson	1120 Bainbridge Boulevard	Chesapeake	VA 23324	757-560-2629
Diana Steele	11075 Warwick Boulevard	Newport News	VA 23601	757-870-3420
Yordan Guzman	6011 East Virginia Beach Boulevard	Norfolk	VA 23502	757-637-5306
Gregg Fatool & Randall Wright***	454 Chestnut Street	Portsmouth	VA 23704	704-300-6477
Gregg Fatool & Randall Wright ***	2332 Pruden Boulevard	Suffolk	VA 23434	919-906-7108
Lisa Renee Anderson	5519 George Washington Memorial Highway	Yorktown	VA 23692	757-560-2629

- * These franchised units are owned by our Co-CEO, Gregg Fatool
** These franchised units are owned by our Co-CEO, Randall Wright
*** These franchised units are owned by both of our Co-CEOs, Gregg Fatool and Randall Wright.

EXHIBIT C

LIST OF COMPANY-OWNED PSB STORES

**Company-owned PSB Stores --
Directory as of December 31, 2022**

There are none.

Note: Co-CEO, Greg Fatool, is a franchisee of two PSB Stores in Rock Hill, South Carolina and one PSB Store in Fort Mill, South Carolina, and our Co-CEO, Randall Wright, is a franchisee of four PSB Stores, one in each of the following cities: Lincolnton, North Carolina, Belmont, North Carolina and Denver, North Carolina (as indicated in Exhibit B above). Both Co-CEO's own the locations in the following cities together; Chesapeake, VA, Suffolk, VA, Conway, SC, Myrtle Beach, SC.

EXHIBIT D**LIST OF FORMER FRANCHISEES****(As of December 31, 2022)**

Franchisee	Home Address	Telephone Number
Jonathan Manetta, Kenneth Manetta	15634 Angelica Dr. Alva, FL 33967	239-663-7993
Billy Donahue III and Amber Donahue	8113 Silver Birch Way Lehigh Acres FL, 33971	239-634-5796
Tamra Head	376 Toccoa Farm Rd. Morganton, GA 30560	706-455-9619
Brian & Adrian Rice	9341 W. NC 97 Middlesex, NC 27557	252-314-6017
*Lowell Ziegler	101 Forestchase Court Raleigh, NC 27603	919-271-6771
David & Sherry West	109 Indian Tr. Washington, NC 27889	252-945-5891
*Dedira Moore	808 Hawthorn Ridge dr. Whitsett NC 27377	336-558-4799
*Joseph & Lisa Christie	3342 Maplewood Drive North Augusta, SC 29841	Joseph:706-306-8190 Lisa 706-231-0431
Cole Simpson	2907 River Dr. Columbia, SC 29201	803-629-5491
Jim and Davida Blevins	119 Walnut Lane Columbia SC 29212	803-397-5483
Jayne Summers	516 N. Dogwood Dr. Garden City, SC 29576	843-340-1965
Tom Boettger	454 Bookman Mill Rd. Irmo, SC 29073	803-608-3818
Linda Jones	668 Ravenglass Dr. Fort Mill, SC 29715	803-207-9131
Mitch Rowell & Tim Shull	236 Robin Woods Dr. Lexington, SC 29073	803-730-2815
*Chris & Paul Kaoud	431 N Harper Street Lauren's, SC 29360	803-431-1425
*Raven Fatool & Aaron Persing	2000 Keats Drive Apt 2033 Spartanburg, SC 29301	Raven: 570-975-7415 Aaron: 570-898-2005

* Remains a franchisee with other Stores under the System.

EXHIBIT E**LIST OF STATE ADMINISTRATORS**

We intend to register this disclosure document as a "franchise" in some or all of the following states, in accordance with the applicable state laws. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are the state administrators responsible for the review, registration, and oversight of franchises in these states:

<p>CALIFORNIA Commissioner of Financial Protection and Innovation Department of Financial Protection and Innovation 320 West Fourth Street, Suite 750 Los Angeles, California 90013-2344 (213) 576-7500 Toll Free: (866) 275-2677</p>	<p>NEW YORK New York State Department of Law Investor Protection Bureau 28 Liberty Street, 21st Floor New York, New York 10005 (212) 416-8285</p>
<p>HAWAII Commissioner of Securities of the State of Hawaii Department of Commerce & Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 205 Honolulu, Hawaii 96813 (808) 586-2722</p>	<p>NORTH DAKOTA North Dakota Securities Department State Capitol Department 414 600 East Boulevard Avenue, Fifth Floor Bismarck, North Dakota 58505-0510 (701) 328-4712</p>
<p>ILLINOIS Illinois Office of the Attorney General Franchise Bureau 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p>RHODE ISLAND Department of Business Regulation Securities Division, Building 69, First Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 462-9527</p>
<p>INDIANA Secretary of State Franchise Section 302 West Washington, Room E-111 Indianapolis, Indiana 46204 (317) 232-6681</p>	<p>SOUTH DAKOTA Division of Insurance Securities Regulation 124 South Euclid Avenue, 2nd Floor Pierre, South Dakota 57501 (605) 773-3563</p>
<p>MARYLAND Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202-2020 (410) 576-6360</p>	<p>VIRGINIA State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9th Floor Richmond, Virginia 23219 (804) 371-9051</p>
<p>MICHIGAN Michigan Attorney General's Office Corporate Oversight Division, Franchise Section 525 West Ottawa Street G. Mennen Williams Building, 1st Floor Lansing, Michigan 48913 (517) 335-7567</p>	<p>WASHINGTON Department of Financial Institutions Securities Division – 3rd Floor 150 Israel Road, Southwest Tumwater, Washington 98501 (360) 902-8760</p>
<p>MINNESOTA Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101 (651) 539-1600</p>	<p>WISCONSIN Division of Securities 4822 Madison Yards Way, North Tower Madison, Wisconsin 53705 (608) 266-2139</p>

EXHIBIT F**AGENTS FOR SERVICE OF PROCESS**

We intend to register this disclosure document as a "franchise" in some or all of the following states, in accordance with the applicable state law. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, we will designate the following state offices or officials as our agents for service of process in these states:

<p>CALIFORNIA Commissioner of Financial Protection and Innovation Department of Financial Protection and Innovation 320 West Fourth Street, Suite 750 Los Angeles, California 90013-2344 (213) 576-7500 Toll Free: (866) 275-2677</p>	<p>NEW YORK New York Secretary of State New York Department of State One Commerce Plaza, 99 Washington Avenue, 6th Floor Albany, New York 12231-0001 (518) 473-2492</p>
<p>HAWAII Commissioner of Securities of the State of Hawaii Department of Commerce & Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 205 Honolulu, Hawaii 96813 / (808) 586-2722</p>	<p>NORTH DAKOTA North Dakota Securities Commissioner State Capitol 600 East Boulevard Avenue, Fifth Floor Bismarck, North Dakota 58505-0510 (701) 328-4712</p>
<p>ILLINOIS Illinois Attorney General 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p>RHODE ISLAND Director of Department of Business Regulation Department of Business Regulation Securities Division, Building 69, First Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 462-9527</p>
<p>INDIANA Secretary of State Franchise Section 302 West Washington, Room E-111 Indianapolis, Indiana 46204 (317) 232-6681</p>	<p>SOUTH DAKOTA Division of Insurance Director of the Securities Regulation 124 South Euclid Avenue, 2nd Floor Pierre, South Dakota 57501 (605) 773-3563</p>
<p>MARYLAND Maryland Securities Commissioner 200 St. Paul Place Baltimore, Maryland 21202-2020 (410) 576-6360</p>	<p>VIRGINIA Clerk of the State Corporation Commission 1300 East Main Street, 1st Floor Richmond, Virginia 23219 (804) 371-9733</p>
<p>MICHIGAN Michigan Attorney General's Office Corporate Oversight Division, Franchise Section 525 West Ottawa Street G. Mennen Williams Building, 1st Floor Lansing, Michigan 48913 (517) 335-7567</p>	<p>WASHINGTON Director of Department of Financial Institutions Securities Division – 3rd Floor 150 Israel Road, Southwest Tumwater, Washington 98501 (360) 902-8760</p>
<p>MINNESOTA Commissioner of Commerce Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101 (651) 539-1600</p>	<p>WISCONSIN Division of Securities 4822 Madison Yards Way, North Tower Madison, Wisconsin 53705 (608) 266-2139</p>

EXHIBIT G**TABLE OF CONTENTS – PELICAN’S SNOBALLS CONFIDENTIAL OWNER’S MANUAL**

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Total pages in Manual: 126

EXHIBIT H
FINANCIAL STATEMENTS

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Financial Statements
Years Ended December 31, 2022 and 2021



Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Financial Statements
Years Ended December 31, 2022 and 2021

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Independent Auditor's Report

Board of Directors
Pelican's SnoBalls USA, LLC
Gastonia, North Carolina

Opinion

We have audited the accompanying consolidated financial statements of Pelican's SnoBalls USA, LLC and Subsidiary (the "Company"), which comprise the consolidated balance sheet as of December 31, 2022, and the related consolidated statements of income, members' deficit, and cash flows for the year then ended, and the related notes to the financial statements.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2022, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Other Matter – Prior Period Financial Statements

The 2021 consolidated financial statements of Pelican's SnoBalls USA, LLC and Subsidiary were audited by other auditors whose report dated February 15, 2022 expressed an unmodified opinion on those statements.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the consolidated financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that individually or in the aggregate, they would influence the judgement made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design 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. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Hickory, North Carolina
March 13, 2023

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Balance Sheets

<i>December 31,</i>	2022	2021
Assets		
Current assets		
Cash	\$ 161,017	\$ 72,547
Accounts receivable - trade, net of allowance of \$2,500	29,385	10,628
Note receivable - other	2,000	13,000
Inventories	106,901	75,152
Interest receivable	21,732	11,464
Prepaid expenses	10,567	-
Advance to related entity	50,000	50,000
Total current assets	381,602	232,791
Property and equipment, net	300,373	305,911
Other assets		
Notes receivable - affiliate	313,456	233,554
Goodwill, net	1,067,253	1,331,353
Intangible assets, net	406,966	459,666
Total other assets	1,787,675	2,024,573
Total assets	\$ 2,469,650	\$ 2,563,275
Liabilities and Members' Deficit		
Current liabilities		
Current portion of long-term debt	\$ 299,525	\$ 445,953
Accounts payable - trade	72,700	27,517
Accrued interest	26,930	16,667
Other accrued expenses	-	5,561
Total current liabilities	399,155	495,698
Long-term debt, less current portion	2,001,518	2,324,642
Note payable to member	200,000	200,000
Total liabilities	2,600,673	3,020,340
Members' deficit	(131,023)	(457,065)
Total liabilities and members' deficit	\$ 2,469,650	\$ 2,563,275

See accompanying notes to financial statements.

