

## FRANCHISE DISCLOSURE DOCUMENT

**A&W RESTAURANTS, INC.**  
**A MICHIGAN CORPORATION**  
**1648 MCGRATHIANA PARKWAY, SUITE 380**  
**LEXINGTON, KENTUCKY 40511**  
**(859) 219-0019**  
**www.awrestaurants.com**



The franchisee will operate a quick-service restaurant featuring A&W® Root Beer and other approved items in a new or converted freestanding building with drive-thru (a “Freestanding Restaurant”), a new or converted space connected to or in-line with another retail space or a gas station or convenience location with drive-thru (an “In-line Restaurant”) or a new or converted space in a “captive” location such as a mall or other shop-in-shop location (a “Captive Restaurant”).

The total investment necessary to begin operation, not including rent or land costs, is \$883,256 to \$1,573,172 for a Freestanding Restaurant; \$413,256 to \$1,084,967 for an In-line Restaurant; and \$287,368 to \$704,763 for a Captive Restaurant. This includes \$20,000 to \$35,000 for a Freestanding Restaurant or In-line Restaurant and \$17,500 to \$32,500 for a Captive Restaurant (or \$55,000 to \$57,500 if you sign a Development Agreement for the development of three A&W Restaurants) that must be paid to the franchisor or its affiliates. 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 the Legal Affairs Department at 1648 McGrathiana Parkway, Suite 380, Lexington, KY 40511, (859) 219-0019.

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-FTCHELP or by writing to the FTC at 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. You can also visit the FTC's home page at [www.ftc.gov](http://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.

**ISSUANCE DATE: April 12, 2024.**

## 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
<b>How much can I earn?</b>	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 A and H.
<b>How much will I need to invest?</b>	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.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit B includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only A&amp;W restaurant business in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be an A&amp;W restaurant business franchisee?</b>	Item 20 or Exhibits A and H list current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	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 G.

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:

1. **Out-of-State Dispute Resolution.** The Franchise Agreement requires you to resolve disputes with the franchisor by litigation only in Kentucky. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in Kentucky than in your own state.

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.

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## STATE ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT

### EXHIBITS

A.	LIST OF FRANCHISEES
B.	FINANCIAL STATEMENTS
C.	FRANCHISE AGREEMENT WITH STATE-REQUIRED ADDENDA
C-1	NEW RESTAURANT INCENTIVE ADDENDUM
C-2	CAPTIVE RESTAURANT ADDENDUM
C-3	CO-BRAND RESTAURANT ADDENDUM
D.	DEVELOPMENT AGREEMENT
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F.	AGENTS FOR SERVICE OF PROCESS
G.	STATE AUTHORITIES
H.	FRANCHISEES WHO HAVE LEFT THE SYSTEM
I-1	FRANCHISEE ORGANIZATIONS A&W HAS CREATED, SPONSORED OR ENDORSED
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J.	TECHNOLOGY SERVICES AGREEMENT

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

The Franchisor

A&W Restaurants, Inc., a Michigan corporation (“A&W”), is the franchisor. A&W was incorporated in California as A&W Restaurants, Inc. on April 28, 1950 and (by way of subsequent merger and name change) in Michigan on February 18, 1982. A&W’s principal office address is 1648 McGrathiana Parkway, Suite 380, Lexington, KY 40511, (859) 219-0019. A&W does business only under its corporate name, although A&W operates, and licenses others to operate, restaurants under the names “A&W” and “A&W All American Food.” A&W is not currently in any line of business other than the type of business described in this Disclosure Document. A&W’s agents for service of process are listed on Exhibit F to this Disclosure Document.

A&W’s Parent, Predecessors and Affiliates

A&W is a wholly owned subsidiary of A Great American Brand, LLC (“AGAB”), a Delaware limited liability company which, on December 19, 2011, purchased all of the issued and outstanding shares of capital stock of Yorkshire Global Restaurants, Inc. (“YGR”) which in turn owned all of the issued and outstanding shares of capital stock of A&W. AGAB’s principal office address is 1648 McGrathiana Parkway, Suite 380 Lexington, KY 40511.

A&W does not have any predecessors or affiliates that are required to be disclosed in this Disclosure Document.

A&W’s Business

Currently, A&W operates and grants franchisees the right to operate new and converted A&W Freestanding, In-line and Captive Restaurants, in each case under the A&W® and A&W All American Food trademarks (collectively referred to in this Disclosure Document as “Restaurants” or “A&W Restaurants”). A&W operates 1 company-owned Restaurant in Lexington, Kentucky and 1 company-owned Restaurant in Richmond, Kentucky, which is used as a training restaurant for Restaurant franchisees. Restaurants are located both in the United States and internationally and offer draft A&W® Root Beer and food products such as hamburgers, chicken tenders, hot dogs, soft serve ice cream and fries. Restaurants are usually located in an area with high traffic volume and typically are open for lunch, dinner and evening business.

A&W previously offered and sold franchises for Restaurants to be operated outside of the United States and its territories. In August 2013, A&W sold its rights to the A&W brand outside of the Americas, the Caribbean, U.S territories, and U.S. military bases to A Great American Brand International Pte. Ltd. (“AGABI”). AGABI is a company registered under the laws of Singapore, with its principal place of business 3791, Jalan Bukit Merah #03-03 E-Centre @ Redhill, Singapore 159471. AGABI has not offered or sold franchises in any other line of business.

NAWFA Agreements

In 1999, A&W entered into an agreement (“1999 NAWFA Agreement”) with the National A&W Franchisees Association (“NAWFA”). The 1999 NAWFA Agreement has been supplemented by four additional agreements, one entered into later in 1999 (“1999 Supplement”), one in 2002 (“2002 NAWFA Agreement”), one in 2003 (“2003 NAWFA

Agreement”) and one in 2013 (“2013 NAWFA Agreement”). These Agreements may affect your rights as a Franchisee. They are available to you upon request from NAWFA, 209 C St. George Street, Richmond, KY 40475. See also Items 6 (footnote 2), 11 and 12 for more information about A&W’s agreements with NAWFA.

### The Franchise Rights Offered

This Disclosure Document covers the offer of franchise rights for Restaurants. Unless specifically stated otherwise, references in this Disclosure Document to Freestanding Restaurants, In-line Restaurants and/or Captive Restaurants shall include new and converted Freestanding Restaurants, In-line Restaurants and Captive Restaurants.

While this Disclosure Document does not cover the offer of franchise rights for new A&W restaurants that are to be operated in the same facility as another restaurant concept (“Co-Brand Restaurant” or “A&W Co-Brand Restaurant”), it does cover the transfer from one franchisee to another of franchise rights for an A&W Co-Brand Restaurant. There is a different franchisor for the other restaurant concept portion of an A&W Co-Brand Restaurant, and the franchise offer for the non-A&W restaurant concept is made under a separate disclosure document that is available to you upon request. If you are the transferee of a Co-Brand Restaurant that is signing a new franchise agreement with A&W, then in addition to the franchise agreement, you will also be required to enter into the Co-Brand Restaurant Addendum, which is attached as Exhibit C-3.

Throughout this Disclosure Document the prospective A&W franchisee is referred to as “you”, whether the franchisee is an individual or a corporation, partnership, limited liability company or other legal entity. If A&W approves you as a franchisee, you may be offered the opportunity to sign a franchise agreement that gives you the right to construct and operate an A&W Restaurant at a specified location using A&W’s restaurant system, trade dress, trademarks and service marks. You may, subject to A&W’s approval and using A&W-approved plans, construct a new restaurant or remodel and convert an existing restaurant building or facility.

A&W may offer you the opportunity to sign a franchise agreement (in the form attached to this Disclosure Document as Exhibit C) for the operation of a Restaurant. The initial term of the franchise agreement is 20 years for a Freestanding Restaurant or In-line Restaurant and 10 years for a Captive Restaurant, with an option to renew for two consecutive five-year terms. You must meet certain criteria to exercise any option to renew, including remodeling the Restaurant to A&W’s then current standards. If you purchase a Captive Restaurant, then in addition to the franchise agreement, you will also be required to enter into a Captive Restaurant Addendum, which is attached as Exhibit C-2.

A&W also may grant multi-unit development rights to qualified franchisees, who then will have the right to develop 3 Freestanding Restaurants or In-line Restaurants over a specific time period or according to a pre-determined development schedule. These franchisees may open and operate Restaurants directly or through controlled affiliates. A&W’s Development Agreement is attached as Exhibit D. (See Items 5 and 12). A&W generally does not grant multi-unit development rights for Captive Restaurants but has done so on occasion.

### Competition

You can expect to compete with locally-owned restaurants and national and regional fast-food restaurants featuring the type of food sold by your Restaurant. You also will compete with restaurant and fast-food outlets offering other types of food for on-premises consumption or carry-out and delivery, and with convenience and grocery stores that sell food and soft-drinks, including A&W ®Root Beer in bottles and cans.

## Industry-Specific Laws and Regulations

You must comply with the local, state, and federal laws that apply to your Restaurant operations, including health, sanitation, no smoking, EEOC, OSHA, discrimination, employment, sexual harassment laws, the Affordable Care Act, data protection (such as credit card protection under the U.S. Fair and Accurate Credit Transactions Act, or “FACTA”) and privacy laws. The Americans with Disabilities Act requires readily accessible accommodations for disabled people, and, therefore, may affect your building construction, site elements, entrance ramps, doors, seating, bathrooms, drinking facilities, and the like. You also must obtain real estate permits and licenses and operational licenses, including licenses for drive-thru headsets and licenses for playing copyrighted music. In addition, the laws, rules and regulations which apply to businesses in general will affect you. You should consult with your attorney concerning these and other local laws and ordinances that may affect your Restaurant operations.

### **ITEM 2-- BUSINESS EXPERIENCE**

#### Chairman and CEO: Kevin M. Bazner

Kevin Bazner has served as A&W’s Chairman since March 2023 and as A&W’s CEO since November 2011, working from A&W’s corporate location in Lexington, Kentucky. Mr. Bazner has also served as a Director for AGAB since December 2011. From November 2011 to January 2019, Mr. Bazner served as A&W’s President. He has also been the owner of Ventana Ventures, LLC, a consulting services company located in Lexington, KY, since May 2007.

#### President and Chief Operating Officer: Betsy Schmandt

Betsy Schmandt has served as A&W’s President and Chief Operating Officer since August 2023, working from A&W’s corporate location in Lexington, Kentucky. She worked with Mrs. Fields Famous Brands, Intl. in Broomfield, Colorado from February 2016 to April 2023, from January 2020 to April 2023 as its President, Franchising and from February 2018 to December 2019 as its Senior Director, Franchise Marketing.

#### Vice President of Marketing: Elizabeth Bazner

Elizabeth Bazner has served as A&W’s Vice President of Marketing since April 2024, working from A&W’s corporate location in Lexington, Kentucky. She has worked with A&W since 2012, serving from January 2018 to January 2020 as its Senior Digital Manager, from January 2020 to July 2021 as its Director of Digital and from July 2021 to April 2024 as its Senior Director of Marketing.

#### Vice President of Operations: Randy Cordray

Randy Cordray has served as A&W’s Vice President of Operations since April 2024, working from A&W’s corporate location in Lexington, Kentucky. He has worked with A&W since 2016, serving from September 2018 to October 2020 as its Franchise Growth Leader, from October 2020 to January 2022 as its Director of Operations and from January 2022 to April 2024 as its Senior Director of Operations.

#### Senior Director of Design and Construction: Ron Lewis

Ron Lewis has served as A&W’s Senior Director of Design & Construction since July 2019, working from A&W’s corporate location in Lexington, Kentucky. From January 2017 to July 2019, he served as A&W’s Director of Design and Construction.



Senior Director of Franchise Development: Eugene “John” Palumbo

Eugene “John” Palumbo has served as A&W’s Senior Director of Franchise Development since February 2021. He was the Vice President of Development for Lenny’s Grilled Subs in Memphis, Tennessee from July 2020 to February 2021. From October 2017 to April 2020, he served as Director of Franchise Development for Primrose Schools in Marietta, Georgia.

Senior Director of Special Projects & Initiatives: Todd Stewart

Todd Stewart has served as A&W’s Senior Director of Special Projects & Initiatives since January 2024, working from A&W’s corporate location in Lexington, Kentucky. From January 2019 to January 2024, he served as A&W’s Director of Special Projects & Initiatives and from May 2015 to January 2019, he served as A&W’s Project Manager.

Director of Franchise Recruitment: David Crowley

David Crowley has served as A&W’s Director of Franchise Recruitment since September 2018, working from A&W’s corporate location in Lexington, Kentucky.

**ITEM 3 – LITIGATION**

Pending Actions

None.

Concluded Actions

None.

”Franchisor-Initiated Actions

None.

Other than these actions, no litigation is required to be disclosed in this Item.