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Statements of Income

<i>Year ended December 31,</i>	2022	Percent of Net Sales	2021	Percent of Net Sales
Revenues				
Franchise royalties	\$ 2,129,124	72.68 %	\$ 2,024,724	79.74 %
Franchise fees	534,800	18.26	298,500	11.76
Merchandise sales and other fees	265,410	9.06	215,852	8.50
Total revenues	2,929,334	100.00	2,539,076	100.00
Cost of goods sold	112,906	3.85	133,907	5.27
Gross profit	2,816,428	96.15	2,405,169	94.73
General and administrative expenses	1,713,485	58.49	1,631,661	64.26
Operating income	1,102,943	37.66	773,508	30.47
Other income (expense)				
Other income	6,893	0.24	15,183	0.60
PPP loan forgiveness	-	-	26,100	1.03
Interest income	10,268	0.35	11,465	0.45
Interest expense	(98,448)	(3.36)	(127,910)	(5.04)
Total other income (expense)	(81,287)	(2.77)	(75,162)	(2.96)
Net income	\$ 1,021,656	34.89 %	\$ 698,346	27.51 %

See accompanying notes to financial statements.

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Statements of Members' Deficit

<i>December 31,</i>	2022	2021
Balance , beginning of year	\$ (457,065)	\$ (714,021)
Net income	1,021,656	698,346
Dividends paid	(695,614)	(441,390)
Balance , end of year	\$ (131,023)	\$ (457,065)

See accompanying notes to financial statements.

Pelican's SnoBalls USA, LLC and Subsidiary

Statements of Cash Flows

<i>Year ended December 31,</i>	2022	2021
Cash flows from operating activities		
Cash received from customers	\$ 2,910,577	\$ 2,536,015
Cash paid to suppliers and employees	(1,481,798)	(1,473,887)
Other income	6,893	15,183
Interest paid	(88,185)	(111,549)
Net cash provided by operating activities	1,347,487	965,762
Cash flows from investing activities		
Purchase of property and equipment	(23,884)	(224,783)
Proceeds from sale of property and equipment	9,935	-
Net advances to affiliate	(79,902)	(72,000)
Net cash used in investing activities	(93,851)	(296,783)
Cash flows from financing activities		
Borrowings on long-term debt	-	161,250
Principal payments on long-term debt	(469,552)	(454,518)
Dividends paid	(695,614)	(441,390)
Net cash used in financing activities	(1,165,166)	(734,658)
Net change in cash	88,470	(65,679)
Cash, beginning of year	72,547	138,226
Cash, end of year	\$ 161,017	\$ 72,547

See accompanying notes to financial statements.

Pelican's SnoBalls USA, LLC and Subsidiary

Statements of Cash Flows

Year ended December 31,	2022	2021
Reconciliation of net income to net cash provided by operating activities		
Net income	\$ 1,021,656	\$ 698,346
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	341,973	340,150
Provision for doubtful accounts	-	(2,500)
Forgiveness of indebtedness	-	(26,100)
Gain on sale of equipment	(5,686)	-
Changes in operating assets and liabilities:		
Accounts receivable - trade	(18,757)	(13,000)
Note receivable - other	11,000	5,175
Inventories	(31,749)	(11,464)
Interest receivable	(10,268)	9,937
Prepaid expenses	(10,567)	-
Accounts payable - trade	45,183	(48,823)
Accrued interest	10,263	16,361
Other accrued expenses	(5,561)	(2,320)
Total adjustments to net income	325,831	267,416
Net cash provided by operating activities	\$ 1,347,487	\$ 965,762

See accompanying notes to financial statements.

1. Summary of Significant Accounting Policies

Business

During August of 2016, Pelican's SnoBalls USA, LLC ("Pelican's") was formed as a limited liability company in North Carolina to purchase the national franchisor of Pelican's SnoBalls and then to license franchises of Pelican's SnoBalls businesses in the United States. Pelican's is headquartered in Gastonia, North Carolina. During 2017, Formative Industries, LLC (the "Subsidiary") was formed as a limited liability company, and wholly owned subsidiary of Pelican's, in North Carolina to hold and sell Pelican's SnoBalls merchandise, including t-shirts, hats, Pelican Bucks, and other merchandise. There were 213 and 191 franchisee owned locations at December 31, 2022 and 2021. There were 22 and 13 locations added in 2022 and 2021.

Principles of Consolidation

The consolidated financial statements include the accounts of the Pelican's SnoBalls USA, LLC and Subsidiary (the "Company"). All material inter-company accounts and transactions are eliminated in consolidation.

Revenue Recognition

The Company recognizes revenue and related costs based on the following:

Franchise Fees – The Company has elected to account for all pre-opening services as a single performance obligation. Franchise fees are recognized when all the tasks related to pre-opening services are complete. The initial franchise fee is not refundable.

Franchise Royalties – The Company recognizes royalties under its franchise agreements which have terms of fifteen to thirty years, not including renewal options. Royalties are based on 8% of the franchisees' sales adjusted for sales tax and discounts.

Merchandise Sales – Revenues from sale of the Company's merchandise to franchisees is recognized when merchandise is shipped.

Trade Accounts Receivable

The Company sells franchise rights and products to franchisees throughout the United States. Accounts receivable are due from franchisees for franchise fees, royalty fees, and merchandise sales. The Company performs ongoing credit evaluations of franchisees and generally requires guarantees as collateral. Management establishes an allowance for estimated uncollectible accounts when the potential for such losses becomes probable. Receivables are charged to the allowance after collection efforts are exhausted and the account is deemed uncollectible. Based upon the information available, management believes the allowance at December 31, 2022 is adequate. However, actual write-offs may exceed the recorded allowance.

Inventories

Inventories comprising primarily merchandise held for sale is valued at the lower of cost or net realizable value. Cost is determined by the first-in, first-out (FIFO) method.

Property and Equipment

Property and equipment are stated at cost. Expenditures for maintenance and repairs, which do not improve or extend the life of an asset, are charged to expense as incurred. Major renewals and betterments that significantly add to productive capacity or extend the useful life of an asset are capitalized. Upon retirement or sale of an asset, its cost and related accumulated depreciation are removed from the property accounts and any gain or loss is recorded in income.

Depreciation is computed over the estimated service lives of depreciable assets using the straight-line method.

1. Summary of Significant Accounting Policies (Continued)

Long-lived Assets

Property, equipment, and other long-lived assets are evaluated for possible impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. When any such impairment exists, the related assets will be written down to fair value. Any long-lived assets held for disposal are reported at the lower of their carrying amounts or fair value less cost to sell. No impairment losses were recorded in 2022 or 2021.

Goodwill and Other Intangible Assets

Goodwill is carried at cost and represents the excess of the cost of a business acquired over the fair value of assets acquired, including identifiable intangible assets and liabilities assumed. The Company is amortizing goodwill over a ten-year period. Goodwill is evaluated for impairment whenever events or changes in circumstance indicate that the carrying value of goodwill may not be recoverable.

Other intangible assets consist of the acquired Pelican's SnoBalls franchises rights and trademarks. The franchises rights are being amortized over their estimated useful life of ten years and are evaluated for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. The Company's policy is to file trademark applications to protect the brand and related merchandise that are considered important to the development and recognition of its business. The legal life of the trademarks is indefinite based on management's current estimate and is carried at cost. The Company evaluates trademarks annually for changes in their estimated useful lives and for impairment.

Income Taxes

The Company has elected, with the consent of its stockholders, to be taxed under subchapter "S" of the Internal Revenue Code. Accordingly, the stockholders include their respective share of taxable income of the Corporation in their individual tax returns. As a result, no federal or State income tax is imposed on the Company.

Tax benefits are recorded only for tax positions that would be more likely than not to be sustained upon examination by tax authorities. Unrecognized tax benefits are tax benefits claimed in the Company's tax returns that do not meet these recognition and measurement standards. There were no significant unrecognized tax benefits at December 31, 2022. If applicable, the Company recognizes interest and penalties accrued related to unrecognized tax benefits in tax expense.

Tax years 2019 through 2022 remain subject to examination by both federal and various state authorities. However, no examinations are in process.

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 reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Advertising Costs

Advertising costs, included in selling, general, and administrative expenses, are expensed as incurred and amounted to \$9,870 and \$24,155 in 2022 and 2021.

Forgivable Loans – Paycheck Protections Program ("PPP")

The Company accounted for forgivable U.S. Small Business Administration ("SBA") loans received under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") Paycheck Protection Program ("PPP"), in accordance with Accounting Standards Codification ("ASC") 470, *Debt*, and related accounting pronouncements (Note 6).

1. Summary of Significant Accounting Policies (Concluded)

Subsequent Events

Management has evaluated all events subsequent to the balance sheet date through March 13, 2023, the date the accompanying consolidated financial statements were available to be issued, and determined there were no subsequent events requiring additional disclosures.

Recent Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2016-02, Leases (Topic 842), which replaces all previous guidance on leases and requires entities to recognize assets and liabilities arising from operating leases. For the Company, the ASU (as amended) was effective for fiscal years beginning after December 15, 2021. As the Company has no significant leases, adoption of this guidance in 2022 had no impact on the Company’s consolidated financial statements.

In June 2016, the FASB issued ASU No. 2016-13, Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments, which eliminates previous methodology for recognizing credit losses on financial instruments (including trade receivables) and requires companies to utilize an expected credit loss model. For the Company, the guidance, as amended, is effective for fiscal years beginning after December 15, 2022. Management does not expect this guidance to impact the Company’s future consolidated financial statements.