**ITEM 4 – BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

**ITEM 5-- INITIAL FEES**

Initial Franchise Fee

The initial franchise fee is \$30,000 for a new franchisee that is opening a Freestanding Restaurant, In-line Restaurant or Captive Restaurant, \$19,500 for an existing franchisee as of March 31, 2024 that is in good standing (i.e., not in default of any agreement the franchisee entered into with A&W or any affiliate), already has one operational Freestanding Restaurant or In-line Restaurant, and is opening its second Freestanding Restaurant, In-line Restaurant or Captive Restaurant, and \$15,000 for an existing franchisee as of March 31, 2024 that is in good standing, already has two or more operational Freestanding Restaurants and/or In-line Restaurants and/or Captive Restaurants, and is opening another Freestanding Restaurant, In-line Restaurant or Captive Restaurant. You will be required to pay the initial franchise fee in full upon signing the Franchise Agreement. The initial franchise fee is not refundable under any circumstances, except as provided below in this Item 5.

You may be eligible to receive a refund of up to 50% (less any costs or expenses

incurred by A&W for administration or training of you and your employees/managers) of your initial franchise fee if, after submitting at least 2 potential sites to A&W for consideration, A&W and you cannot agree upon a location for your Restaurant within 12 months after the date of the Franchise Agreement, A&W terminates the Franchise Agreement (at its option), and you sign and submit to A&W a release of claims in a form A&W prescribes. You may be eligible to receive a refund of up to 20% (less any costs or expenses incurred by A&W for administration or training of you and your employees/managers) of your initial franchise fee if A&W and you have agreed upon a location for your Restaurant within 12 months after the date of the Franchise Agreement but you have not obtained A&W's Design and Construction Team's approval for the construction of the Restaurant ("Construction Approval") within 18 months after the date of the Franchise Agreement, A&W terminates the Franchise Agreement (at its option), and you sign and submit to A&W a release of claims in a form A&W prescribes.

If you sign A&W's Development Agreement for the development of 3 Restaurants, then the initial franchise fee will be reduced to \$25,000 for the first Restaurant, \$15,000 for the second Restaurant and \$12,500 for the third Restaurant, payable in one lump sum as a development fee when you sign the Development Agreement (see below).

In the fiscal year ended December 31, 2023, the initial franchise fee paid by one new franchisee was reduced to \$5,000.

#### The 2024 Veterans Incentive Program

The 2024 Veterans Incentive Program applies to new and existing franchisees of Freestanding Restaurants and In-line Restaurants who (i) are United States military veterans; (ii) have been honorably discharged from any branch thereof; (iii) provide A&W with a copy of their DD Form 214; (iv) own a majority interest in the franchised Freestanding Restaurant or In-line Restaurant; and, (v) otherwise meet A&W's requirements for the 2024 Veterans Incentive Program (the "Veteran Incentive Qualifications"). If you meet the Veteran Incentive Qualifications, the initial franchise fee you will be required to pay will be reduced to \$15,000.

#### Grand Opening Promotional Deposit

You must pay a grand opening promotional deposit in addition to, and at the same time as, the initial franchise fee. This fee is payable to the NAC Advertising Trust Fund. The grand opening promotional deposit for a Freestanding or In-line A&W Restaurant is \$5,000 and the grand opening promotional deposit for a Captive Restaurant is \$2,500. Once your Restaurant is opened for business and you have completed the approved grand opening promotion, as more fully described in Item 11, you will be eligible for reimbursement of up to \$5,000 or \$2,500, as applicable, of your approved expenditures in connection with the grand opening promotion. You must submit invoices and/or receipts evidencing your approved expenditures to receive the rebate. If you fail to conduct the grand opening promotional activities as required, A&W may (but is not obligated to), in addition to seeking the other remedies available to it, elect to use the grand opening promotion deposit to conduct grand opening promotional activities on your behalf.

In the fiscal year ended December 31, 2023, we did not reduce the grand opening promotional deposit for any franchisee.

#### Development Agreement

If A&W allows you to sign its Development Agreement because you commit to develop 3 Restaurants according to a development schedule that you and A&W agree to, A&W currently charges a development fee that you must pay in full when you sign the Development Agreement. The development fee equals the sum of the initial franchise fee due for each of the 3 Restaurants you commit to open under the Development Agreement (i.e., \$52,500).

The development fee is not refundable under any circumstances. If you sign the Development Agreement, pay the development fee, and then cannot find sites for Restaurants or choose not to perform for another reason (in which case the existing franchise agreements signed under the Development Agreement and/or the Development Agreement is terminated), A&W may keep the entire development fee and need not return any money to you.

In the fiscal year ended December 31, 2023, we did not reduce the development fee for any franchisee.

### **ITEM 6 - OTHER FEES**

(1) Type of Fee <sup>1</sup>	(2) Amount	(3) Due Date	(4) Remarks
Royalty Fee <sup>1, 3</sup>	<p>5% of net sales, subject to the following incentives for new Restaurants only:</p> <p>1. No royalty for the first 3 months after the new Restaurant commences operations.</p> <p>2. 3% of net sales for the remainder of the Restaurant's first year of operations, 4% of net sales for the Restaurant's second year of operations, 5% net sales for the Restaurant's third and each subsequent year of operations.</p>	Monthly by the 20th of the month following the end of the period in which sales were generated	<p>Net sales generally include all revenue from the Restaurant, excluding local and state sales taxes.</p> <p>You will qualify for a waiver of royalties during the first 3 months of your Restaurant's operations if you develop a new Restaurant (not a transfer or renewal), open within 10 months of receiving Construction Approval, and are in good standing (i.e., not in default of any agreement entered into with A&amp;W or any affiliate). If you remain in good standing thereafter, you will qualify for a reduced royalty incentive of 3% of net sales for the remainder of the Restaurant's first year of operations, 4% of net sales in the Restaurant's second year of operations and 5% of net sales in the Restaurant's third and each subsequent year of operations.</p>
Advertising Fee <sup>1, 2, 3</sup>	<p>5% of net sales for all Restaurants except Captive Restaurants, and 5% of net sales for transferees of Co-Brand Restaurants that are signing new franchise agreements</p> <p>2% of net sales for Captive Restaurants</p>	Same as royalty fee	See Item 11 for additional information regarding advertising fees.

<b>(1)</b> <b>Type of Fee<sup>1</sup></b>	<b>(2)</b> <b>Amount</b>	<b>(3)</b> <b>Due Date</b>	<b>(4)</b> <b>Remarks</b>
Management Training Course <sup>4</sup>	Additional and subsequent trainee charge for Management Training Course: \$200 per person per day.	Fee for additional or subsequent trainees due before beginning of training; expenses as incurred	We include the Management Training Course for up to 3 individuals free of cost.
Training Materials and Fees <sup>4</sup>	At actual costs for training materials	As incurred	See Note 4
Multi-Unit Training Course	Our then-current training fee and actual costs for training materials	As incurred	We may require completion of a multi-unit training program before you open a second or subsequent A&W Restaurant.
Additional On-Site Training or Assistance Fee	\$200 per day	When A&W requests	The franchise agreement does not require A&W to provide additional on-site training and/or assistance to you, but if it elects to do so, it may impose a fee.
Interest on Late Payments <sup>1</sup>	Lesser of 18% per annum or highest legal rate allowable under state law	Upon demand	Payable on overdue amounts from the date the amounts were due.
Renewal Fee	\$2,500	Before signing the renewal franchise agreement	See Item 17.
Transfer <sup>1</sup>	A \$5,000 fee is payable in connection with an approved transfer of each Franchise Agreement for an A&W Restaurant.	Before consummation of transfer	Payable when you transfer your Franchise Agreement and rights and obligations under the Franchise Agreement or, if you are a corporation, when you sell all or a majority of your stock. No charge if Franchise Agreement is transferred to immediate family member or to a corporation which you control.
Audit <sup>1</sup>	All costs of audit and underpaid fees plus 18% interest on underpayment from date due	Upon demand	Payable only if audit shows an understatement of 2% or more of sales for any month or accounting period.
Insurance	\$4,000 - \$10,000 (estimate)	Before opening and annually after opening	You must reimburse A&W if it pays for insurance which you did not procure or maintain.

<b>(1)</b> <b>Type of Fee<sup>1</sup></b>	<b>(2)</b> <b>Amount</b>	<b>(3)</b> <b>Due Date</b>	<b>(4)</b> <b>Remarks</b>
Supplier Approval	A&W's actual costs	As incurred	If you wish to have an additional source approved, you (or the source) must reimburse A&W for A&W's costs in evaluating the source and its product(s).
Indemnification	Will vary under circumstances	As incurred	You must reimburse A&W if it is held liable for claims arising from the operation of your Restaurant.
Inventory Replacement	Will vary depending upon sales level	As incurred	Inventory must be replenished as sold. See Item 7 for an estimate of these costs.
Food Standards and Safety Review Audit <sup>5</sup>	A&W may cause a third party vendor to conduct food safety and standards review audits of your Restaurant. A&W currently does not charge franchisees any fees for initial inspections, but it may do so in the future. A&W reserves the right to charge franchisees for any subsequent inspection that is necessary due to a failed initial inspection or franchisee's failure to allow an initial inspection.	N/A	A&W may in appropriate circumstances claim the cost of inspections as an element of damages arising out of an event of default.

- 1 These fees, other than the Advertising Fee, are imposed by and are payable to A&W unless otherwise stated. The Advertising Fee is imposed and payable to NAC. These fees are non-refundable unless otherwise stated. These fees are applicable to all new franchisees. The payment of this royalty fee is consideration for the limited license to use the Trademarks of the Company. See Item 5 for information regarding initial franchise fees and fees due under the Site Request Form.
  
- 2 See Item 7 for more information regarding advertising fees. In December 2023, NAWFA and A&W renewed the A&W/NAWFA Marketing Committee Agreement ("Marketing Committee Agreement"), an Agreement that establishes policies and procedures for the administration of the NAC Advertising Trust Fund. The Marketing Committee Agreement expires December 31, 2033. Under the 2012 NAWFA Agreement, NAWFA and A&W agreed that, generally, all domestic franchisees would contribute 5% of net sales to the NAC Advertising Trust Fund, from which at least 1% of net sales would be made available to franchisees to support approved local marketing programs. See also Items 1, 11 and 12 for more information about A&W's agreements with NAWFA. If you will operate a Restaurant at a captive location such as an airport, stadium or arena or in a mall or mall food court, the Advertising Fee will be reduced to 2% of net sales.

- 3 Under certain circumstances, A&W will have the right, upon written notice to Franchisee, to require Franchisee to establish a direct debit or similar form of direct payment arrangement.
- 4 Your Restaurant General Manager and one other manager devoted to the full-time, day-to-day direct operation of the Restaurant will be required to attend and complete the initial restaurant management training course (the "Management Training Course") to A&W's reasonable satisfaction. Prior to attending the Management Training Course, each attendee must become certified, or hold current certification, as a Food Safety Manager. They may either complete their State's accredited program, the ServSafe program, or other ANSI (American National Standards Institute) rated Food Manager level certification program. The Management Training Course will be provided by A&W through AW University at A&W's Restaurant Support Center in Lexington, Kentucky and at A&W's company-owned Restaurant in Richmond, Kentucky, which is used as a training restaurant, and may last between 8 and 14 days. A&W is currently providing the Management Training Course for up to 3 trainees free of cost but may charge \$200 per day for each additional trainee you would like to attend. You must pay for any training supplies or materials and the labor costs and other related costs associated with providing training to you. You will be responsible for all compensation, insurance, travel and living expense that you or the trainee incurs in connection with the Management Training Course. (See Item 11 for additional information).
- 5 The cost currently incurred by A&W for Food Standards Consultation is approximately \$345 per restaurant for the initial inspection and \$330 per restaurant for any subsequent inspections.

### **ITEM 7 - ESTIMATED INITIAL INVESTMENT**

#### **YOUR ESTIMATED INITIAL INVESTMENT FREESTANDING RESTAURANT<sup>1</sup>**

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Real Estate <sup>2</sup>	Not included			
<b>Building and Equipment Costs:</b>				
Professional Fees, Licenses & Permits <sup>3</sup>	\$30,000 - \$84,000	Lump sum	Prior to receiving construction-ready documents	Architects, attorneys, governmental authorities, newspapers
Building Costs Including Site Work <sup>4</sup>	\$500,000 - \$828,080	Lump sum (or as agreed)	Before opening	Contractor
Signs <sup>4</sup>	\$70,000 - \$83,488	Lump sum	Before opening	Sign company
Technology System <sup>5</sup>	\$27,356 to \$57,563	As agreed	As incurred	Third party
Furnishings, Fixtures & Equipment <sup>6</sup>	\$184,900 - \$275,639	Lump sum	Before opening	Approved distributors and suppliers
<b>Sub-total</b>	<b>\$812,256 - \$1,328,770</b>			
<b>Other Expenses:</b>				

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Initial Franchise Fee <sup>7</sup>	\$15,000 - \$30,000	As agreed	At signing of Franchise Agreement	A&W
Grand Opening Promotion Deposit <sup>8</sup>	\$5,000	As agreed	At signing of Franchise Agreement	NAC Advertising Trust Fund
Management Training Course Expenses <sup>9</sup>	\$3,000-\$10,000	As agreed	As incurred	Third party
On-Site Team Member Training Expenses <sup>9</sup>	\$6,000 - \$25,000	As agreed	As incurred	Third party
Miscellaneous Opening Costs <sup>10</sup>	\$6,000 - \$12,402	As incurred	As incurred	Suppliers, employees, landlord, attorney
Opening Inventory <sup>11</sup>	\$6,000 - \$12,000	Lump sum	Before opening	Approved distributors
Additional Funds – 3 Months <sup>12</sup>	\$30,000 - \$150,000	As incurred	As incurred	Employees, distributors, suppliers, utilities
<b>TOTAL <sup>13</sup></b>	<b>\$883,256 - \$1,573,172</b>	<b>(Does not include real estate costs)</b>		

**YOUR ESTIMATED INITIAL INVESTMENT  
INLINE (RETAIL SPACE OR GAS STATION/CONVENIENCE LOCATION) RESTAURANT <sup>1</sup>**

(1) TYPE OF EXPENDITURE	(2) AMOUNT	(3) METHOD OF PAYMENT	(4) WHEN DUE	(5) TO WHOM PAYMENT IS TO BE MADE
Real Estate <sup>2</sup>	Not included			
<b>Building and Equipment Costs:</b>				
Professional Fees, Licenses & Permits <sup>3</sup>	\$ 15,000 - \$42,000	Lump sum	Prior to receiving construction-ready documents	Architects, attorneys, governmental authorities, newspapers
Building Costs Including Site Work <sup>4</sup>	\$150,000 - \$408,593	Lump sum (or as agreed)	Before opening	Contractor
Signs <sup>4</sup>	\$15,000 - \$52,512	Lump sum	Before opening	Sign company
Technology System <sup>5</sup>	\$27,356 to \$57,563	As agreed	As incurred	Third party

(1) TYPE OF EXPENDITURE	(2) AMOUNT	(3) METHOD OF PAYMENT	(4) WHEN DUE	(5) TO WHOM PAYMENT IS TO BE MADE
Furnishings, Fixtures & Equipment <sup>6</sup>	\$134,900 - \$282,299	Lump sum	Before opening	Approved distributors and suppliers
<b>Sub-total</b>	\$342,256 - \$842,967			
<b>Other Expenses:</b>				
Initial Franchise Fee <sup>7</sup>	\$15,000 - \$30,000	As agreed	At signing of Franchise Agreement	A&W
Grand Opening Promotion Deposit <sup>8</sup>	\$5,000	As agreed	At signing of Franchise Agreement	NAC Advertising Trust Fund
Management Training Course Expenses <sup>9</sup>	\$3,000-\$10,000	As agreed	As incurred	Third party
On-Site Team Member Training Expenses <sup>9</sup>	\$6,000 - \$25,000	As agreed	As incurred	Third party
Miscellaneous Opening Costs <sup>10</sup>	\$6,000 - \$10,000	As incurred	As incurred	Suppliers, employees, landlord, attorney
Opening Inventory <sup>11</sup>	\$6,000 - \$12,000	Lump sum	Before opening	Approved distributors
Additional Funds – 3 Months <sup>12</sup>	\$30,000 - \$150,000	As incurred	As incurred	Employees, distributors, suppliers, utilities
<b>TOTAL <sup>13</sup></b>	\$413,256 - \$1,084,967	(Does not include real estate costs)		

**YOUR ESTIMATED INITIAL INVESTMENT  
CAPTIVE RESTAURANT<sup>1</sup>**

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Real Estate <sup>2</sup>	Not included			
<b>Building and Equipment Costs:</b>				
Professional Fees, Licenses & Permits <sup>3</sup>	\$5,000 - \$15,750	Lump sum	Prior to receiving construction-ready documents	Architects, attorneys, governmental authorities, newspapers
Leasehold Improvements	\$50,000 - \$225,750	Lump sum	Before opening	Contractor
Signs <sup>4</sup>	\$5,000 - \$15,750	Lump sum	Before opening	Sign company



TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Technology System <sup>5</sup>	\$24,833 to \$33,167	As agreed	As incurred	Third party
Furnishings, Fixtures & Equipment <sup>6</sup>	\$136,535 - \$188,846	Lump sum	Before opening	Approved distributors and suppliers
<b>Sub-total</b>	\$221,368-\$479,263			
<b>Other Expenses:</b>				
Initial Franchise Fee <sup>7</sup>	\$15,000 - \$30,000	As agreed	At signing of Franchise Agreement	A&W
Grand Opening Promotion Deposit <sup>8</sup>	\$2,500	As agreed	At signing of Franchise Agreement	NAC Advertising Trust Fund
Management Training Course Expenses <sup>9</sup>	\$3,000--\$10,000	As agreed	As incurred	Third party
On-Site Team Member Training Expenses <sup>9</sup>	\$6,000 - \$25,000	As agreed	As incurred	Third party
Miscellaneous Opening Costs <sup>10</sup>	\$6,000 - \$10,000	As incurred	As incurred	Suppliers, employees, landlord, attorney
Opening Inventory <sup>11</sup>	\$3,500 - \$8,000	Lump sum	Before opening	Approved distributors
Additional Funds – 3 Months <sup>12</sup>	\$30,000 - \$140,000	As incurred	As incurred	Employees, distributors, suppliers, utilities
<b>TOTAL<sup>13</sup></b>	\$287,368 -\$704,763	(Does not include real estate costs)		

(1) The fees in the above charts are imposed by and are payable to A&W unless otherwise stated. These fees are applicable to all new franchisees. Fees payable to A&W are non-refundable unless otherwise stated and fees payable to third parties may or may not be refundable, depending upon your contract or arrangement with the third party.

(2) The amount of property required to construct a new Freestanding Restaurant with a building square footage of 2,082 – 2,176 is approximately 28,000-35,000 square feet. The amount of leasable space required to construct a new In-line Restaurant is approximately 1,500 – 2,800 square feet. The amount of leasable space required to construct a new Captive Restaurant is approximately 850 - 2,100 square feet. Real estate costs generally are not applicable to a conversion/remodel project for a Freestanding Restaurant, In-line Restaurant or Captive Restaurant that is converted from another existing business. Freestanding Restaurants are generally located in urban, rural and residential areas and In-line Restaurants are commonly located in gas and convenience stores and strip shopping centers in urban, rural and residential areas.

Real estate costs vary significantly depending on numerous factors including whether you purchase for cash, finance your purchase or lease. The real estate costs also vary considerably

according to site size, prevailing regional land and rental costs, street access and other factors. Financing costs vary with the amount financed, prevailing interest rates and other terms. Rental costs may include (in addition to base rent) percentage rent, common area maintenance or other occupancy costs. Because of the significant variations, real estate costs are not included in the Initial Investment estimate in this Item 7.

(3) Local, municipal, county and state regulations vary on what licenses and permits are required by you to operate a Restaurant. For example, you may need city and county occupational licenses and city food handler's license. These fees are paid to governmental authorities, when incurred, before commencing business. You may decide to incorporate prior to the execution of the Franchise Agreement. You may also have to comply with the fictitious, assumed, or trade name statutes of the state in which the Restaurant will be located. The fees for these procedures may vary depending on state law, the prevailing rate of attorney's fees and the scope of legal services requested. These costs are paid to the attorneys, newspapers and governmental agencies, and are usually needed before starting business.

(4) As noted above, many factors, including the type and size of the Restaurant and its location, will affect final costs. The estimates used in the above charts represent the approximate construction costs, equipment costs, signage costs and costs for furnishings and decor of a new Restaurant.

(5) You must purchase a Technology System (defined in Item 11) that meets A&W's specifications, which hardware and software components A&W details in Item 11. See Item 11 for more information on A&W's required technology specifications for the Technology System.

(6) Cost varies depending upon size of Restaurant and the equipment package required for the menu served. The typical equipment and fixture list includes freezers and refrigerators, sinks, hot water heater, several types of shelving, exhaust fans and hoods, hot food table, items for preparing and serving food, floor safe, cooking appliances, ice cubes and storage bin, beverage and cup dispensers, various timers, seating package, front counter, lighting, menu board, artwork, drive-thru equipment, and other items needed to operate a Restaurant. Some Captive Restaurants may not require a walk-in freezer and certain other items.

(7) See Item 5 for information regarding, and timing of paying the, initial franchise fees. If you sign A&W's Development Agreement, then, when you sign the Development Agreement, you must pay us a development fee equal to the sum of the initial franchise fee due for each of the 3 Restaurants you commit to open under the Development Agreement (i.e., \$52,500). (See Item 5).

The 2024 Veterans Incentive Program applies to new and existing franchisees of Freestanding Restaurants and In-line Restaurants who (i) are United States military veterans; (ii) have been honorably discharged from any branch thereof; (iii) provide A&W with a copy of their DD Form 214; (iv) own a majority interest in the franchised Freestanding Restaurant or In-line Restaurant; and, (v) otherwise meet A&W's requirements for the 2024 Veterans Incentive Program (the "Veteran Incentive Qualifications"). If you meet the Veteran Incentive Qualifications, the initial franchise fee you will be required to pay will be reduced to \$15,000.

(8) Upon execution of the Franchise Agreement you are required to pay a grand opening promotional deposit to the NAC Advertising Fund. The grand opening promotional deposit for a Freestanding Restaurant or In-line Restaurant is \$5,000 and the grand opening promotional deposit for a Captive Restaurant is \$2,500. Once you have opened the Restaurant for business and completed the approved grand opening promotion, you will be eligible for reimbursement from the NAC Advertising Fund of up to the \$5,000 or \$2,500, as applicable, paid of your approved expenditures in connection with your grand opening promotion. You must submit receipts and/or invoices evidencing the approved expenditures in order to receive the

reimbursement from the NAC Advertising Fund (See Item 5). If you fail to conduct the grand opening promotional activities as required, A&W may (but is not obligated to), in addition to seeking the other remedies available to it, elect to use the grand opening promotion deposit to conduct grand opening promotional activities on your behalf.

(9) Your Restaurant General Manager and one other manager devoted to the full-time, day-to-day direct operation of the Restaurant will be required to attend and complete the Management Training Course to A&W's reasonable satisfaction. Prior to attending the Management Training Course, each attendee must become certified, or hold current certification, as a Food Safety Manager. They may either complete their State's accredited program, the ServSafe program, or other ANSI (American National Standards Institute) rated Food Manager level certification program. The Management Training Course will be provided by A&W through AW University at A&W's Restaurant Support Center in Lexington, Kentucky and at A&W's company-owned Restaurant in Richmond, Kentucky, which is used as a training restaurant, and may last between 8 and 14 days. The range in the tables above for "Management Training Course Expenses" includes the estimated expenses for these two trainees' attendance of the Management Training Course provided through our online module. The range of expenses includes all your trainees' training supplies or materials and living and transportation expenses. Travel expenses depend on where the trainees' home bases are located and whether your trainees can commute by car to the Management Training Course. (See Item 11 for additional information).

In addition to expenses you must pay for your trainees' attendance at the Management Training Course, A&W requires all of your Team Members (i.e., your staff) to attend on-site training during the week prior to your Restaurant's opening. The range in the tables above for "On-Site Team Member Training Expenses" includes all of your costs associated with this on-site training, including, among other things, training supplies or materials, uniforms, salaries and the cost of food and labor for Friends and Family practice events.

(10) This estimate includes supplies used during pre-opening on-site training, uniforms, smallwares, security deposits, legal fees, and other prepaid expenses. It also includes a one-time fee of \$410 to become a member of Restaurant Supply Chain Solutions ("RSCS"), an unaffiliated third party through which you must purchase certain equipment that A&W requires in the A&W® Operations Manual, as it is updated from time to time.

(11) Typical opening inventory items include root beer mugs, paper products, food products and ingredients, root beer concentrate and sugar, and other soft drink beverages.

(12) This estimates your initial start-up expenses for a 3-month period. You will need to support these expenses to the extent they are not covered by sales revenue from your Restaurant. These expenses include, among other items, payroll costs, royalties, advertising, trash removal, promotional expenses, management bonus, insurance, taxes and licenses, bank charges, cost of sales, utilities and repair and maintenance. These figures are estimates and A&W cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how well you follow A&W's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for A&W's product; the prevailing wage rate; competition; and the sales level reached during the initial period. Estimates of revenues generated from the Restaurant during this three-month period are not included.

(13) The costs in the In-line Restaurant, Freestanding Restaurant, and Captive Restaurant charts above represent estimates based on A&W's historical experience in the Restaurant business. You should carefully review these figures with a business advisor before making a

decision to purchase the franchise. A&W does not offer direct or indirect financing for these estimated expenditures.

(14) A&W does not finance any part of your initial investment.