In December 2019, the FASB issued ASU No. 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes, which simplifies and clarifies application of certain income tax-related guidance. For the Company, the amendments were effective for fiscal years beginning after December 15, 2021, with early application permitted. The adoption of this guidance had no impact on the Company’s consolidated financial statements.

2. Advance to Related Entity

The Company has made an unsecured short-term advance to a related party which is non-interest bearing and payable on demand.

3. Property and Equipment, Net

Property and equipment, net consist of the following:

December 31,	Life (in Years)	2022	2021
Computers and equipment	5	\$ 18,967	\$ 4,231
Buildings	39	221,665	221,665
Vehicles	5	131,789	128,640
		372,421	354,536
Less accumulated depreciation		72,048	48,625
Net property and equipment		\$ 300,373	\$ 305,911

Depreciation expense amounted to \$25,173 and \$23,350 in 2022 and 2021.

4. Notes Receivable – Affiliate

Notes receivable from an affiliate bear interest at a rate of 4% per annum and are due at the earlier of certain events occurring, as defined in the note agreement, or the maturity date. Total interest earned for the year ended December 31, 2022 and 2021 was \$10,268 and \$11,465.

Approximate maturities of notes receivable as of December 31, 2022, are as follows:

2024	\$ 16,902
2025	126,654
2026	34,900
2027	72,000
2028	63,000
	\$ 313,456

5. Goodwill and Intangible Assets, Net

Goodwill, net consists of the following:

December 31,	2022	2021
Goodwill	\$ 2,641,000	\$ 2,641,000
Less accumulated amortization	1,573,747	1,309,647
Net goodwill	\$ 1,067,253	\$ 1,331,353

Amortization of goodwill expense amounted to approximately \$264,100 in 2022 and 2021. Estimated amortization expense for the next five years and thereafter is as follows: 2023-2026 - \$261,400 per year; and \$21,653 in 2027.

Intangible assets, net consist of the following:

	Life (in Years)	December 31, 2022		December 31, 2021	
		Gross	Accumulated Amortization	Gross	Accumulated Amortization
Amortized intangible assets:					
Franchise	10	\$ 527,000	\$ 314,034	\$ 527,000	\$ 261,334
Unamortized intangible assets:					
Trademarks	-	194,000	-	194,000	-
Total		\$ 721,000	\$ 314,034	\$ 721,000	\$ 261,334

Amortization expense amounted to \$52,700 in 2022 and 2021. Estimated amortization expense for the next five years and thereafter is as follows: 2023-2026 - \$52,700 per year and \$2,166 in 2027.

6. Long-Term Debt

Long-term debt is summarized as follows:

December 31,	2022	2021
Note payable to individual in monthly installments of \$30,000, including interest at 3.179%, through April 1, 2029; unsecured	\$ 2,038,903	\$ 2,328,323
Note payable to individual in monthly installments of \$14,964, including interest at 10%, through December 1, 2022; unsecured	-	156,602
Note payable to individual with principal and interest due and payable the earlier of certain events occurring or June 1, 2028; unsecured	47,000	47,000
Note payable to bank in monthly installments of \$1,001, including interest at 4.22%, through July 19, 2031; secured by a deed of trust over a building	153,811	159,122
Note payable to bank in monthly installments of \$1,059, including interest at 3.94%, through October 8, 2026; secured by an automobile	45,980	56,628
Note payable to finance company in monthly installments of \$693, including interest at 3.84%, through October 27, 2024; secured by an automobile	15,349	22,920
Total long-term debt	2,301,043	2,770,595
Less current portion	299,525	445,953
Total long-term debt, less current portion	\$ 2,001,518	\$ 2,324,642

Annual maturities of long-term debt for the next five years and thereafter are as follows:

2023	\$ 299,525
2024	332,663
2025	336,516
2026	346,343
2027	339,210
Thereafter	646,786
	\$ 2,301,043

During 2020, the Company received an unsecured PPP loan of \$26,100. Following submission of a loan forgiveness application, the principal and accrued interest were forgiven in April 2021 and the gain was recorded in other income (expense) on the 2021 statement of income.

7. Note Payable to Member

Unsecured promissory note payable to member is non-interest bearing and is due and payable in a lump sum on the earlier of certain events occurring, as defined in the note agreement, or June 1, 2028.

8. Related Party Transactions

The members of the Company own and operate ten franchise locations and are required to pay royalties. Related party royalty revenue related to these franchises was \$95,422 and \$94,077 in 2022 and 2021.

The members receive payments from the Company for maintaining and servicing franchises. The expense related to services was \$348,735 and \$306,598 for the years ended December 31, 2022 and 2021.

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY

Gastonia, North Carolina

December 31, 2021 and 2020

INDEPENDENT AUDITORS' REPORT

CONSOLIDATED FINANCIAL STATEMENTS

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY

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December 31, 2021 and 2020

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Certified Public Accountants
and Consultants

Pelican's SnoBalls - 2023 FDD (154)

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INDEPENDENT AUDITORS' REPORT

Board of Directors
Pelican's SnoBalls USA, LLC and Subsidiary
Gastonia, North Carolina

We have audited the accompanying consolidated financial statements of Pelican's SnoBalls USA, LLC and Subsidiary which comprise the consolidated balance sheets as of December 31, 2021 and 2020, and the related consolidated statements of income, members' deficit and cash flows for the years then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Pelican's SnoBalls USA, LLC and Subsidiary as of December 31, 2021 and 2020, and the results of their operations and their cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Johnson & Company, LLP

February 15, 2022

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Balance Sheets

December 31, 2021 and 2020

ASSETS

	2021	2020
CURRENT ASSETS		
Cash	\$ 72,547	\$ 138,226
Accounts receivable – trade (less allowance for doubtful accounts of \$2,500 in 2021 and \$5,000 in 2020)	10,628	18,065
Note receivable – other	13,000	-
Inventories	75,152	80,327
Interest receivable	11,464	-
Advance to related entity	92,000	50,000
	<u>274,791</u>	<u>286,618</u>
Total current assets	\$ 274,791	\$ 286,618
PROPERTY AND EQUIPMENT, net of accumulated depreciation	\$ 305,911	\$ 104,479
OTHER ASSETS		
Notes receivable – affiliate	\$ 191,554	\$ 161,554
Intangible assets, net of amortization	1,791,019	2,107,819
	<u>1,982,573</u>	<u>2,269,373</u>
Total other assets	\$ 1,982,573	\$ 2,269,373
Total	<u>\$ 2,563,275</u>	<u>\$ 2,660,470</u>

LIABILITIES AND MEMBERS' DEFICIT

CURRENT LIABILITIES		
Current portion of long-term debt	\$ 445,953	\$ 421,736
Accounts payable – trade	27,517	76,340
Accrued interest	16,667	306
Accrued expenses	5,561	7,882
	<u>495,698</u>	<u>506,264</u>
Total current liabilities	\$ 495,698	\$ 506,264
NONCURRENT LIABILITIES		
Long-term debt, less current portion	\$ 2,324,642	\$ 2,668,227
Note payable to member	200,000	200,000
	<u>2,524,642</u>	<u>2,868,227</u>
Total noncurrent liabilities	\$ 2,524,642	\$ 2,868,227
MEMBERS' DEFICIT	\$ (457,065)	\$ (714,021)
Total	<u>\$ 2,563,275</u>	<u>\$ 2,660,470</u>

SEE NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Pelican's SnoBalls USA, LLC and Subsidiary
 Consolidated Statements of Members' Deficit
 Years Ended December 31, 2021 and 2020

	<u>2021</u>	<u>2020</u>
Members' deficit, beginning,	\$ (714,021)	\$ (606,266)
Net income	698,346	513,158
Dividends paid	<u>(441,390)</u>	<u>(620,913)</u>
MEMBERS' DEFICIT, ENDING	<u>\$ (457,065)</u>	<u>\$ (714,021)</u>

SEE NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Statements of Income

Years Ended December 31, 2021 and 2020

	2021		2020	
	Amount	Percent of Revenues	Amount	Percent of Revenues
REVENUES:				
Franchise royalties	\$ 2,024,724	79.74 %	\$ 1,877,377	84.78 %
Franchise fees	298,500	11.76	216,000	9.75
Merchandise sales and other fees	215,852	8.50	121,230	5.47
Total revenues	\$ 2,539,076	100.00 %	\$ 2,214,607	100.00 %
COST OF GOODS SOLD	133,907	5.27	72,245	3.26
Gross Profit	\$ 2,405,169	94.73 %	\$ 2,142,362	96.74 %
GENERAL AND ADMINISTRATIVE EXPENSES	1,631,661	64.26	1,507,144	68.05
Income from operations	\$ 773,508	30.47 %	\$ 635,218	28.69 %
OTHER INCOME (EXPENSE)				
Other income	\$ 41,283	1.63 %	\$ -	- %
Interest income	11,465	0.45	-	-
Interest expense	(127,910)	(5.04)	(122,060)	(5.51)
	\$ (75,162)	(2.96) %	\$ (122,060)	(5.51) %
NET INCOME	\$ 698,346	27.51 %	\$ 513,158	23.18 %

SEE NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Statements of Cash Flows

Years Ended December 31, 2021 and 2020

	<u>2021</u>	<u>2020</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash received from customers	\$ 2,536,015	\$ 2,221,384
Cash paid to suppliers and employees	(1,473,887)	(1,157,065)
Other income	15,183	-
Interest paid	(111,549)	(129,076)
Net cash provided by operating activities	<u>\$ 965,762</u>	<u>\$ 935,243</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchase of building and equipment	\$ (224,783)	\$ (67,700)
Proceeds from sale of equipment	-	34,896
Net advances to affiliate	(72,000)	(161,554)
Net cash used in investing activities	<u>\$ (296,783)</u>	<u>\$ (194,358)</u>
CASH FLOWS FROM FINANCING ACTIVITIES		
Borrowings on long-term debt	\$ 161,250	\$ 93,800
Principal payments on long-term debt	(454,518)	(463,806)
Dividends paid	(441,390)	(620,913)
Net cash used in financing activities	<u>\$ (734,658)</u>	<u>\$ (990,919)</u>
Net decrease in cash	\$ (65,679)	\$ (250,034)
CASH – BEGINNING OF YEAR	<u>138,226</u>	<u>388,260</u>
CASH – END OF YEAR	<u>\$ 72,547</u>	<u>\$ 138,226</u>