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

You must operate your A&W Restaurant according to A&W's standards. These standards include, among other things, a uniform method of operating that is described in the A&W® Operations Manual and in other communications to you, including without limitation, video tapes, computer disks, on-line and other electronic means. A&W may regulate, among other things, the selection and location of real estate and the type, model and brand of furnishings, fixtures, equipment, signs, materials and supplies to be used in constructing and operating your A&W Restaurant. A&W may also specify required or authorized products and product categories, and the approved supplier(s) of each item.

A&W has standards and specifications to which you must adhere for menu items, food products, packaging, advertising materials, supplies, ingredients, real estate, equipment, signs, fixtures, furnishings, technology system, POS system, drive-thru equipment and other items used in the operation of your A&W Restaurant. A&W, through research, testing and field input and experience, may modify its standards and specifications and approved items, brands or suppliers of menu items, food products, packaging, advertising materials, supplies, ingredients, real estate, equipment, signs, fixtures, furnishings, technology system, POS system, drive-thru equipment and other items used in the operation of your A&W Restaurant. A&W will communicate those modifications to you by revisions in the A&W® Operations Manual, or through bulletins or other written communications or on-line electronic communications.

If A&W approves you to offer delivery and/or catering services in connection with your A&W Restaurant, you must make accommodations for delivery and/or catering services in compliance with A&W's procedures, policies and standards, including utilizing only the specified designated delivery and/or catering service providers A&W identifies, making available the menu items identified as appropriate for delivery and/or catering (and only those designated menu items), and limiting the delivery and/or catering services to any delivery and/or catering area A&W specifies to you in writing. (See Item 12)

Between 90% and 95% of your total purchases associated with establishing or operating your Restaurant must be either purchased from A&W, its affiliates or approved suppliers.

### **Pepsi-Cola**

You may only serve in your Restaurant Pepsi-Cola fountain beverages, ready-to-drink packaged beverage products and frozen beverage products. You must purchase the postmix products for use in preparing these fountain beverage products, along with these ready-to-drink packaged beverage products and frozen beverage products, from your main distribution center or from a PepsiCo, Inc. local bottler, as required in your jurisdiction.

### **A&W Concentrates**

You will purchase A&W® Root Beer concentrate and other supplies through A&W's approved independent distributors. A&W Concentrates, Inc. ("Concentrates"), which is not affiliated with A&W, is the only approved manufacturer of A&W® Root Beer concentrate. A&W estimates that the required purchase of A&W® Root Beer concentrate will approximate 2-5% of the total purchases of goods utilized in the ongoing operation of the Restaurant.

## Purchases From Suppliers

None of the sources currently providing goods to A&W's franchisees are affiliated with A&W. No A&W affiliate derives any income from your purchase of any product from a third party. A&W does not provide any material benefits (for example, renewal or granting additional franchises) to you based on your purchase of particular products or services or use of particular suppliers.

There are no required products or services for which A&W or any of its affiliates is the approved supplier. Periodically, the NAC Advertising Fund receives advertising and promotional allowances from various sources, including Concentrates. Without exception, the funds generated by franchisee purchases are maintained in a segregated account with the NAC Advertising Fund used exclusively for advertising and promotion of A&W Restaurants. A&W does not otherwise directly derive any revenue from approved suppliers as a result of sales to you. A&W does not receive lower prices or rebates, discounts or any other material consideration from suppliers because of purchases by you. Purchasing activities for food, packaging, and equipment used in the A&W system are conducted primarily through RSCS, an unaffiliated third party. You must become a member of RSCS and purchase through RSCS certain equipment that A&W requires in the A&W® Operations Manual, as it is updated from time to time, that is used to cook, hold and/or serve A&W products. You must pay a one-time fee of \$410 to become a member of RSCS. See below for additional information regarding RSCS.

You must obtain certain components of the Technology System from suppliers that A&W designates or approves. Currently, you must obtain and use: (i) A&W's designated restaurant management system from A&W's designated supplier (currently, QSROnline), (ii) A&W's designated digital learning platform (currently, TalentLink) from A&W's designated supplier, (iii) A&W's designated POS system and related hardware and software (currently, Brink POS) from A&W's designated supplier (currently, Retail Data Systems), (iv) A&W's designated networking equipment from A&W's designated supplier (currently, Retail Data Systems), and (v) A&W's designated product date-labeling system (currently, MenuCommand® and MenuPilot®) from A&W's designated supplier (currently, Daymark Safety Systems). You must also obtain certain other components of the Technology System in accordance with A&W's specifications.

You must obtain and maintain, at your own expense, prior to the opening of your Restaurant, the insurance coverage that A&W periodically requires and satisfy other insurance-related obligations underwritten by an insurance company having a Best's Insurance Guide rating of no less than "A+13". You currently must have worker's compensation coverage required by any applicable federal, state or local law, rule or regulation, commercial general liability coverage (\$1 million per occurrence for bodily injury and property damage combined), and boiler and machinery/energy equipment (including business income/extra expense) at a minimum limit of \$50,000. Premiums depend on the insurance carrier's charges, terms of payment, and your history. All insurance policies must name A&W, its parent and affiliated entities, and A&W Concentrate Company as additional insured parties. If you fail to obtain or maintain required insurance coverage for your Restaurant, A&W may do so on your behalf and invoice you for reimbursement of A&W's costs to arrange the missing coverage.

## Approval of New Suppliers

If you desire to use a source that has not been approved by A&W, and if that source's products meet A&W's specifications and requirements, then that source may become an approved source. To secure approval, you must submit a written request to A&W or A&W's designee for approval of the source along with samples of the product(s), detailed specifications of all products, and a current pricing schedule. You must pay A&W its costs in evaluating the

proposed source. A&W's written approval must be received before you use proprietary products or ingredients in the Restaurant that were not purchased from an approved source. A&W generally approves or rejects the source within 90 days following the date of receipt of all requested materials.

A&W applies the following general criteria in determining whether to designate a source as an approved source:

(a) Ability to consistently make the product or products to A&W's specifications. This ability must be demonstrated by laboratory testing, quality assurance reports, facility inspections and any other certifications A&W deems necessary at its reasonable discretion. All testing and certification will be at the expense of you and/or the source;

(b) Willingness to protect any confidentiality associated with A&W's products from dissemination to others, through production of private brand name products for A&W and execution of a Proprietary Rights Agreement with A&W;

(c) Production and delivery capability to meet supply commitment be it local or national;

(d) Integrity of ownership (to assure that its association with A&W and A&W's franchisees will not bring ill will upon A&W or be inconsistent with A&W's image);

(e) Financially sound condition; and

(f) Compliance with the then-current standards and criteria for approval of suppliers being generally applied by A&W or its affiliates and parent corporation.

There are no approved suppliers in which any of A&W's officers owns an interest.

Purchasing activities for food, packaging and equipment used in the A&W system are conducted primarily through RSCS. You must purchase equipment that is used to cook, hold and/or serve A&W products through RSCS. RSCS is a cooperative that conducts purchasing programs for (a) the A&W National Purchasing Co-op, Inc. (the "A&W Concept Co-op") and (b) RSCS's four members, the KFC National Purchasing Co-op, Inc., the Pizza Hut National Purchasing Co-op, Inc., the Habit Burger National Purchasing Co-op, Inc. and the Taco Bell National Purchasing Co-op, Inc. Because RSCS is a shared resource organization, allocation costs and sourcing fees attributable to the A&W Concept Co-op may increase if any of the RSCS' four members choose to terminate or fail to renew their contracts with RSCS.

RSCS and the A&W Concept Co-op each operate on a cooperative basis under Subchapter T of the Internal Revenue Code. As a cooperative, the A&W Concept Co-op has historically distributed substantially all of its net income not required for working capital or reserves to its stockholder members each year as a "patronage dividend."

Effective January 1, 2012, the A&W Concept Co-op was no longer a member of RSCS. RSCS conducts a purchasing program on behalf of the A&W Concept Co-op pursuant to a Purchasing Program Management Agreement between RSCS and the A&W Concept Co-op (the "Management Agreement"). The initial term of the Management Agreement expired on December 31, 2012 and automatically renewed for additional one year terms thereafter, except that either party can terminate the Management Agreement upon six months' notice to the other party. If the Management Agreement expires or terminates, A&W franchisees may not have the benefit of being a member in a purchasing co-op.

A&W has appointed RSCS as the exclusive purchasing agent for the A&W system. However, RSCS and the A&W Concept Co-op are not affiliated with A&W and both are organized and operated independently of A&W, although A&W is a stockholder member of the A&W Concept Co-op and is entitled to elect one voting member of the A&W Concept Co-op Board of Directors.

The A&W Concept Co-op is governed by a Board of Directors consisting of 7 voting members plus a non-voting member who is an officer of A&W. Franchisees who are stockholder members are entitled to elect 5 voting members of the A&W Concept Co-op Board of Directors; A&W is entitled to elect 1 voting member of the Board; and NAWFA is entitled to elect 1 voting member of the Board.

To join the A&W Concept Co-op, you must purchase from the A&W Concept Co-op one share of Membership Common Stock (currently priced at \$10 per share) and pay to the A&W Concept Co-op \$400 multiplied by the total number of A&W retail outlets you own and operate in the United States. If you later sell some or all of your restaurants (or otherwise become ineligible for membership), you may not sell or transfer your shares to third parties, although, if you become ineligible for membership, the A&W Concept Co-op will redeem your share of Membership Common Stock for \$10.

The Bylaws of the A&W Concept Co-op require that each stockholder member purchase virtually all goods and equipment used in the stockholder member's A&W retail outlets through the purchasing programs of RSCS and the A&W Concept Co-op. Although RSCS will coordinate supplier and distributor approvals and activities, supplier and distributor approvals are the prerogative and responsibility of A&W. When a supplier or distributor receives A&W's approval, A&W will provide that supplier or distributor with detailed product specifications. If an approved supplier or distributor fails to adequately perform, A&W may, at its discretion, revoke approval of the supplier or distributor upon written notice to you and the supplier or distributor. Also, RSCS and the A&W Concept Co-op may collect sourcing fees directly or indirectly (from distributors or suppliers) from each stockholder member to fund the purchasing programs and services of the A&W Concept Co-op.

A&W requires that A&W franchisees purchase stock in and become stockholder members of the A&W Concept Co-op. The A&W Concept Co-op Bylaws require that the A&W Concept Co-op conduct more than 90% of the value of its business with its stockholder members. In implementation of that rule, the A&W Concept Co-op reserves the right to refuse to do business with A&W's franchisees that do not become members of the A&W Concept Co-op.

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## ITEM 9 - FRANCHISEE'S OBLIGATIONS

This table lists your principal obligations under the Franchise Agreement (and the Captive and Co-Brand Restaurant Addenda to the Franchise Agreement). It will help you find more detailed information about your obligations in the Franchise Agreement and in other items of this Disclosure Document.

Obligation		Section in Franchise Agreement	Item in Disclosure Document
a.	Site selection and acquisition/lease	Section 6 Captive Restaurant Addendum Section 6 of Development Agreement	Items 7 and 11
b.	Pre-opening purchase/lease	Sections 6 and 12	Items 5, 7, 8 and 11
c.	Site development and other pre-opening requirements	Sections 5,6, and 12 Captive Restaurant Addendum Co-Brand Restaurant Addendum	Items 6, 7, 8 and 11
d.	Initial and ongoing training	Section 5	Item 11
e.	Opening	Sections 6.0 and 6.2 Captive Restaurant Addendum Section 3 of Development Agreement	Item 11
f.	Fees	Section 7 Captive Restaurant Addendum Co-Brand Restaurant Addendum Section 5 of Development Agreement	Items 5 and 6
g.	Compliance with standards and policies	Sections 3, 4, 5.3, 6 and 9	Items 8, 11, 15 and 16
h.	Trademarks and proprietary information	Sections 1.4, 3.5, 3.6, 8.6, 15, 17.7 and 18 Section 4 of Development Agreement	Items 13 and 14
i.	Restrictions on products/services offered	Sections 1.4, 3.7, 3.8, 4 and 15.3 Co-Brand Restaurant Addendum Section 4 of Development Agreement	Item 8 and 16
j.	Warranty and customer service requirements	None	Item 11
k.	Territorial development and sales quotas	6 of Development Agreement	Item 11 and 12



Obligation		Section in Franchise Agreement	Item in Disclosure Document
l.	Ongoing products/services purchases	Sections 4 and 6	Item 8
m.	Maintenance, appearance and remodeling requirements	Sections 6 and 10 Captive Restaurant Addendum Co-Brand Restaurant Addendum	Item 11
n.	Insurance	Section 12	Item 6, 7 and 11
o.	Advertising	Sections 7.0 and 8 Captive Restaurant Addendum Co-Brand Restaurant Addendum	Items 6 and 11
p.	Indemnification	Section 11.1 Section 10 of Development Agreement	Item 6
q.	Owner's participation/management/staffing	Sections 3.1, 3.12 and 19.7	Items 11 and 15
r.	Records/reports	Section 9	Item 6 and 11
s.	Inspections/audits	Section 10 Captive Restaurant Addendum	Items 6 and 11
t.	Transfer	Section 14 Section 9 of Development Agreement	Items 6 and 17
u.	Renewal	Section 2 Captive Restaurant Addendum	Item 17
v.	Post-termination obligations	Section 17	Item 17
w.	Non-competition covenants	Section 3.10	Item 17
x.	Dispute resolution	Section 18 Section 10 of Development Agreement	Item 17

**ITEM 10**  
**FINANCING**

A&W does not offer, directly or indirectly, any arrangements for financing your initial investment or the continuing operation of your A&W business. A&W does not guaranty your note, lease or obligation.

**ITEM 11 - FRANCHISOR'S ASSISTANCE, ADVERTISING,  
COMPUTER SYSTEM AND TRAINING**

**Except as listed below, A&W is not required to provide you with any assistance.**

Pre-Opening Obligations (A&W Restaurant)

Before you open your Restaurant, A&W will:

1. Designate your trading area (Section 1.2 of the Franchise Agreement and Captive Restaurant Addendum);
2. At A&W's option, assist you in evaluating proposed Restaurant sites (Section 6.0 of the Franchise Agreement);
3. Accept or reject proposed sites (Sections 6.0 and 6.1 of the Franchise Agreement);
4. Approve or disapprove the lease for Restaurant within 30 days after A&W receives it (Section 6.7 of the Franchise Agreement);
5. Provide you with concept design drawings for the construction of the Restaurant proposed for the site (Section 6.1 of the Franchise Agreement). There is no charge to you for these drawings. The drawings will include Restaurant exterior or store-front and front counter elevations, floor plans and equipment layout and specifications (Section 6.1 of the Franchise Agreement);
6. Conduct a final inspection of the completed Restaurant before it opens (Section 6.1(f) of the Franchise Agreement). A&W may require any corrections and modifications it considers reasonable and necessary to bring the Restaurant into compliance with its plans and specifications. The Restaurant will not be allowed to open if the Restaurant does not conform to the plans and specifications, including changes that the A&W may approve;
7. Provide the Management Training Course through AW University at A&W's Restaurant Support Center in Lexington, Kentucky and at A&W's company-owned Restaurant in Richmond, Kentucky, which is used as a training restaurant (Section 5 of the Franchise Agreement);
8. Provide you with copies of the A&W® Operations Manual. The A&W® Operations Manual will consist of various volumes and other communications to franchisees, which may include, video tapes, computer disks, on-line and other electronic communications (all of these communications and any supplements or additions to the communications being hereinafter collectively referred to as the "Operations Manual"). The Operations Manual remains A&W's property (Sections 3.0, 3.2 and 3.6 of the Franchise Agreement). The Table of Contents of the Operations Manual is attached as Exhibit E to this Disclosure Document;
9. Provide you with written specifications for the Restaurant equipment, signs and fixtures (Section 6.1(a) of the Franchise Agreement);

10. Provide two A&W representatives on-site for at least 5 days before you open your Restaurant to assist you with equipment checkout, inventory and supply procurement, inventory control, advertising and promotional plans and scheduling and training, service time improvement and general problem solving (Section 6.3 of the Franchise Agreement);

#### Continuing Obligations (Franchise Agreement - A&W Restaurant)

After you have opened your single-brand Restaurant, A&W will:

1. If necessary, provide a representative on-site for at least 5 days following the opening of the Restaurant to assist you with equipment checkout, inventory and supply procurement, inventory control, advertising and promotional plans and scheduling and training, service time improvement and general problem solving or other on-site training or assistance (Sections 5.4 and 6.3 of the Franchise Agreement);
2. Once you have completed the approved grand opening promotion you will be eligible to receive reimbursement of up to \$5,000 or \$2,500, as applicable (see Item 5), of your approved grand opening expenditures, provided that you submit receipts and/or invoices evidencing the approved expenditures. The grand opening promotion must be conducted in accordance with A&W's marketing policies and guidelines and reimbursement of approved expenditures will be made in accordance with the NAC Advertising Trust Fund reimbursement policies. If you fail to conduct the grand opening promotional activities as required, A&W may (but is not obligated to), in addition to seeking the other remedies available to it, elect to use the grand opening promotion deposit to conduct grand opening promotional activities on your behalf. (Section 8.4 of the Franchise Agreement);
3. Provide you with continuing advice concerning the operation of your Restaurant (Section 3.0 of the Franchise Agreement);
4. Develop advertising and sales promotion programs for the Restaurant (Section 8.0 of the Franchise Agreement);
5. Send you information regarding improvements and developments in the Restaurant business through periodic updates to the Operations Manual (Sections 3.2 and 3.3 of the Franchise Agreement);
6. Furnish you with any specifications for required products and services (Section 4.0 of the Franchise Agreement);
7. Inspect the operation of your Restaurant. A&W may cause a third party vendor to conduct food safety and standards review audits of your Restaurant. (Section 10 of the Franchise Agreement). A&W currently does not charge franchisees any fees for initial inspections, but it reserves the right to charge for any subsequent inspection that is necessary due to a failed initial inspection or franchisee's failure to allow an initial inspection;

#### Obligations Under Development Agreement

If A&W permits you to sign the Development Agreement, then before you begin operating under the Development Agreement, A&W will determine the mandatory development schedule for your Restaurants. (Development Agreement – Section 1 and Exhibit A)

If you sign the Development Agreement, then during your operation under the Development Agreement, A&W will:

1. Approve or disapprove a proposed site within 30 business days after receiving all requested information and materials. (Development Agreement – Section 5)

2. Grant you franchises to operate Restaurants at approved sites. You must sign A&W's then current form of franchise agreement and related documents for each Restaurant, the terms of which may differ substantially from those in the Franchise Agreement attached to this disclosure document. You may not sign any lease, sublease, or other document for the site of your second or third Restaurant you are required to open pursuant to the mandatory development schedule until you have opened the immediately preceding Restaurant you are required to open pursuant to the mandatory development schedule. (Development Agreement – Section 6)

Any duty or obligation imposed on A&W by the Franchise Agreement, Development Agreement, or any other agreement, may be performed by any of A&W's employees, affiliates, or agents.

### Advertising and Promotion

In September 2000, NAWFA and A&W entered into the A&W/NAWFA Marketing Committee Agreement (“Marketing Committee Agreement”), an Agreement that established policies and procedures for the administration of the NAC Advertising Trust Fund. The Marketing Committee Agreement was renewed in December 2023 and expires in December 2033. It is available to you upon request. The Marketing Committee Agreement established a marketing committee (“Marketing Committee” or “Committee”) composed of persons A&W selected and franchisees and licensees who are on the NAWFA Board of Directors and are selected by the Board to be on the Committee. The Marketing Committee is the only advertising council in the A&W system. A&W cannot change or dissolve the Marketing Committee because it is governed by the Marketing Committee Agreement.

Under the 2013 NAWFA Agreement, NAWFA and A&W agreed that, generally, all domestic franchisees and licensees would contribute 5% of net sales for deposit into the NAC Advertising Trust Fund. Of the 5% of net sales contributed, a certain portion (the “C&P Funds”) would be paid in to the Creative and Production Account (the “C&P Account”) and the remaining portion (not to fall below 1% of net sales) (the “OSA Funds”) would be deposited in to each franchisee’s One Store Account. Under the 2013 NAWFA Agreement, A&W manages and spends (in accordance with the Marketing Committee’s determinations and approvals) the C&P Funds and spends, and requires its franchisees to spend, OSA Funds on approved local marketing programs (including coupon mailings) in accordance with the Marketing Committee’s One Store Marketing Account policy and procedures then in effect. A franchisee’s expenditures for local marketing would be reimbursed from the OSA Funds in the franchisee’s One Store Account according to the Marketing Committee’s One Store Marketing Account policy and procedures then in effect.

If you are the transferee of a Co-Brand Restaurant that is signing a new franchise agreement, then in addition to the C&P Funds that are paid in to the C&P Account, 1% of net sales from the 5% of net sales you contribute as an advertising fee will be deposited into the Multi-Brand Advertising Account. The portion of the 5% of net sales remaining after paying those amounts in to the C&P Account and Multi-Brand Advertising Account constitutes OSA Funds, and will be deposited in to your One Store Account. A&W will require you to spend the amount of the OSA Funds on approved local marketing programs of your own choice in accordance with the Marketing Committee’s One Store Marketing Account policy and procedures then in effect. Your expenditures for local marketing will be reimbursed from the OSA Funds in your One Store Account according to the Marketing Committee’s One Store Marketing Account policy and procedures then in effect.

Franchisees operating at Captive Locations will contribute 2% of net sales as an advertising fee. (See definition of “Captive Locations” in Item 12). Company owned Restaurants will contribute to the advertising fund at the same rate as franchised Restaurants.

Your payment of advertising fees to the NAC Advertising Trust Fund enables you to receive advertising and promotional materials produced by the NAC Advertising Trust Fund on the same basis as other franchisees who contribute to the NAC Advertising Trust Fund. The NAC Advertising Trust Fund-produced advertising materials may include television and audio tapes, ad slicks, posters, banners and various point-of-sale items. These materials generally are developed by an outside advertising agency with the assistance of A&W’s marketing department. Any advertising and promotional materials and activities that you develop must be approved by A&W under the applicable terms of the Marketing Committee Agreement before you use them. The Marketing Committee Agreement provides that A&W and the NAWFA Board of Directors each have 14 votes on the Marketing Committee. The 14 votes on each side are divided among those present representing that side. A two-thirds majority vote is required for decisions. The Marketing Committee supervises advertising on the national level and determines where and how advertising and production funds are to be spent. The Marketing Committee Agreement requires that, to the extent practical, all franchisee advertising contributions be expended in the area from which funds were received.

The Marketing Committee approves all expenditures from the NAC Advertising Trust Fund. For the year ended December 31, 2023, expenditures from the NAC Advertising Trust Fund were spent as follows: 10% on digital media, 16% on production, 62% on payments to one store markets, 8% on payments to cooperatives, 3% on administration and 1% on miscellaneous charges (travel expenses, bank charges, etc.). We rely on information provided by A&W franchisees in reporting these percentages. Any remaining balance is carried over for future use. No part of the advertising contributions is used to promote the sale of franchises.

The NAC Advertising Trust Fund is administered by the Board of Directors of NAWFA under the Marketing Committee Agreement and is audited on an annual basis. Financial statements of the NAC Advertising Trust Fund, or summaries (if so determined by the NAWFA Board of Directors) of those financial statements, are available from NAWFA upon request.

Neither A&W nor any affiliate receives payment for providing goods or services to the NAC Advertising Trust Fund. On occasion there are expenses paid by A&W which are reimbursed by NAC. NAWFA receives payment from advertising contributions in consideration for its administration of the NAC Advertising Trust Fund.

### Advertising Cooperatives

There are local advertising cooperatives within the A&W Restaurant system, organized by geographical boundaries. The geographical boundary of each cooperative is based upon media coverage, using the Nielsen Designated Marketing Area (“DMA”), Research criteria and/or Arbitron Radio Metro or other data that groups cities that have common broadcast coverage. A cooperative is established in a market per the Co-Op Policies and Procedures, when Restaurants generating at least 51% of the net sales volume for the immediate prior year in a DMA agree to form a cooperative.

Local cooperatives do not operate under formal governing documents, but they do operate under policies and procedures established by the Marketing Committee. These policies and procedures are available to you upon request from NAWFA and they govern such activities as membership and contribution requirements.

NAWFA provides bi-annual financial reports of cooperative activities. You or the cooperative may develop advertising and promotional materials, but they must be approved by A&W and under the applicable terms of the Marketing Committee Agreement.

### Technology System

Before your Restaurant begins operations, you must procure and install, at your expense, the technology system consisting of the computer hardware, software, systems, digital platforms, wired and/or wireless internet connections and service, required dedicated telephone and power lines and other computer-related accessories, peripherals and equipment that A&W requires at that time (the "Technology System"), the combined initial cost of which currently ranges from approximately \$27,356 to \$57,563 for Freestanding Restaurants and In-Line Restaurants and from approximately \$24,833 to \$33,167 for Captive Restaurants.