SEE NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Pelican's SnoBalls USA, LLC and Subsidiary

Consolidated Statements of Cash Flows
(Continued)

	<u>2021</u>	<u>2020</u>
RECONCILIATION OF NET INCOME TO NET CASH PROVIDED BY OPERATING ACTIVITIES		
Net income	\$ 698,346	\$ 513,158
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	\$ 23,350	\$ 19,589
Amortization	316,800	316,800
Provision for doubtful accounts receivable	(2,500)	-
Forgiveness of indebtedness	(26,100)	-
Gain on sale of equipment	-	(1,262)
Changes in assets and liabilities:		
(Increase) decrease in:		
Accounts receivable – trade	9,937	6,777
Note receivable – other	(13,000)	
Inventories	5,175	(19,579)
Prepaid expenses	-	79,766
Deposits	-	12,000
Interest receivable	(11,464)	-
Increase (decrease) in:		
Accounts payable – trade	(48,823)	11,480
Accrued interest	16,361	(7,016)
Accrued expenses	(2,320)	3,530
Total adjustments to net income	\$ 267,416	\$ 422,085
NET CASH PROVIDED BY OPERATING ACTIVITIES	<u>\$ 965,762</u>	<u>\$ 935,243</u>
SUPPLEMENTAL SCHEDULE OF NON-CASH FINANCING ACTIVITY		
Forgiveness of Payroll Protection Program loan	<u>\$ 26,100</u>	<u>\$ -</u>

SEE NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

NATURE OF BUSINESS. During August of 2016, Pelican's SnoBalls USA, LLC ("Pelican's") was formed as a limited liability company in North Carolina to purchase the national franchisor of Pelican's SnoBalls and then to license franchises of Pelican's SnoBalls businesses in the United States. Pelican's is headquartered in Gastonia, North Carolina. During 2017, Formative Industries, LLC was formed as a limited liability company, and wholly owned subsidiary of Pelican's, in North Carolina to hold and sell Pelican's SnoBalls merchandise, including t-shirts, hats, Pelican Bucks, and other merchandise. There were 191 franchisees and 13 new franchise locations during the year ended December 31, 2021.

CONSOLIDATION POLICY. The accompanying consolidated financial statements include the accounts of Pelican's and its wholly owned subsidiary ("Company"). Intercompany transactions and balances have been eliminated in consolidation.

REVENUE RECOGNITION. The Company determines revenue recognition through the following steps: (1) identification of the contract with the customer; (2) identification of the performance obligations in the contract; (3) determination of the transaction price; (4) allocation of the transaction price to the performance obligations in the contract; and (5) recognition of revenue when, or as, a performance obligation is satisfied. Revenue and related costs are recognized by the Company upon receipt of franchise fees and royalties or shipment of its products. The Company recognizes revenue pursuant to Accounting Standards Codification 606, which requires revenue to be recognized at an amount that reflects the consideration the Company expects to be entitled to receive in exchange for transferring goods or services to its customers. The Company recognizes revenue based on the following:

Franchise fees – Franchise fees are recognized as revenue on the date that the franchisee signs the agreement. The Company has reviewed the revenue recognition requirements and has determined that by the timing of signing of the franchise agreement it has fulfilled the majority of its obligations to the franchise agreement. The initial franchise fee is not refundable.

Franchise royalties – The Company recognizes royalty fees under its franchise agreements. The agreements have terms of fifteen to thirty years, not including renewal options. The franchise fee is based on 8% of the franchisees' weekly gross sales adjusted for sales tax and discounts.

Merchandise Sales – Revenues from sales of the Company's merchandise to franchise owners is recognized when the items are shipped.

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

CASH. The Company places its cash with financial institutions in the United States. Accounts at each institution are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000. The Company from time to time may have amounts on deposit in excess of the insured limits.

TRADE ACCOUNTS RECEIVABLE. Accounts receivable are due from franchisees for monthly royalty fees, initial franchise fees, and merchandise sales. The Company requires a personal guarantee from the franchisees for their receivables. Management performs ongoing credit evaluations of its franchisees and establishes an allowance for estimated uncollectible accounts when the potential for such losses becomes probable. Receivables are charged to the allowance for doubtful accounts after collection efforts are exhausted and the account is deemed uncollectible.

INVENTORIES. Inventories are valued at the lower of cost (first-in, first-out) or market (net realizable value).

PROPERTY AND EQUIPMENT. Property and equipment are stated at cost. Expenditures for maintenance and repairs, which do not improve or extend the life of an asset, are charged to expense as incurred. Major renewals and betterments are capitalized. Upon retirement or other disposition of depreciable properties, the cost and related accumulated depreciation are removed from the property accounts and any gain or loss is reflected in income.

Depreciation is provided over the estimated useful lives of the individual assets by both straight-line and accelerated methods. The estimated useful lives used in computing depreciation are as follows:

	<u>Years</u>
Office furniture and equipment	5
Automobiles	5
Buildings	39

GOODWILL AND OTHER INTANGIBLE ASSETS. Goodwill is carried at cost and represents the excess of the cost of a business acquired over the fair value of assets acquired, including identifiable intangible assets and liabilities assumed. The Company adopted the accounting alternative outlined in Accounting Standards Codification (“ASC”) 350-20, *Goodwill*, and is amortizing goodwill over a ten-year period. Goodwill is evaluated for impairment whenever events or changes in circumstance indicate that the carrying value of goodwill may not be recoverable.

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Other intangible assets consist of the acquired Pelican's SnoBalls franchises and trademarks. The franchises are being amortized over their estimated useful life of ten years and are evaluated for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. The Company's policy is to file trademark applications to protect the brand and related merchandise that are considered important to the development and recognition of its business. The legal life of the trademarks is indefinite based on management's current estimate and is carried at cost. The Company evaluates trademarks annually for changes in their estimated useful lives and for impairment.

ADVERTISING COSTS. Advertising costs, included in selling, general and administrative expenses, are expensed as incurred and was \$24,155 and \$16,228, for the years ended December 31, 2021 and 2020, respectively.

SHIPPING, HANDLING AND FREIGHT. Shipping, handling, and freight include costs associated with delivery of merchandise sales to each franchisee's location. The Company considers all shipping, handling, and freight to be fulfillment activities and not a separate performance obligation. Shipping, handling, and freight are included in general and administrative expenses and totaled \$11,232 and \$8,546 for the years ended December 31, 2021 and 2020, respectively.

INCOME TAXES. The Company, with the consent of its members is taxed as a partnership, under the provisions of the Internal Revenue Code, which provide that the members are taxed on the Company's taxable income.

UNCERTAIN TAX POSITIONS. Accounting principles generally accepted in the United States of America require management to evaluate tax positions taken by the Company and recognize a tax liability (or asset) if the Company has taken an uncertain position that more-likely-than-not would not be sustained upon examination. The Company files income tax returns in the U.S jurisdiction and various state jurisdictions. Management has analyzed the tax positions taken by the Company, and has concluded that as of December 31, 2021, there are no uncertain positions taken or expected to be taken that would require recognition of a liability (or asset) or disclosure in the financial statements. The Company is subject to routine audit by taxing jurisdictions; however, there are currently no audits in progress for any tax periods. Management believes it is no longer subject to income tax examinations for years prior to 2018.

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 certain reported amounts of assets and liabilities, the disclosures of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from the estimates and assumptions used in the financial statements and related notes.

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Listed below is a significant estimate and assumption used in the preparation of the financial statements. It is possible that a change in the estimate will occur in the near term.

ACCOUNTS RECEIVABLE ALLOWANCE. The Company evaluates the adequacy of the allowance for doubtful accounts based on historical loss experience, adverse situations that may affect a franchisee's ability to pay and prevailing economic conditions. This evaluation is inherently subjective, as it requires estimates that are susceptible to revision as more information becomes available. Management reviews accounts receivable on a periodic basis to determine if any receivables will potentially be uncollectible. After all attempts to collect a receivable have failed, the receivable is written-off against the allowance.

DATE OF MANAGEMENT'S REVIEW. Management has evaluated all events subsequent to the balance sheet date of December 31, 2021, through February 15, 2022, the date the accompanying financial statements were available to be issued, and determined there were no subsequent events requiring additional disclosures.

NOTE B – ADVANCE TO RELATED ENTITY

The Company has made an unsecured short-term advance to a related party which is non-interest bearing and payable on demand.

NOTE C – NOTES RECEIVABLE – AFFILIATE

Notes receivable from an affiliate bear interest at a rate of 4% per annum and are due at the earlier of certain events occurring, as defined in the note agreement, or the maturity date. Total interest earned for the year ended December 31, 2021, was \$11,465.

Approximate maturities of notes receivable at December 31, 2021, are as follows:

Year Ended December 31, <u> </u>	
2025	\$ 126,654
2026	34,900
2027	<u>72,000</u>
	<u>\$ 233,554</u>

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE D – NOTE RECEIVABLE – OTHER

Note receivable – other arose from a settlement agreement with a former franchisee for breach of contract. The note is non-interest bearing with monthly payments of \$1,000. The note matures on December 31, 2022.

NOTE E – INTANGIBLE ASSETS

Intangible assets as of December 31, 2021 and 2020, consists of the following:

	2021	2020
Goodwill, net of accumulated amortization of \$1,309,647 and \$1,045,547 in 2021 and 2020, respectively	\$ 1,331,353	\$ 1,595,453
Franchises, net of accumulated amortization of \$261,334 and \$208,634 in 2021 and 2020, respectively	265,666	318,366
Trademarks	194,000	194,000
Total intangible assets, net of accumulated amortization	\$ 1,791,019	\$ 2,107,819

Amortization expense for each of the years ended December 31, 2021 and 2020, was \$316,800. Amortization expense on intangible assets over the next five years and thereafter is expected to be:

Year Ended December 31,	
2022	\$ 316,800
2023	316,800
2024	316,800
2025	316,800
2026	316,800
Thereafter	13,019
	\$ 1,597,019

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE F – PROPERTY AND EQUIPMENT

Property and equipment as of December 31, 2021 and 2020, is summarized as follows:

	<u>2021</u>	<u>2020</u>
Computers and equipment	\$ 4,231	\$ 1,115
Buildings	221,665	-
Vehicles	<u>128,640</u>	<u>128,640</u>
	\$ 354,536	\$ 129,755
Less accumulated depreciation	<u>48,625</u>	<u>25,276</u>
Net property and equipment	<u>\$ 305,911</u>	<u>\$ 104,479</u>

NOTE G – LONG-TERM DEBT

Long-term debt as of December 31, 2021 and 2020, is summarized as follows:

	<u>2021</u>	<u>2020</u>
Note payable to individual in monthly installments of \$30,000, including interest at 3.179%, through April 1, 2029; unsecured	\$ 2,328,323	\$ 2,609,443
Note payable to individual in monthly installments of \$14,964, including interest at 10%, through December 1, 2022; unsecured	156,602	311,784
Note payable to individual with principal and interest due and payable the earlier of certain events occurring or June 1, 2028; unsecured	47,000	47,000
Note payable to bank in monthly installments of \$1,001, including interest at 4.22%, through July 19, 2031; secured by first deed of trust	159,122	-
Note payable to bank in monthly installments of \$1,112, including interest at 1.00%, through January 7, 2023; unsecured	-	26,100
Note payable to bank in monthly installments of \$1,059, including interest at 3.94%, through October 8, 2026; secured by an automobile	56,628	66,027

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE G – LONG-TERM DEBT (Continued)

Note payable to finance company in monthly installments of \$693, including interest at 3.84%, through October 27, 2024; secured by an automobile	22,920	29,609
Total long-term debt	\$ 2,770,595	\$ 3,089,963
Less current portion	(445,953)	(421,736)
Total long-term debt, less current portion	\$ 2,324,642	\$ 2,668,227

On April 28, 2020, the Company received a loan from a bank in the amount of \$26,100 under the Paycheck Protection Program (“PPP”) established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The loan bore interest at a rate of 1% and was payable in monthly installments of principal and interest in the amount of \$1,112. Under the terms of the agreement, payments were deferred for a period of six months and were scheduled to commence on August 12, 2021. The note was forgiven in its entirety on April 5, 2021, and the forgiveness is included in other income for the year ending December 31, 2021.

Approximate maturities of long-term debt for the five years subsequent to December 31, 2021, are as follows:

Year Ended December 31,	
2022	\$ 445,953
2023	323,416
2024	333,282
2025	336,516
2026	346,196

NOTE H – COMMITMENTS AND CONTINGENCIES

OPERATING LEASES. The Company leased its warehouse and office facility under formal operating leases with terms that extended through April 30, 2023. On July 19, 2021, the Company purchased the buildings related to these leases. Rental expense under all leases amounted to \$1,646 and \$9,875, for the years ended December 31, 2021 and 2020, respectively.

CONCENTRATION OF CREDIT RISK. The Company sells franchise agreements and products to franchisees throughout the United States. The Company performs ongoing credit evaluations of franchisees and generally requires guarantees as collateral. Allowances are maintained for potential credit losses, and such losses during the period covered by these financial statements have not exceeded management’s expectations.

PELICAN'S SNOBALLS USA, LLC AND SUBSIDIARY
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

NOTE I – RELATED PARTY TRANSACTIONS

The members of the Company own and operate ten franchise locations and are required to pay royalties. Related party royalty revenue related to these franchises was \$94,077 and \$80,399, for the years ended December 31, 2021 and 2020, respectively.

NOTE J – NOTE PAYABLE TO MEMBER

Promissory note payable to member is non-interest bearing and is due and payable in a lump sum on the earlier of certain events occurring, as defined in the note agreement, or June 1, 2028.

EXHIBIT I

FRANCHISEE ACKNOWLEDGEMENT

The purpose of this Acknowledgment is to determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading, and to be certain that you understand the limitations on claims that may be made by you by reason of the offer and award of the franchise and operation of your business. Please review each of the following questions carefully and provide honest responses to each question.

Acknowledgments and Representations*

1. Did you receive a copy of our Franchise Disclosure Document (and all exhibits and attachments) (together, our "**FDD**") at least 14 calendar days before signing the Franchise Agreement? Check one: Yes No. If no, please explain: _____

2. Did you sign and return to us an FDD receipt indicating the date on which you received the FDD?
Check one: Yes No.

3. Please list any questions you have regarding the franchise opportunity that you would like to discuss prior to signing the Franchise Agreement. (Attach additional pages, if necessary.)

4. Please list any information provided to you by any employee or other person speaking on our behalf concerning the sales, revenue, profits, or operating costs of one or more Pelican's SnoBalls businesses operated by us, our affiliates, or our franchisees or that you may earn or experience that is in addition to the information contained in the Franchise Disclosure Document:

Franchise Applicant's Initials _____

This addendum does not waive any liability the franchisor may have under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

Note: If the franchisee is or will be a corporation, partnership, limited liability company, or other entity, then each of its principal owners must complete and sign a copy of this acknowledgment.

FRANCHISEE:

Signed: _____

Print Name: _____

Title: _____

Date: _____

*All representations requiring prospective franchisees to assent to a release, estoppels or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law. Nothing contained in this Addendum is intended to disclaim any of the disclosures contained in our Franchise Disclosure Document.

Franchise Applicant's Initials _____

Franchisee Acknowledgement
Page 2 of 5

EXHIBIT J

STATE-SPECIFIC AMENDMENTS TO THE DISCLOSURE DOCUMENT

EXHIBIT J-1

California Disclosure

In recognition of the requirements of the California Franchise Investment Law, Cal. Corp. Code §§ 31000 31516, and the California Franchise Relations Act, Cal. Bus. & Prof. Code §§ 20000 20043, the Franchise Disclosure Document for Pelican's SnoBalls (USA) LLC in connection with the offer and sale of franchises for use in the State of California shall be amended to include the following:

1. The State Cover Page of the Franchise Disclosure Document shall be amended by the addition of the following paragraph:

THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.

2. Item 1, "The Franchisor, Its Predecessors, and Affiliates," shall be amended by adding the following paragraph at the conclusion of the Item:

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION, ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at www.dfpi.ca.gov.

3. In Item 3, "Litigation," shall be amended by adding the following paragraphs:

Pursuant to California law, this Item does not include any information regarding the arrest of any person(s) that did not result in a conviction or plea of nolo contendere.

Neither we, nor any person identified in Item 2 above, is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934, 15 U.S.C. § 78a, et seq.) suspending or expelling such person from membership in such association or exchange.

4. In Items 5 and 7, the following language is added:

The Department has determined that we, the franchisor, have not demonstrated we are adequately capitalized and/or that we must rely on franchise fees to fund our operations. The Commissioner has imposed a fee deferral condition, which requires that we defer the collection of all initial fees from California franchisees until we have completed all of our pre-opening obligations and you are open for business. For California franchisees who sign a development agreement, the payment of the development and initial fees attributable to a specific unit in your development schedule is deferred until that unit is open.

5. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by adding the following paragraphs at the conclusion of the Item:

California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination, transfer or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C. § 101, et seq.).

The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

The Franchise Agreement contains a liquidated damages clause. Under California Civil Code § 1671, certain liquidated damages clauses are unenforceable.

The Franchise Agreement requires application of the laws of the State of North Carolina. This provision may not be enforceable under California law.

You must sign a general release if you renew or transfer your franchise. California Corporations Code § 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code § § 31000 through 31516). Business and Professions Code § 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code § § 20000 through 20043).

6. The Franchise Disclosure Document is amended to include the following:

Section 31125 of the California Corporations Code requires us to give you a disclosure document, in a form containing the information that the commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.

7. The Franchise Disclosure Document is amended to include the following:

“The earnings claims figure(s) does (do) not reflect the costs of sales, operating expenses, or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your (franchised business). Franchisees or former franchisees, listed in the Disclosure Document, may be one source of this information.”

8. The Franchise Disclosure Document is amended to include the following:

We do not have a federal registration for one of our principal marks. Therefore, such trademark does not have as many legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

EXHIBIT J-2**Illinois Disclosure**

In recognition of the requirements of the Illinois Franchise Disclosure Act, Ill. Comp. Stat. §§ 705/1 to 705/44 the Franchise Disclosure Document for Pelican's SnoBalls (USA) LLC for use in the State of Illinois shall be amended as follows:

1. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the deletion of provision "w" in its entirety, and the following provision shall be substituted in its place:

Provision	Section in Franchise Agreement	Summary
w. Choice of law	§ 27.1 of Franchise Agreement	Illinois

2. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following at the conclusion of the Item:

Sec. 705/4 of the Illinois Franchise Disclosure Act provides that "any provision in a franchise agreement that designates jurisdiction or venue in a forum outside this state [Illinois] is void."

Sec. 705/41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

Your rights upon termination or non-renewal of a Franchise Agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

3. Each provision of this addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently, without reference to this addendum.

EXHIBIT J-3

Maryland Disclosure

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, the Franchise Disclosure Document for Pelican's SnoBalls (USA) LLC for use in the State of Maryland shall be amended as follows:

1. Item 5, "Initial Fees" is amended by adding the following sentence at the end of the first paragraph:

Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement.

2. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following language:

The general releases required for renewal or transfer will not apply with respect to any liability arising under the Maryland Franchise Registration and Disclosure Law.

A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

The Franchise Agreement provides for termination upon bankruptcy of the franchisee. This provision may not be enforceable under the U.S. Bankruptcy Code (11 U.S.C. Section 101, *et seq.*).