The Technology System currently includes: (i) A&W's designated restaurant management system (for an initial cost of \$1,500 and ongoing cost of \$150 to \$200 per month, in both cases payable to our designated third party supplier), (ii) A&W's designated digital learning platform (currently TalentLink, for an ongoing cost of \$250 to \$500 per year, payable to our designated third party supplier), (iii) A&W's designated POS system and related hardware and software (currently, Brink POS, for an initial cost of \$22,656 to \$51,363 for Freestanding Restaurants and In-Line Restaurants and of \$20,183 to \$26,967 for Captive Restaurants and ongoing cost of \$350 to \$750 per month, in both cases payable to our designated third party supplier), (iv) Windows software (for an initial cost of approximately \$800 to \$1,200, payable to a third party supplier), (v) the internet that A&W requires (for an initial cost of approximately \$200 and an ongoing cost of approximately \$100 to \$300 per month, in both cases payable to a third party supplier), (vi) the networking equipment that A&W requires (for an initial cost of approximately \$1,500 to \$2,500, payable to a third party supplier), (vii) the product date-labeling system that A&W requires (for an initial cost of approximately \$650, payable to a third party supplier), and (viii) the telephone system that A&W requires (for an initial cost of approximately \$50 to \$150 and an ongoing cost of approximately \$40 to \$100 per month, payable to a third party supplier). To use the Brink POS system, you will be required to sign a Technology Services Agreement, which is attached as Exhibit J.

You must purchase any proprietary software and software support services that, in the future, either A&W develops and provides or which are provided on A&W's behalf by a third party supplier A&W designates, and you will execute any standard form software license agreement reasonably necessary to do so. You also agree to maintain at all times a functioning e-mail address for the Restaurant.

The POS system you use is capable of being polled remotely by A&W to provide independent access to data collected on your Restaurant's Technology System (A&W Franchise Agreement Section 9.4). A&W will have independent access to and may poll your data files to upload, retrieve, analyze, download and use your daily sales activity information. Restaurants may be required to provide financial metrics such as sales and transactions as well as transaction level detail data derived from each individual guest check. Additionally, expenses such as utilities and facility costs may also be required.

You must, at your expense, keep your Technology System in good maintenance and repair. A&W may mandate that you add memory, ports, accessories, peripheral equipment and additional, new or substitute software. Following A&W's testing and determination that it will prove economically or systematically beneficial to you and to A&W, you must install at your own expense the additions, modifications, substitutions and/or replacements to your Technology System as A&W directs, on the dates and within the times A&W specifies. There is no contractual limit on A&W's ability to require you to upgrade, add components and replace

components of the Technology System but A&W will not require that you replace the POS system more often than every seven years provided that the system continues to function properly. In addition to the ongoing fees associated with the Technology System disclosed above, A&W estimates that on average the cost of maintenance, upgrading and support for your Technology System will range, approximately, between \$1,525 – \$9,120 annually.

You must keep books and records in a form satisfactory to A&W. You must prepare complete records regarding all sales at your A&W outlet and all financial, operating, marketing and other aspects of your A&W outlet. You must maintain an accounting system that accurately reflects all aspects of the business at your A&W outlet, including books of account, tax returns, daily reports, statements of gross revenues, profit and loss statements and balance sheets. You must also submit to A&W other reports as may be reasonably requested concerning the business conducted at your A&W outlet.

### Site Selection Procedures

The Restaurant must be in a specified location, which is selected by you, and which must be approved by A&W. A&W will, in its discretion, accept or reject the proposed site for the Restaurant. Included among the factors A&W uses in evaluating a site are traffic patterns, demographics, competition, cost factors, visibility of the location and ease of ingress to and egress from the Restaurant. A&W's acceptance of a proposed site does not constitute a recommendation, warranty or representation concerning prospective sales, profits or other performance characteristics of the Restaurant proposed for your site. There is no time limit for A&W to approve or disapprove your site.

### Time Between Signing of Franchise Agreement and the Opening of the Restaurant

You must submit and obtain A&W's acceptance of a Restaurant Site ("Site Registration") no later than 12 months after signing a Franchise Agreement. You must obtain Construction Approval (defined in Item 5) no later than 6 months after receiving Site Registration. You must commence substantial construction of the Restaurant improvements as soon as practicable, and must have improvements completed and the Restaurant opened for business within 10 months after you receive the Construction Approval. If you do not open the Restaurant within this time period, you will be in breach of the Franchise Agreement. A&W estimates that there will be approximately 3 to 9 months between Construction Approval and the opening of your Restaurant, but the interval may vary depending on factors such as the availability of suitable Restaurant sites, the location and condition of the site, weather conditions, financing, the length of time required to obtain the necessary permits, the construction schedule for the Restaurant, and the extent to which an existing location must be upgraded or remodeled.

### Training Programs

Within one to two months before your Restaurant opens for business, your Restaurant General Manager and one other manager devoted to the full-time, day-to-day direct operation of the Restaurant will be required to attend and complete the Management Training Course to A&W's reasonable satisfaction. Prior to attending the Management Training Course, each attendee must become certified, or hold current certification, as a Food Safety Manager. They may either complete their State's accredited program, the ServSafe program, or other ANSI (American National Standards Institute) rated Food Manager level certification program. The Management Training Course is provided by A&W through AW University at A&W's Restaurant Support Center in Lexington, Kentucky and at A&W's company-owned Restaurant in Richmond, Kentucky, which is used as a training restaurant, and may last between 8 and 14 days. The Management Training Course is otherwise available to any other member of your organization you wish to attend. A&W is currently providing the Management Training Course for up to 3 trainees free of cost but may charge \$200 per day for each additional trainee you would like to

attend. A&W will require you to pay the cost of training materials and labor costs and other related costs associated with providing training to you. You will be responsible for all compensation, insurance, travel and living expense that you or the trainee(s) incurs in connection with the Management Training Course. These costs depend on the number of trainees that participate in the Management Training Course and a number of other factors, including distance and mode of travel, but they typically range from \$1,500 to \$5,000 per trainee. You must at all times employ a Restaurant General Manager and one other manager devoted to the full-time, day-to-day direct operation of the Restaurant who have completed the Management Training Course to A&W's reasonable satisfaction.

If your Restaurant is your second or subsequent A&W Restaurant franchise, A&W may require you and/or certain members of your personnel to attend and complete a multi-unit training program before opening your Restaurant for business. A&W may charge its then current training fee for each trainee. A&W will require you to pay the cost of training materials and labor costs and other related costs associated with providing the multi-unit training. You will be responsible for all compensation, insurance, travel and living expense that you or the trainee(s) incurs in connection with the multi-unit training.

#### Type of Instruction at the Management Training Course

The Management Training Course includes classroom sessions as well as hands-on station instruction and practice in a designated training restaurant. The trainees of the Management Training Course are exposed to operating procedures, which include preparatory procedures in the kitchen and daily administrative procedures. Trainees will learn the preparation of fountain dispensed A&W® Root Beer, and the maintenance and repair of root beer dispensing equipment, as well as the cooking and handling of all other core menu food products. Trainees will learn to work each and every station in the Restaurant. Trainees will also learn about managing food and labor costs.

#### Training Detail

Restaurant on-the-job training may use a rotation schedule to ensure that time is spent in each of the Restaurant's stations. Non-guest related activities, such as station opening and closing, root beer preparation and dispensing and equipment maintenance, will be scheduled as part of the rotation.

#### Instructors

The Management Training Course will be taught by A&W certified trainers. A&W instructors have an average of 13.5 years of restaurant experience and over 2 years of experience with A&W.

#### Training - Summary

The pre-opening and ongoing training programs currently required by A&W are described below.

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## **TRAINING PROGRAM**

### **PRE-OPENING TRAINING**

<b>SUBJECT</b>	<b>HOURS OF CLASSROOM TRAINING</b>	<b>HOURS OF ON THE JOB TRAINING</b>	<b>LOCATION</b>
Brand Management Training Within 1 to 2 Months Prior to Opening	24-40 hours	24-60 hours	A&W's Restaurant Support Center in Lexington, Kentucky and A&W's company-owned Restaurant in Richmond, Kentucky, which is used as a training restaurant

In addition to the Management Training Course, A&W requires all of your Team Members to complete digital training modules, which take approximately eight hours to complete and will be accessed on A&W's digital learning platform (currently, TalentLink). After completing the digital training modules, A&W requires all of your Team Members to attend on-site training during the week prior to your Restaurant's opening. This will be facilitated by two A&W Field Trainers at your Restaurant and may last 5 to 10 days. All Team Members are required to attend all of the training sessions during the Team Member on-site training. You must pay all of your costs associated with this on-site training, including, among other things, training supplies or materials, uniforms and salaries. This training also includes Friends and Family practice events, and you must pay the cost of food and labor for this event.

### **ONGOING TRAINING**

Additional in-person or online training courses may be offered or required for restaurant management teams and above store managers.

A&W will not be obligated to provide additional on-site training or assistance, but if it elects to do so, it may impose a fee for each day of on-site training or assistance it agrees to provide. The timing of all advice, consultation and training will be subject to the availability of A&W's personnel.

#### **Operations Manual**

A&W will provide you with online access to the Operations Manual as posted on the franchise website, [www.teamaw.com](http://www.teamaw.com). The Operations Manual contains mandatory and suggested specifications, standards, and operating procedures, are confidential and remain A&W's property. A&W may modify the Operations Manual and the modifications will not alter your status and rights under the Franchise Agreement. NAWFA has approval rights over modifications to the Operations Manual concerning operating and menu standards. Exhibit E

contains the table of contents from the Operations Manual. As of the date of this disclosure document, there are a total of 163 pages in the Operations Manual.

## **ITEM 12 – TERRITORY**

### **Trading Area in General**

You may operate your Restaurant from only one site, except that you may cater or deliver menu items to customers with A&W's prior written approval and in compliance with A&W's procedures, policies and standards. The site means a location you select and A&W approves, where you will operate the Restaurant. If you operate a Freestanding Restaurant or In-line Restaurant, the Franchise Agreement will designate a trading area consisting of the smaller of (a) a 1.5 mile radius around your Restaurant and (b) whatever radius around your Restaurant includes a combined number of 30,000 residing and working people, within which A&W will not, so long as you are in compliance with the Franchise Agreement, establish or grant a franchise for A&W Restaurants that are not located at so-called "Captive Locations" (see below). If you operate a Captive Restaurant or are the transferee of a Co-Brand Restaurant, you will not receive a trading area.

A&W may own or operate, or grant franchises or licenses for others to operate anywhere within or outside of your Restaurant's trading area, if applicable, any business offering and selling any type of program, product or service except as restricted by the paragraph above. For example, A&W may own or operate, or grant franchises or licenses for others to operate, any type of business at any location whatsoever, including within your Restaurant's trading area, if applicable, so long as the other business does not sell under the Trademarks the type of menu and/or other items, programs and services which your Restaurant offers and sells.

As described above, A&W generally will have the right under the Franchise Agreement to develop or grant franchises for Captive Restaurants anywhere at so-called "Captive Locations." "Captive Locations" may include right-of-ways of any limited access highways or toll roads, airports, campus, educational, industrial or health care institutions, office or business complexes or buildings (excluding exterior in-line units in shopping or strip malls), military installations, theatres, resorts, guest lodging facilities, day care facilities, government facilities, railroads, athletic arenas, expositions, convention centers, fairs, zoos, theme parks, interior mall locations or similar facilities or events, or any other location or venue to which access to the general public is restricted.

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that A&W owns, or from other channels of distribution or competitive brands that A&W controls.

### **Other Information**

A&W will approve relocation of your Restaurant if there is a general decline in your trade area; your landlord requires relocation under the lease; a state or government agency is exercising eminent domain over your location; or, there is any other good business reason for the relocation. You must relocate your Restaurant to the new location within 12 months of ceasing operations at your Restaurant's original location.

Although A&W does not presently do so, it reserves the right to distribute and sell certain A&W labeled products; for example, pre-packaged hot dogs, coney dogs and coney/chili sauce through supermarkets and large discount stores which may be located within your trading area, if applicable.

Although A&W does not presently do so, it may sell products under the A&W Trademarks within and outside your trading area, if applicable, through any method of distribution other than a dedicated A&W Restaurant, including, sales through such channels of distribution as the internet/worldwide web and other forms of electronic commerce, “800” or similar toll-free telephone numbers, within supermarkets or grocery stores, mail order, catalogs, or, any other distribution channel whatsoever except a dedicated A&W Restaurant (together, “alternate distribution channels”). You will receive no compensation for A&W’s sales through alternate distribution channels except as described below.

The Franchise Agreement granted is for one Restaurant at a specific accepted location within the trading area, if applicable. Except as described below, you do not acquire the right or option to establish additional Restaurants either within or outside of your trading area, if applicable. However, if you are qualified, you may obtain the right to do so by entering into one or more additional Franchise Agreements. While you may solicit or accept orders from customers outside your trading area, if applicable, your Restaurant may not, without A&W’s advance written approval, sell any products or services outside of the trading area (except as described in the following paragraphs), if applicable, or through alternate distribution channels.

If A&W approves you to offer delivery and/or catering services in connection with your A&W Restaurant, you must make accommodations for delivery and/or catering services in compliance with A&W’s procedures, policies and standards, including limiting the delivery and/or catering services to any delivery and/or catering area A&W specifies to you in writing. (See Item 8) Any delivery and/or catering area A&W specifies may not be exclusive, in which case A&W may engage, and/or allow other franchisees and third parties to engage, in any activities A&W desires within the delivery and/or catering area without any restrictions (including allowing other A&W Restaurant franchisees and delivery and/or catering service providers to provide delivery and/or catering services in the delivery and/or catering area). Any delivery and/or catering area A&W specifies is nothing more than the geographic boundaries in which you may deliver and/or cater those menu items approved for delivery and/or catering from your A&W Restaurant, and no other rights are granted to you.