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

3. Exhibit I, "Franchisee Acknowledgement," shall be amended by the addition of the following at the end of Exhibit I:

The representations under this Franchisee Acknowledgement are not intended, nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

EXHIBIT J-4

Michigan Disclosure

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU:

- (A) A PROHIBITION ON THE RIGHT OF A FRANCHISEE TO JOIN AN ASSOCIATION OF FRANCHISEES.**
- (B) A REQUIREMENT THAT A FRANCHISEE ASSENT TO A RELEASE, ASSIGNMENT, NOVATION, WAIVER, OR ESTOPPEL WHICH DEPRIVES A FRANCHISEE OF RIGHTS AND PROTECTIONS PROVIDED IN THIS ACT. THIS SHALL NOT PRECLUDE A FRANCHISEE, AFTER ENTERING INTO A FRANCHISE AGREEMENT, FROM SETTLING ANY AND ALL CLAIMS.**
- (C) A PROVISION THAT PERMITS A FRANCHISOR TO TERMINATE A FRANCHISE PRIOR TO THE EXPIRATION OF ITS TERM EXCEPT FOR GOOD CAUSE. GOOD CAUSE SHALL INCLUDE THE FAILURE OF THE FRANCHISEE TO COMPLY WITH ANY LAWFUL PROVISIONS OF THE FRANCHISE AGREEMENT AND TO CURE SUCH FAILURE AFTER BEING GIVEN WRITTEN NOTICE THEREOF AND A REASONABLE OPPORTUNITY, WHICH IN NO EVENT NEED BE MORE THAN 30 DAYS, TO CURE SUCH FAILURE.**
- (D) A PROVISION THAT PERMITS A FRANCHISOR TO REFUSE TO RENEW A FRANCHISE WITHOUT FAIRLY COMPENSATING THE FRANCHISEE BY REPURCHASE OR OTHER MEANS FOR THE FAIR MARKET VALUE, AT THE TIME OF EXPIRATION, OF THE FRANCHISEE'S INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES, AND FURNISHINGS. PERSONALIZED MATERIALS WHICH HAVE NO VALUE TO THE FRANCHISOR AND INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES, AND FURNISHINGS NOT REASONABLY REQUIRED IN THE CONDUCT OF THE FRANCHISED BUSINESS ARE NOT SUBJECT TO COMPENSATION. THIS SUBSECTION APPLIES ONLY IF: (i) THE TERM OF THE FRANCHISE IS LESS THAN 5 YEARS; AND (ii) THE FRANCHISEE IS PROHIBITED BY THE FRANCHISE OR OTHER AGREEMENT FROM CONTINUING TO CONDUCT SUBSTANTIALLY THE SAME BUSINESS UNDER ANOTHER TRADEMARK, SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING, OR OTHER COMMERCIAL SYMBOL IN THE SAME AREA SUBSEQUENT TO THE EXPIRATION OF THE FRANCHISE OR THE FRANCHISEE DOES NOT RECEIVE AT LEAST 6 MONTHS ADVANCE NOTICE OF FRANCHISOR'S INTENT NOT TO RENEW THE FRANCHISE.**
- (E) A PROVISION THAT PERMITS THE FRANCHISOR TO REFUSE TO RENEW A FRANCHISE ON TERMS GENERALLY AVAILABLE TO OTHER FRANCHISEES OF THE SAME CLASS OR TYPE UNDER SIMILAR CIRCUMSTANCES. THIS SECTION DOES NOT REQUIRE A RENEWAL PROVISION.**
- (F) A PROVISION REQUIRING THAT ARBITRATION OR LITIGATION BE CONDUCTED OUTSIDE THIS STATE. THIS SHALL NOT PRECLUDE THE FRANCHISEE FROM ENTERING INTO AN AGREEMENT, AT THE TIME OF ARBITRATION, TO CONDUCT ARBITRATION AT A LOCATION OUTSIDE THIS STATE.**
- (G) A PROVISION WHICH PERMITS A FRANCHISOR TO REFUSE TO PERMIT A TRANSFER OF OWNERSHIP OF A FRANCHISE, EXCEPT FOR GOOD CAUSE. THIS SUBDIVISION DOES NOT PREVENT A FRANCHISOR FROM EXERCISING A RIGHT**

OF FIRST REFUSAL TO PURCHASE THE FRANCHISE. GOOD CAUSE SHALL INCLUDE, BUT IS NOT LIMITED TO:

- (i) THE FAILURE OF THE PROPOSED FRANCHISEE TO MEET THE FRANCHISOR'S THEN CURRENT REASONABLE QUALIFICATIONS OR STANDARDS.**
 - (ii) THE FACT THAT THE PROPOSED TRANSFEREE IS A COMPETITOR OF THE FRANCHISOR OR SUBFRANCHISOR.**
 - (iii) THE UNWILLINGNESS OF THE PROPOSED TRANSFEREE TO AGREE IN WRITING TO COMPLY WITH ALL LAWFUL OBLIGATIONS.**
 - (iv) THE FAILURE OF THE FRANCHISEE OR PROPOSED TRANSFEREE TO PAY ANY SUMS OWING TO THE FRANCHISOR OR TO CURE ANY DEFAULT IN THE FRANCHISE AGREEMENT EXISTING AT THE TIME OF THE PROPOSED TRANSFER.**
- (H) A PROVISION THAT REQUIRES THE FRANCHISEE TO RESELL TO THE FRANCHISOR ITEMS THAT ARE NOT UNIQUELY IDENTIFIED WITH THE FRANCHISOR. THIS SUBDIVISION DOES NOT PROHIBIT A PROVISION THAT GRANTS TO A FRANCHISOR A RIGHT OF FIRST REFUSAL TO PURCHASE THE ASSETS OF A FRANCHISE ON THE SAME TERMS AND CONDITIONS AS A BONA FIDE THIRD PARTY WILLING AND ABLE TO PURCHASE THOSE ASSETS, NOR DOES THIS SUBDIVISION PROHIBIT A PROVISION THAT GRANTS THE FRANCHISOR THE RIGHT TO ACQUIRE THE ASSETS OF A FRANCHISE FOR THE MARKET OR APPRAISED VALUE OF SUCH ASSETS IF THE FRANCHISEE HAS BREACHED THE LAWFUL PROVISIONS OF THE FRANCHISE AGREEMENT AND HAS FAILED TO CURE THE BREACH IN THE MANNER PROVIDED IN SUBDIVISION (C).**
- (I) A PROVISION WHICH PERMITS THE FRANCHISOR TO DIRECTLY OR INDIRECTLY CONVEY, ASSIGN, OR OTHERWISE TRANSFER ITS OBLIGATIONS TO FULFILL CONTRACTUAL OBLIGATIONS TO THE FRANCHISEE UNLESS PROVISION HAS BEEN MADE FOR PROVIDING THE REQUIRED CONTRACTUAL SERVICES.**

* * * *

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.

* * * *

IF THE FRANCHISOR'S MOST RECENT FINANCIAL STATEMENTS ARE UNAUDITED AND SHOW A NET WORTH OF LESS THAN \$100,000.00, THE FRANCHISOR MUST, AT THE REQUEST OF THE FRANCHISEE, ARRANGE FOR THE ESCROW OF INITIAL INVESTMENT AND OTHER FUNDS PAID BY THE FRANCHISEE UNTIL THE OBLIGATIONS TO PROVIDE REAL ESTATE, IMPROVEMENTS, EQUIPMENT, INVENTORY, TRAINING, OR OTHER ITEMS INCLUDED IN THE FRANCHISE OFFERING ARE FULFILLED. AT THE OPTION OF THE FRANCHISOR, A SURETY BOND MAY BE PROVIDED IN PLACE OF ESCROW.

* * * *

THE NAME AND ADDRESS OF THE FRANCHISOR'S AGENT IN THIS STATE AUTHORIZED TO RECEIVE SERVICE OF PROCESS IS: MICHIGAN DEPARTMENT OF COMMERCE,

CORPORATION AND SECURITIES BUREAU, 6546 MERCANTILE WAY, P.O. BOX 30222, LANSING, MICHIGAN 48910.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO:

**DEPARTMENT OF THE ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION DIVISION
ATTN: FRANCHISE
670 G. MENNEN WILLIAMS BUILDING
LANSING, MICHIGAN 48913**

NOTE: NOTWITHSTANDING PARAGRAPH (F) ABOVE, WE INTEND TO, AND YOU AGREE THAT WE AND YOU WILL, ENFORCE FULLY THE PROVISIONS OF THE ARBITRATION SECTION OF OUR AGREEMENTS. WE BELIEVE THAT PARAGRAPH (F) IS UNCONSTITUTIONAL AND CANNOT PRECLUDE US FROM ENFORCING THE ARBITRATION PROVISIONS.

EXHIBIT J-5

Minnesota Disclosure

In recognition of the requirements of the Minnesota Franchises Law, Minn. Stat. §§ 80C.01 through 80C.22, and of the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce, Minn. Rules §§ 2860.0100 through 2860.9930, the Franchise Disclosure Document for Pelican's SnoBalls (USA) LLC for use in the State of Minnesota shall be amended to include the following:

1. In Items 5 and 7, the following language is added:

Based on our financial condition, the Minnesota Department of Commerce requires that we defer the collection of all initial fees from Minnesota franchisees until the franchised business opens.

2. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following paragraphs:

With respect to franchisees governed by Minnesota law, we will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4, and 5 which require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days notice of non-renewal of the Franchise Agreement, and that consent to the transfer of the franchise not be unreasonably withheld.

Pursuant to Minn. Rule 2860.4400D, any general release of claims that you or a transferor may have against us or our shareholders, directors, employees and agents, including without limitation claims arising under federal, state, and local laws and regulations shall exclude claims you or a transferor may have under the Minnesota Franchise Law and the Rules and Regulations promulgated thereunder by the Commissioner of Commerce.

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring you to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

2. Each provision of this addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchises Law or the Rules and Regulations promulgated thereunder by the Minnesota Commission of Commerce are met independently without reference to this addendum to the disclosure document.

EXHIBIT J-6

New York Disclosure

1. The following information is added to the cover page of the Franchise Disclosure Document:

THE FRANCHISOR IS AT AN EARLY STAGE OF DEVELOPMENT AND HAS A LIMITED OPERATING HISTORY. THIS FRANCHISE IS LIKELY TO BE A RISKIER INVESTMENT THAN A FRANCHISE IN A SYSTEM WITH A LONGER OPERATING HISTORY.

THE FRANCHISEE WILL BE REQUIRED TO MAKE AN ESTIMATED INITIAL INVESTMENT RANGING FROM \$70,750 to \$209,800. THIS AMOUNT EXCEEDS THE FRANCHISOR'S STOCKHOLDERS EQUITY AS OF DECEMBER 31, 2021, WHICH IS (\$457,065).

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT E OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21ST FLOOR, NEW YORK, NEW YORK 10005.

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. The following is added to the end of the "Summary" sections of Item 17(c), titled "**Requirements for franchisee to renew or extend**," and Item 17(m), entitled "**Conditions for franchisor approval of transfer**":

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

6. The following language replaces the “Summary” section of Item 17(d), titled **“Termination by franchisee”**:

You may terminate the agreement on any grounds available by law.

7. The following is added to the end of the “Summary” section of Item 17(j), titled **“Assignment of contract by franchisor”**:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. The following is added to the end of the “Summary” sections of Item 17(v), titled **“Choice of forum”**, and Item 17(w), titled **“Choice of law”**:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

STATEMENT OF DISCLOSURE DOCUMENT ACCURACY

THE FRANCHISOR REPRESENTS THAT THIS DISCLOSURE DOCUMENT DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT.

EXHIBIT J-7

Rhode Island Disclosure

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34 the Franchise Disclosure Document for Pelican's SnoBalls (USA) LLC for use in the State of Rhode Island shall be amended to include the following:

1. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following:

§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."

2. This addendum to the Disclosure document shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this addendum to the Disclosure document.

EXHIBIT J-8**Virginia Disclosure**

In recognition of the requirements of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Pelican's SnoBalls (USA) LLC in connection with the offer and sale of franchises for use in the Commonwealth of Virginia shall be amended to include the following:

1. The following information is added to the Risk Factor cover page of the Franchise Disclosure Document:

Estimated Initial Investment. The franchisee will be required to make an estimated initial investment ranging from \$ 70,750 to \$209,800. This amount exceeds the franchisor's stockholder's equity as of December 31, 2021, which is \$(457,065).

2. In Item 5, the following language is added after the first paragraph:

The Virginia State Corporation Commission's Division of Securities and Retail Franchising requires that all fees paid to us by the franchisee prior to opening (including the Initial Franchise Fee and amounts due for the purchase of any good or services) must be deferred pending satisfaction of all of our pre-opening obligations to you. Upon the opening of your Franchised Business and our compliance with all pre-opening obligations for the Franchised Business, you must make each of those payments to us.

3. In Item 7, the following row is substituted for the Initial Franchise Fee disclosure:

Type of Expenditure	Amount (Low Amount to High Amount)	Method of Payment	When Due	To Whom Payment is Made	Refund-ability
Initial franchise fee (Note 1)	\$20,000	Lump Sum	Upon satisfaction of all of our pre-opening obligations to you.	Us	Nonrefundable

4. Each provision of this addendum shall be effective only to the extent, with respect to that provision, that the jurisdictional requirements of the Virginia Retail Franchising Act are met independently, without reference to this addendum.

EXHIBIT K

STATE SPECIFIC AGREEMENT AMENDMENTS

Exhibit K-1

California Franchise Agreement Amendment

The parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement for use in the State of California (the "**Agreement**") agree as follows:

1. Section 4.1 of the Agreement, under the heading "Initial Franchise Fee" is amended by the addition of the following language:

Notwithstanding the terms of this Section 4.1, payment of all initial fees is postponed until after all of our initial obligations are complete and you are open for business.

2. No disclaimer, questionnaire, clause, or statement signed by a franchisee in connection with the commencement of the franchise relationship shall be construed or interpreted as waiving any claim of fraud in the inducement, whether common law or statutory, or as disclaiming reliance on or the right to rely upon any statement made or information provided by any franchisor, broker or other person acting on behalf of the franchisor that was a material inducement to a franchisee's investment. This provision supersedes any other or inconsistent term of any document executed in connection with the franchise.

3. This amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of California Franchise Investment Law are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this California amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC

Franchisee

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit K-2

Illinois Franchise Amendment

In recognition of the requirements of the Illinois Franchise Disclosure Act, Ill. Comp. Stat. §§ 705/1 to 705/44, the parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement (the "Agreement") agree as follows:

1. Section 2 of the Agreement, under the heading "Term and Renewal," shall be supplemented by the addition of the following new paragraph 2.3, which shall be considered an integral part of the Agreement:

2.3 If any of the provisions of this Section 2 are inconsistent with Sections 19 and 20 of the Illinois Franchise Disclosure Act, the provisions of the Act shall apply. If we refuse to renew this Agreement, we will compensate you if (and to the extent) such compensation is required under Sections 19 and 20 of the Illinois Franchise Disclosure Act.

2. Section 17 of the Agreement, under the heading "Default and Termination," shall be supplemented by the addition of the following new paragraph 17.8, which shall be considered an integral part of the Agreement:

17.8 If any of the provisions of this Section 17 concerning termination are inconsistent with Sections 19 and 20 of the Illinois Franchise Disclosure Act, then said Illinois law shall apply.

3. Section 25 of the Agreement, under the heading "Entire Agreement and Amendment," shall be supplemented by the addition of the following language at the conclusion of the Section:

Nothing in this Section 25 or this Agreement shall act as a waiver of any of your rights under the Illinois Franchise Disclosure Act or other Illinois law.

4. Section 27.1 of the Agreement, under the heading "Applicable Law," shall be deleted in its entirety, and shall have no force or effect; and the following new paragraph shall be substituted in its place:

27.1 This Agreement takes effect upon its acceptance and execution by us, and shall be interpreted and construed under the laws of Illinois.

5. Section 27.2 of the Agreement, under the heading "Applicable Law," shall be deleted in its entirety.

6. The Agreement shall be amended by the addition of the following language:

Sec. 705/41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

7. Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Illinois amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC
Franchisor

Franchisee Entity

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit K-3

Maryland Franchise Amendment

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, the parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement (the "Agreement") agree as follows:

1. Sections 2.2.7 and 16.5.1 of the Agreement are amended to include the following language:

The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Section 4 of the Agreement is amended by adding the following:

Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement.

3. Section 25 of the Agreement, under the heading "Entire Agreement and Amendment," shall be amended by the addition of the following language:

All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

4. Sections 27.3, 27.6, and 27.7 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be amended by the addition of the following language:

A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three (3) years after the grant of the franchise.

5. Section 28 of the Agreement, under the heading "Acknowledgments," shall be supplemented by the following:

All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

6. Section 28.15 of the Agreement, under the heading "Acknowledgements," shall be supplemented with the following:

This General Release does not release any claims that you may have under the Maryland Franchise Registration and Disclosure Law.

7. Each provision of this amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Maryland amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC
Franchisor

Franchisee Entity

By:_____

By:_____

Name:_____

Name:_____

Title:_____

Title:_____

Exhibit K-4

Minnesota Franchise Amendment

In recognition of the requirements of the Minnesota Franchises Law, Minn. Stat. §§ 80C.01 through 80C.22, and of the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce, Minn. Rules §§ 2860.0100 through 2860.9930, the parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement (the "Agreement") agree as follows:

1. Section 2.2.7 of the Agreement, under the heading "Term and Renewal," shall be deleted in its entirety and shall have no force or effect, and the following paragraph shall be inserted in lieu thereof:

2.2.7 You agree to sign and deliver to us a general mutual release, in a form that we will provide (which will include our release, with certain limited exclusions), that will include your release of all claims against us and our affiliates, and our respective officers, directors, members, managers, agents, and employees, excluding only such claims as Franchisee may have that have arisen under the Minnesota Franchises Law and the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce. If you are an entity, then your affiliates and your direct and indirect owners (and any other parties that we reasonably request) must also sign and deliver that release to us.

2. Section 2 of the Agreement, under the heading "Term and Renewal," shall be supplemented by the addition of the following new Section 2.3:

2.3 Minnesota law provides franchisees with certain non-renewal rights. In sum, Minn. Stat. § 80C.14 (subd. 4) currently requires, except in certain specified cases, that a franchisee be given 180 days notice of non-renewal of the Franchise Agreement.

3. Section 4.1 of the Agreement, under the heading "Initial Franchise Fee" is amended by the addition of the following language:

Notwithstanding the terms of this Section 4.1, payment of all initial fees is postponed until the Licensed Location opens.

4. Section 9 of the Agreement, under the heading "Proprietary Marks," shall be amended by the addition of the following new paragraph 9.5:

9.5 Pursuant to Minnesota Stat. Sec. 80C.12, Subd. 1(g), we are required to protect any rights you may have to the Proprietary Marks.

5. Section 16.5.1 of the Agreement, under the heading "Transfer Conditions," shall be deleted in its entirety and shall have no force or effect, and the following paragraph shall be inserted in lieu thereof:

16.5.1. The transferor must have executed a general release, in a form satisfactory to us, of any and all claims against us and our affiliates, successors, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, servants, and employees in their corporate and individual capacities including, claims arising under this Agreement, any other agreement between you and us, and/or our respective affiliates, and federal, state, and local laws and rules, excluding only such claims as the transferor may have under the Minnesota Franchises Law and the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce.

6. Section 16 of the Agreement, under the heading "Transfer of Interest," shall be supplemented by the addition of the following new paragraph 16.12:

16.12 Minnesota law provides franchisees with certain transfer rights. In sum, Minn. Stat. §80C.14 (subd. 5) currently requires that consent to the transfer of the franchise may not be unreasonably withheld.

7. Section 17 of the Agreement, under the heading "Default and Termination," shall be supplemented by the following new paragraph 17.8:

17.8 Minnesota law provides franchisees with certain termination rights. In sum, Minn. Stat. § 80C.14 (subd. 3) currently requires, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) of the Franchise Agreement.