A&W Concentrate Company (an unaffiliated company), the owner of the A&W Trademarks, retains the exclusive right to utilize the A&W Trademarks in connection with the production, distribution and sale of beverages or other items in cans or bottles, both within and outside your trading area, if applicable.

If you operate a Freestanding Restaurant or In-line Restaurant, continuation of the trading area granted by the Franchise Agreement is dependent upon your compliance with the terms of the Franchise Agreement. The trading area is not conditioned upon your achievement of certain sales volumes or market penetration. If you are in material breach of the Franchise Agreement, A&W may terminate the Agreement and the trading area granted under the Agreement. The trading area may not be otherwise altered without your written consent.

### Development Agreement

You may (if you qualify) develop and operate 3 Restaurants. You will not receive an exclusive territory under the Development Agreement. You may face competition from other franchisees, from outlets that A&W owns, or from other channels of distribution or competitive brands that A&W controls. You may develop and operate the Restaurants in any locations A&W approves. A&W and you will negotiate the dates by which you must develop each of the 3 Restaurants. A&W and you then will complete the schedule in the Development Agreement before signing it. A&W may terminate the Development Agreement if you do not satisfy your development obligations.

Despite the development schedule under the Development Agreement, A&W may delay your development of additional Restaurants for the time period A&W deems best if A&W believes, when you apply for the next Restaurant, that you are not yet operationally, managerially, or otherwise prepared to develop, open and/or operate the additional Restaurant according to A&W's standards and specifications. In considering whether you are prepared to develop, open and/or operate new Restaurants, A&W may consider, among other things, the following: (a) whether you are current on the payment of all royalties, advertising and other fees under all of your then-current Franchise Agreements; (b) whether you are in good standing with all of A&W's food safety audits; (c) whether you are in good standing in Steritech and inspections; (d) whether you have approved Chatmeter scores; (e) whether you have an approved number of certified managerial personnel; and, (f) whether you are in material breach of any agreement between you (or any of your affiliates), on the one hand, and A&W (or any of A&W's affiliates), on the other hand. A&W may delay additional development as long as the delay will not in A&W's reasonable judgment cause you to breach your development obligations under the development schedule (unless A&W is willing to extend the schedule to account for the delay).

### **ITEM 13 - TRADEMARKS**

A&W grants you the right to operate a Restaurant under the "A&W" trademark. You are also authorized to use any other Trademarks and Service Marks designated by A&W in the Operation Manual and in the Franchise Agreement. A&W may in the future adopt additional trademarks, service marks or trade names, and A&W may modify or delete any of the Marks.

The principal Trademarks are:

1. The Trademark and Service Mark "A&W" enclosed in an oval, registered in the United States Patent and Trademark Office, Principal Register (Registration No. 2,766,831) on September 23, 2003, for certain food products and restaurants services. This Trademark is an updated version of a prior similar A&W logo registered with the United States Patent and Trademark Office, Principal Register, for certain food products and restaurants services on March 9, 1971;
2. The Service Mark "A&W", registered in the United States Patent and Trademark Office, Principal Register (Registration No. 1,436,058) on April 7, 1987, for restaurant services;
3. The Trademark "ALL AMERICAN FOOD" registered in the United States Patent and Trademark Office, Principal Register (Registration Nos. 2,673,617 and 2,542,264) on January 14, 2003 and February 26, 2002, respectively, for restaurant services and prepared food items.

Any affidavits required to perpetuate these Trademark registrations have been filed.

You must follow A&W's rules when you use the Trademarks. You may not use a Trademark as part of a corporate name or with designs unless A&W has specifically licensed to you the right to use the Trademarks with those names or designs. You may not modify any of the Trademarks or the designs or symbols that are a part of any Trademark. You may not use any Trademark in connection with the sale of unauthorized products or services or at unauthorized locations or in a manner not specifically authorized in writing by A&W.

The principal Trademarks that include "A&W" are owned by A&W Concentrate Company (formerly A&W Brands, Inc.). A&W Concentrate Company is not currently affiliated with A&W. A&W Concentrate Company has exclusively licensed to A&W under a perpetual royalty-free license agreement dated October 21, 1981 (the "License Agreement"), the right to use and

sublicense others to use the Trademarks throughout the United States and in certain other countries (except Canada) (the "Territory") in connection with restaurants, stands, walkups and kiosks. A&W Concentrate Company retains all other rights to the Trademarks including the right to use the Trademarks in connection with canned and bottled root beer. A&W Concentrate Company also has nonexclusively licensed to A&W the right to use and sublicense others to use the Trademarks to sell draft A&W® Root Beer in the Territory.

In addition to the License Agreement discussed above, there is a Settlement Agreement dated November 15, 1977 among A&W, Cadbury Schweppes PLC (as successor to A&W Distributing Company and United Brands Company and parent of A&W Concentrate Company) and NAWFA under which the parties agreed that in the continental United States, A&W® Root Beer in the form for fountain dispensing would be sold exclusively in A&W licensed restaurants. While A&W Concentrate Company can terminate the License Agreement with A&W in the case of a breach by A&W or upon the occurrence of certain events, such as bankruptcy, the rights and obligations of franchisees in good standing would not be affected as their franchise agreements would continue for the benefit of A&W Concentrate Company. A&W Concentrate Company retains all other rights to the Trademarks, including the right to use certain of the Trademarks to sell canned and bottled A&W ®Root Beer.

A&W is not aware of (1) any present determination of the United States Patent and Trademark Office, Trademark Trial and Appeal Board, the Trademark Administrator of this State or any court; (2) any pending infringement, opposition or cancellation, or (3) any pending material litigation involving the principal Trademarks. A&W is unaware of any agreements currently in effect that significantly limit its right to use or license the use of these Trademarks in a manner material to this offering in the United States.

You must notify A&W immediately when you learn about an infringement of, or challenge to, your use of any Trademark. A&W will take the action it thinks appropriate. Neither A&W nor A&W Concentrate Company is obligated to protect your right to use the Trademarks or to protect you against any third party claim of infringement or unfair competition with respect to your use of the Trademarks. However, as a matter of policy, A&W and A&W Concentrate Company and its affiliates, vigorously defend the Trademarks. The Trademarks remain the exclusive property of A&W Concentrate Company or A&W, as applicable, and all right, title, interest and goodwill associated with the Trademarks vests solely in A&W Concentrate Company or its affiliates or A&W, as applicable, and not with any franchisee. A&W and A&W Concentrate Company have the right to control any administrative proceedings or litigation involving any of the Trademarks licensed to you.

You must modify or discontinue use of a Trademark if A&W modifies or discontinues it. You may not receive reimbursement for your compliance costs if that should happen. You must not directly or indirectly contest A&W's right, title and interest in the Trademarks, trade secrets or business techniques.

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

A&W owns no patents or registered copyrights that are material to the license.

You do not receive the right to use an item covered by a patent or copyright, but you may use the proprietary information in A&W's Operations Manual. The Operations Manual is described in Item 11. Although A&W has not filed an application for a copyright registration for the Operations Manual, A&W claims copyright protection, and the information is proprietary. Item 11 describes limitations on the use of the Operations Manual by you and your employees.

You may never – during the initial term, any renewal term, or after the Franchise Agreement expires or is terminated – reveal any of A&W's confidential information to another

person or use it for any other person or business. You may not copy any of A&W's confidential information or give it to a third party except as A&W authorizes. A&W's confidential information will include information, knowledge, trade secrets or know-how used or embraced by the A&W system; the Operations Manual; and many other matters specified in the Franchise Agreement.

You must require and obtain an executed (a) Confidentiality Agreement (attached as Appendix V-A to the Franchise Agreement) from your Restaurant General Manager, all other managerial personnel, and other employees of yours who will receive training from A&W and (b) Confidentiality/Non-Competition Agreement (attached as Appendix V-B to the Franchise Agreement) from all of the following persons: if you are a business entity, and as applicable, all of its owners, equity holders, control persons, shareholders, members, partners and general partner(s) of at least a 10% interest in your business entity; all of its officers, directors and managers; and, all persons possessing equivalent positions in any business entity that directly or indirectly owns and/or controls you.

You must irrevocably license to A&W all intellectual property, services, products, equipment, programs, sales, marketing, advertising and promotional programs, campaigns or materials, and sales methods you develop for the Restaurant. A&W will not be liable to you in any way because of this license.

#### **ITEM 15 - OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISED BUSINESS**

You are not required to actively supervise the operation of the Restaurant on premises, although active on premises supervision is strongly encouraged. If you are an individual, you must either serve as or designate a Restaurant General Manager. An entity franchisee must designate a Restaurant General Manager. The Restaurant General Manager, who will have management responsibility for your Restaurant, must exercise on-premises supervision and personally participate in, and be devoted to the full-time, day-to-day direct operation of, the Restaurant. Before designating and engaging the services of the Restaurant General Manager, you must identify the individual to, and obtain approval for the individual from, A&W. The proposed Restaurant General Manager must demonstrate to A&W's satisfaction (at the time of approval) that he/she satisfies A&W's educational and business standards (including, without limitation, the requisite prior restaurant management and/or team leadership experience). Your Restaurant General Manager and one other manager devoted to the full-time, day-to-day direct operation of the Restaurant must complete the initial training program to A&W's reasonable satisfaction prior to opening the Restaurant for business. In addition to the initial training program, your Restaurant General Manager must attend and complete other reasonable training to A&W's reasonable satisfaction at the times A&W specifies, all at your expense. You must take all necessary steps to ensure that your Restaurant General Manager at all time complies with A&W system standards that A&W establishes in the Operations Manual or otherwise.

After a Restaurant General Manager's death, disability or termination of employment, you must immediately notify A&W, and you must designate a successor or acting Restaurant General Manager within 10 days.

In addition to your Restaurant General Manager, you must, prior to commencing operations and throughout the term of the Franchise Agreement, maintain a trained staff in sufficient numbers as A&W requires so that you may promptly, efficiently and effectively service customers according to the A&W's system standards. You must take all necessary steps to ensure that your employees preserve good customer relations and comply with A&W system standards A&W establishes.

A&W does not require your Restaurant General Manager to have an equity interest in your business or to agree not to compete with A&W; however, you may wish to consider imposing those requirements upon your Restaurant General Manager. A&W requires each individual who owns a 10% or greater equity interest in your Restaurant business entity to sign an agreement guaranteeing the performance of all of your duties and obligations under the Franchise Agreement. In community property states, A&W may require the spouse of any individual franchisee or any 10% or more interest holder to sign a Personal Guaranty.

You must require and obtain the execution of A&W's (a) Confidentiality Agreement (attached as Appendix V-A to the Franchise Agreement) from your Restaurant General Manager, all other managerial personnel, and other employees of yours who will receive training from A&W and (b) Confidentiality/Non-Competition Agreement (attached as Appendix V-B to the Franchise Agreement) from all of the following persons: if you are a business entity, and as applicable, all of its owners, equity holders, control persons, shareholders, members, partners and general partner(s) of at least a 10% interest in you; all of its officers, directors and managers; and, all persons possessing equivalent positions in any business entity which directly or indirectly owns and/or controls you (see Item 14).

#### **ITEM 16 - RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You are required to offer for sale all of the menu items specified in the Operations Manual and/or the Franchise Agreement, prepared from ingredients meeting A&W's specifications and purchased from approved sources (see Item 9). Items not listed in the Operations Manual are not permitted to be sold unless authorized in writing. If A&W grants its advance written approval, then the product, service or program in question will become a part of the A&W system (though A&W will not be required to, but may, authorize it for sale at one or more other A&W Restaurants). A&W may subsequently revoke its approval. A&W will own all rights associated with the product, service or program. You will not be entitled to any compensation in connection with it. A&W retains the right to add to, revise, or delete from items specified in the Operations Manual. However, A&W has agreed (under the 1999 NAWFA Agreement and the 2003 NAWFA Agreement) that NAWFA will have the right to approve or disapprove any proposed revisions to any menu and operating standards contained in the Operations Manual. You may only sell A&W system products and services at retail from your Restaurant (and, if A&W provides prior written approval, through delivery and catering services in compliance with A&W's procedures, policies and standards), and you may not engage in the wholesale sale and/or distribution of any A&W system product, service, equipment or other component, or any related product or service. You are not restricted as to the customers to whom you may serve. However, you are prohibited from selling or delivering A&W® Root Beer concentrate to any person, firm or entity. You are also prohibited from selling, or offering for sale, any other brand of draft root beer from the facility in which the A&W Restaurant is located.

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**ITEM 17 - RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

These tables list important provisions of the Franchise Agreement (and the Captive Restaurant Addendum and Co-Brand Restaurant Addenda to the Franchise Agreement) and related agreements. You should read these provisions in the agreements attached to this Disclosure Document.