8. Section 27.5 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be deleted in its entirety and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

27.5 Nothing herein contained shall bar our right to seek injunctive relief against threatened conduct that will cause us loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

9. Section 27 of the Agreement, under the heading "Applicable Law and Dispute Resolution", shall be supplemented by the following new paragraph 27.11, which shall be considered an integral part of the Agreement:

27.11 Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring you to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

10. Section 28.15 of the Agreement, under the heading "Acknowledgements," shall be supplemented with the following:

This General Release does not release any claims that you may have under the Minnesota Franchises Law and the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce.

11. Each provision of this Agreement shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchises Law or the Rules and Regulations promulgated thereunder by the Minnesota Commissioner of Commerce are met independently without reference to this addendum to the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed, and delivered this Minnesota amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC
Franchisor

Franchisee Entity

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit K-5

New York Franchise Agreement Amendment

In recognition of the requirements of the New York General Business Law, Article 33, Sections 680 through 695, and of the regulations promulgated thereunder (N.Y. Comp. Code R. & Regs., tit. 13, §§ 200.1 through 201.16), the parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement (the "Agreement") agree as follows:

1. Section 2.2.7 of the Agreement, under the heading "Term and Renewal," shall be deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in its place:

2.2.7 You agree to sign and deliver to us a general mutual release, in a form that we will provide (which will include our release, with certain limited exclusions), that will include your release of all claims against us and our affiliates, and our respective officers, directors, members, managers, agents, and employees. If you are an entity, then your affiliates and your direct and indirect owners (and any other parties that we reasonably request) must also sign and deliver that release to us provided, however, that all rights enjoyed by you and any causes of action arising in your favor from the provisions of New York General Business Law Sections 680-695 and the regulations issued thereunder, shall remain in force; it being the intent of this provision that the non-waiver provisions of N.Y. Gen. Bus. Law Sections 687.4 and 687.5 be satisfied.

2. Section 16.5.1 of the Agreement, under the heading "Transfer of Interest," shall be deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in its place:

16.5.1 The transferor must have executed a general release, in a form satisfactory to us, of any and all claims against us and our affiliates, successors, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, servants, and employees in their corporate and individual capacities including, claims arising under this Agreement, any other agreement between you and us, and/or our respective affiliates, and federal, state, and local laws and rules, provided, however, that all rights enjoyed by the transferor and any causes of action arising in its favor from the provisions of New York General Business Law Sections 680-695 and the regulations issued thereunder, shall remain in force; it being the intent of this provision that the non-waiver provisions of N.Y. Gen. Bus. Law Sections 687.4 and 687.5 be satisfied.

3. Section 18.8 of the Agreement, under the heading "Obligations Upon Termination or Expiration," shall be deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in its place:

18.8 *Pay Damages.* You agree to pay us all damages, costs, and expenses (including without limitation reasonable attorneys' fees, court costs, discovery costs, and all other related expenses) that we incur as a result of your default under this Agreement and/or subsequent to the termination or expiration of this Agreement in seeking injunctive or other relief for the enforcement of any provisions of this Section 18.

Section 27.5 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in lieu thereof:

27.5 *Injunctions.* Nothing contained in this Agreement shall bar our right to seek injunctive relief against threatened conduct that will cause us loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

4. Section 27 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be supplemented by the addition of the following language:

Nothing in this Agreement should be considered a waiver of any right conferred upon you by New York General Business Law, Sections 680-695.

5. Section 28.15 of the Agreement, under the heading "Acknowledgements," shall be amended with the addition of the following:

This General Release does not release us from all rights enjoyed by you and any causes of action arising in your favor from the provisions of New York General Business Law Sections 680-695 and the regulations issued thereunder, which shall remain in force; it being the intent of this provision that the non-waiver provisions of N.Y. Gen. Bus. Law Sections 687.4 and 687.5 be satisfied.

6. There are circumstances in which an offering made by us would not fall within the scope of the New York General Business Law, Article 33, such as when the offer and acceptance occurred outside the state of New York. However, an offer or sale is deemed made in New York if you are domiciled in or the franchise will be opening in New York. We are required to furnish a New York prospectus to every prospective franchisee who is protected under the New York General Business Law, Article 33.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this New York amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC

Franchisee

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit K-6

Rhode Island Franchise Amendment

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, the parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement (the "Agreement") agree as follows:

1. Section 27.2 of the Agreement, under the heading "Applicable Law and Dispute Resolution," shall be deleted in its entirety, and shall have no force or effect; and the following paragraph shall be substituted in its place:

27.2 Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."

2. This amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Rhode Island amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC
Franchisor

Franchisee Entity

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit K-7

Virginia Franchise Agreement Amendment

The parties to the attached Pelican's SnoBalls (USA) LLC Franchise Agreement for use in the Commonwealth of Virginia (the "**Agreement**") agree as follows:

1. Section 4.1 of the Agreement, under the heading "Initial Franchise Fee" is amended by the addition of the following:

The Virginia State Corporation Commission's Division of Securities and Retail Franchising requires that we defer the payment of all fees (including Initial Franchise Fee, and any deposits, payments for any goods or services (if any)) paid to us by you prior to opening pending satisfaction of all of our pre-opening obligations to you. You must pay the Initial Franchise Fee to us upon the opening of the Licensed Location and our compliance with all pre-opening obligations for the Licensed Location.

2. This amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of Virginia Retail Franchising Act are met independently without reference to this amendment.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Virginia amendment to the Franchise Agreement on the same date as the Franchise Agreement was executed.

Pelican's SnoBalls (USA) LLC

Franchisee

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT L

GENERAL RELEASE LANGUAGE

The following is our current general release language that we expect to include in a release that a franchisee and/or transferor may sign as part of a renewal or an approved transfer. We have the right to periodically modify this release.

Franchisee, its officers and directors, its owners, and their respective agents, heirs, administrators, successors, and assigns (the “**Franchisee Group**”), hereby forever release and discharge, and forever hold harmless Pelican’s SnoBalls USA, LLC, its current and former corporate affiliates and predecessors, and their respective shareholders, partners, members, managers, officers, directors, agents, representatives, heirs, administrators, successors, and assigns (the “**Franchisor Group**”), from any and all claims, demands, debts, liabilities, actions or causes of action, costs, agreements, promises, and expenses of every kind and nature whatsoever, at law or in equity, whether known or unknown, foreseen and unforeseen, liquidated or unliquidated, which the Franchisee Group and/or its owners had, have, or may have against any member of the Franchisor Group, including, without limitation, any claims or causes of action arising from, in connection with or in any way related or pertaining, directly or indirectly, to the Franchise Agreement, the relationship created by the Franchise Agreement, or the development, ownership, or operation of the Store.

The Franchisee Group understands and agrees that it/she/he may later learn of new or different facts, but that still, it is that party’s intention to fully, finally, and forever release all of the claims that are released above. This release includes the parties’ waiver of state laws that might apply to limit a release (such as Calif. Civil Code Section 1542, which states that “[a] general release does not extend to claims which the creditor does not know or suspect exist in his [or her] favor at the time of executing the release, which if known by him [or her] must have materially affected his [or her] settlement with the debtor”).

The Franchisee Group further indemnifies and holds the Franchisor Group harmless against, and agrees to reimburse them for any loss, liability, expense, or damages (actual or consequential) including, without limitation, reasonable attorneys’, accountants’, and expert witness fees, costs of investigation and proof of facts, court costs, and other litigation and travel and living expenses, which any member of the Franchisor Group may suffer with respect to any claims or causes of action which any customer, creditor, or other third party now has, ever had, or hereafter would or could have, as a result of, arising from, or under the Franchise Agreement or the Store. The Franchisee Group and its owners represent and warrant that they have not made an assignment or any other transfer of any interest in the claims, causes of action, suits, debts, agreements, or promises described herein.

STATE EFFECTIVE DATES

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the states, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

STATES	EFFECTIVE DATE
California	Pending
Illinois	Pending
Indiana	Pending
Maryland	Pending
Michigan	Pending
Minnesota	Pending
New York	Pending
Rhode Island	Pending
Virginia	Pending
Wisconsin	Pending

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

EXHIBIT M

ACKNOWLEDGMENT OF RECEIPT

ITEM 23
RECEIPT

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Pelican's SnoBalls USA, LLC offers you a franchise, it must provide this Disclosure Document to you: **(a)** 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale; but **(b)** in New York, if applicable, at the earlier of (i) your first personal meeting to discuss the franchise, or (ii) 10 business days before you sign a binding agreement with, or make payment to us or an affiliate in connection with the proposed franchise sale, and **(c)** in Iowa, at the earlier of the first personal meeting, or 14 days before signing the franchise or other agreement or paying us any consideration that relates to the franchise relationship, and **(d)** in Michigan, at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Pelican's SnoBalls USA, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the appropriate state agency listed in Exhibit E.

This Franchise Disclosure Document was issued on April 11, 2023.

The franchisor is Pelican's SnoBalls USA, LLC located at 801 East 2nd Ave., Gastonia, North Carolina 28054 (tel: 803.833.0851).

The franchise sellers are Randall Wright and Gregg Fatool at Pelican's SnoBalls USA, LLC at 801 East 2nd Ave., Gastonia, North Carolina 28054 (tel: 803.833.0851). Any additional individual franchise sellers involved in offering the franchise are: _____.

Pelican's SnoBalls USA, LLC authorizes the respective state agencies identified on Exhibit F to receive service of process for it in the particular state.

I received a Franchise Disclosure Document dated April 11, 2023 that included the following Exhibits:

- | | |
|---|---|
| A. Franchise Agreement | H. Financial Statements |
| B. List of Franchisees | I. Franchisee Acknowledgement |
| C. List of Affiliate-owned Stores | J. State-Specific Amendments to the Disclosure Document |
| D. List of Terminated Franchisees | K. State-Specific Amendments to the Various Agreements |
| E. List of State Administrators | L. General Release Language |
| F. Agents for Service of Process | M. Acknowledgement of Receipt |
| G. Operating Manual (Table of Contents) | |

Date

Prospective Franchisee's Signature

Printed Name

ITEM 23
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If Pelican's SnoBalls USA, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the appropriate state agency listed in Exhibit E.

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| F. Agents for Service of Process | M. Acknowledgement of Receipt |
| G. Operating Manual (Table of Contents) | |

Date

Prospective Franchisee's Signature

Printed Name