**THE FRANCHISE RELATIONSHIP**

**Franchise Agreement Provisions – A&W Restaurant**

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Length of the agreement	Section 2.0  Co-Brand Restaurant Addendum to Franchise Agreement    Captive Restaurant Addendum to Franchise Agreement	Term is generally 20 years for a Freestanding or In-line Restaurant.  Term is whatever remains under the existing franchise agreement if you are the transferee of a Co-Brand Restaurant.  Term is 10 years for a Captive Restaurant. Term of Development Agreement depends on development obligations.
b.	Renewal or extension of the term	Section 2.1	If you operate a Freestanding, In-line or Captive Restaurant, are in good standing, and satisfy the renewal criteria in the Franchise Agreement, you may renew for two additional renewal terms of 5 years each.  Options for renewal terms are as provided for in the existing franchise agreement if you are the transferee of a Co-Brand Restaurant.  No renewal or extension of Development Agreement.
c.	Requirements for you to renew or extend	Section 2.2	You must provide A&W with notice; you must not be in default of any provision of the Franchise Agreement or any other agreement with A&W; you must have satisfied all monetary obligations under the Franchise Agreement; you (and each party owning an equity interest if you are an entity) must sign a general release; you must provide A&W evidence that you have the right to remain in possession of the premises for the Restaurant for the renewal term; you must complete, or provide for, such renovation and modernization of the Restaurant as the A&W may reasonably require; your Restaurant General Manager and any other management and staff A&W designates must attend and complete any training that A&W may



	Provision	Section in Franchise Agreement	Summary
			reasonably require to A&W's reasonable satisfaction, at your expense; you must pay a renewal fee of \$2,500; you must provide A&W with all information that it requests; and you must sign a Renewal Amendment or the then current form franchise agreement contract, which may contain materially different terms and conditions than your original Agreement.
d.	Termination by you	Not Applicable	The Franchise Agreement does not provide the Franchisee with a right of termination, except in the event you are unable to locate or acquire a suitable site for the Restaurant.
e.	Termination by A&W without "cause"	Not Applicable	
f.	Termination by A&W with "cause"	Section 17.0 and 17.1  Section 8 of Development Agreement	A&W may terminate if you default under the Franchise Agreement or any other agreement with A&W or any A&W affiliate.  A&W may terminate your development rights if you or your owners commit one of several violations.
g.	"Cause" defined – curable defaults	Section 17.1 and 17.7	You have 72 hours to cure any violation of health, safety or sanitation law, ordinance, or regulation regulating the operation of the Restaurant. You have 10 days to cure: failure to operate, failure to offer for sale all of the menu items and only the menu items described in the Operations Manual, failure to purchase concentrates, syrups and/or bases in accordance with the Franchise Agreement, and non-payment of fees. You have 30 days to cure: failure to perform any other monetary or nonmonetary obligations under the Franchise Agreement, failure to adhere to standards, specifications or operating procedures in the Operations Manual, and breach or default under any other agreement between A&W or its affiliates and you or your affiliates.
h.	"Cause" defined – non-curable defaults	Sections 10.1 and 17.1  Section 8 of Development Agreement	Non-curable defaults: failure to complete training to A&W's reasonable satisfaction before Restaurant opening, repeated defaults even if cured, trademark misuse, unapproved transfers, understatement of net sales from the Restaurant on annual report or statement by eight percent (8%) or more of the actual net sales ascertained by A&W's inspection, failure to purchase or maintain any insurance required by the Franchise Agreement or

	Provision	Section in Franchise Agreement	Summary
			<p>failure to reimburse A&amp;W for its purchase of any required insurance on your behalf, abandonment; assignment for the benefit of creditors, petition for bankruptcy. Termination upon bankruptcy may not be enforceable under Federal Bankruptcy Law (11 U.S.C. Sec. 101 et seq.)</p> <p>A&amp;W may terminate the Development Agreement if you do not meet development schedule or other obligations; if any franchise agreement between A&amp;W and you (or your affiliated entity) is terminated by A&amp;W for cause or by you for any or no reason; or A&amp;W has delivered formal notice of default to you (or your affiliated entity) under any franchise agreement (whether or not default is cured).</p>
i.	Your obligations on termination/non-renewal	Sections 17.2 and 17.5	<p>Obligations include complete de-identification, payment of amounts due A&amp;W, stop using A&amp;W Trademarks and Service Marks, confidential information, trade secrets and Operations Manual, immediately deliver to A&amp;W all confidential information, manuals, computer software and database material, customer lists, records and files, forms, advertising and promotional material, signs and related items which bear A&amp;W's Trademarks and Service Marks, stop using the telephone numbers listed in directories under the name "A&amp;W Restaurants" or any confusingly similar name, and strictly comply with the post-termination/post-expiration covenants not to compete. If A&amp;W terminates the Franchise Agreement for your default, you must pay us all expenses and damages incurred as a result of your default or termination. Damages may include, for example, consequential damages (including lost royalty fees, lost continuing advertising fees and lost profits), lost opportunities, damage to A&amp;W's Trademarks and Service Marks and reputation, travel and personnel costs and the cost of securing a new Restaurant for the trade area. In certain circumstances following a default under the Franchise Agreement, you must pay to the Company in lump sum as liquidated damages an amount equal to the Restaurant's average monthly net sales for the 12 month period immediately preceding the termination</p>

	Provision	Section in Franchise Agreement	Summary
			multiplied by 24 or, if there are less than 2 years left remaining in the term of the Franchise Agreement, the Restaurant's average monthly net sales for the 12 month period immediately preceding the termination multiplied by the number of months remaining in the term.
j.	Assignment of contract by A&W	Section 14.6	No restriction on A&W's right to assign.
k.	"Transfer" by you – defined	Sections 14.0, 14.2, 14.3	Includes transfer of Franchise Agreement or assets or ownership change.
		Section 14.0	A&W has the right to approve all transfers but it will not unreasonably withhold its approval.
l.	A&W's approval of transfer by you	Section 9 of Development Agreement	Your development rights under the Development Agreement are not assignable at all.
m.	Conditions of A&W's approval of transfer	Section 14	You are not in default under your Franchise Agreement; all accounts with A&W and approved suppliers are paid; new franchisee satisfies A&W's conditions to be a franchisee; transfer fee in Franchise Agreement is paid; purchase agreement is approved; transferee's Restaurant General Manager and other of transferee's employees that A&W designates complete training to A&W's reasonable satisfaction; release is signed by you (and your owners and guarantors); the landlord of the Restaurant site must consent in writing to the assignment of lease; transferee signs new Franchise Agreement (but need not pay another Initial Franchise Fee and the term of the new Franchise Agreement will be the balance of your Franchise Agreement); if transferee is a business entity, owners must sign guarantees and confidentiality/non-competition agreements; the total sales price may not be so excessive, in A&W's determination, that it jeopardizes the continued economic viability and future operations of the Restaurant, and/or the transferee; either you or the transferee, at your or its expense, must upgrade the Restaurant to conform with then-current standards and specifications within the time A&W reasonably specifies; and A&W determines that the terms of the transfer are financially sound.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
n.	A&W's right of first refusal to acquire your business	Section 14.5	If you receive an acceptable bona fide offer to purchase your Restaurant business, A&W can match any offer for your business.
o.	A&W's option to purchase your business	Section 17.3; also see n. above	A&W has an option to purchase your Restaurant business for fair market value upon early termination of the Franchise Agreement.
p.	Your death or disability	Section 14.4	License must be assigned by legatee to approved buyer within 12 months of A&W's determination that legatee is not capable of performing under the Franchise Agreement.
q.	Non-competition covenants during the term of the license	Section 3.10  Co-Brand Restaurant Addendum to Franchise Agreement	You may not directly or indirectly engage in, aid, assist, serve or participate in any other quick serve or fast casual restaurant (a "Competitive Business") which offers or sells any of the menu and/or other items, programs or services which now or at any time later are authorized for sale under the A&W system (including hamburgers, hot dogs, chicken tenders or soft serve ice cream) or component of the A&W System; which offers or sells similar or related menu and/or other items, programs or services; which engages in any of the activities which the Franchise Agreement contemplates that you will engage in; or, which offers or sells any other menu and/or other items, program, service or component which now or in the future is part of the A&W System, or any confusingly similar menu and/or other items, program or service. You are prohibited from directly or indirectly engaging in any Competitive Business as a proprietor, partner, investor, shareholder, member, director, manager, officer, employee, principal, agent, advisor, consultant, lessor, sub-lessor or any similar capacity. In addition, you agree not to divert any business that should be handled by the Restaurant to any other person or entity. If you are a business entity, you agree to cause your (as applicable) owners, members, shareholders, directors, officers, partners, general partner, proprietor and or any other beneficial owner to refrain from any of the competitive activities described above in any manner which A&W reasonably requests.
r.	Non-competition covenants after the license is terminated or expires	Section 3.10	No directly or indirectly engaging in any Competitive Business for 2 years within your trading area, within 10 miles of the perimeter of your trading area, or within 10 miles of the

	Provision	Section in Franchise Agreement	Summary
			perimeter of (or within) the trading area of any other A&W Restaurant. If you are a business entity, you agree to cause your (as applicable) owners, members, shareholders, directors, officers, partners, general partner, proprietor and or any other beneficial owner to refrain from any of the competitive activities described above in any manner which A&W reasonably requests.
s.	Modification of Franchise Agreement	Sections 3.2, 3.3 and 19.4	No modifications without mutual written consent. A&W may modify the Operations Manual in its discretion (except where modifications concern operating and menu standards, in which case NAWFA Board approval is required).
t.	Integration/merger clause	Section 19.3	Only the terms of the Franchise Agreement are binding (subject to state law). Any representations or promises made outside the disclosure document and franchise agreement may not be enforceable.
u.	Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable
v.	Choice of forum	Section 18.1	Litigation must be in Kentucky (subject to state law).
w.	Choice of law	Section 18.1	Kentucky law applies (subject to state law).

### **ITEM 18 - PUBLIC FIGURES**

A&W does not presently use any public figures to promote the franchise.

### **ITEM 19 - FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC’s Franchise Rule permits a franchisor to provide 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 if 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 possible performance at a particular location or under particular circumstances.

As of December 31, 2023, there were 455 franchised Restaurants in the A&W System.

Table I below provides “Net Sales” (as defined in Section 7.1 of the Franchise Agreement) data for the 56 franchised Freestanding Restaurants that were open and operating

for the entire 12 months of 2023 and provided us with their Net Sales (“Reporting Freestanding Restaurants”).

Table II below provides Net Sales data for the 53 franchised Restaurants located at Convenience and Gas Stations that were open and operating for the entire 12 months of 2023 and provided us with their Net Sales (“Reporting C&G Restaurants”).

Table III provides profit and loss information from 2023 for the 24 of 56 Reporting Freestanding Restaurants that provided us with their profit and loss information.

Table IV provides profit and loss information from 2023 for the 11 of 53 Reporting C&G Restaurants that provided us with their profit and loss information.

This Item 19 does not provide data for any of the following franchised Restaurants in operation as of December 31, 2023: (a) the 23 seasonal Restaurants (i.e. open less than 12 months based on seasonality); (b) the 38 freestanding restaurants without drive-thrus (which are no longer being offered); (c) the 24 C&G restaurants without drive-thrus (which are no longer being offered); (d) the 243 Co-Brand Restaurants; (e) one single-brand Restaurant that operated as a Co-Brand Restaurant for approximately 4 months of 2023; or (f) the 17 Captive Restaurants. It also does not provide data for our 2 company-owned Restaurants in operation as of December 31, 2023.

**Table I: Reporting Freestanding Restaurants**

As of December 31, 2023, there were 56 Reporting Freestanding Restaurants. Table I below provides average Net Sales and the high, low and median Net Sales for the 56 Reporting Freestanding Restaurants. Table I then divides the Reporting Freestanding Restaurants into four quartiles based on reported average Net Sales (i.e., first quartile, second quartile, third quartile and fourth quartile) and provides average Net Sales and the high, low and median Net Sales for each quartile of the Reporting Freestanding Restaurants.

	<b>Average Net Sales</b>	<b>Number and percentage that attained or surpassed Average Net Sales</b>	<b>High Net Sales</b>	<b>Low Net Sales</b>	<b>Median Net Sales</b>
All Reporting Freestanding Restaurants (56 Restaurants)	\$1,299,627	24 or 43%	\$3,119,465	\$488,878	\$1,222,089
First Quartile (14 Restaurants)	\$1,933,963	3 or 21%	\$3,119,465	\$1,523,654	\$1,770,504
Second Quartile (14 Restaurants)	\$1,345,175	6 or 43%	\$1,465,119	\$1,229,135	\$1,338,073
Third Quartile (14 Restaurants)	\$1,108,183	7 or 50%	\$1,215,044	\$992,903	\$1,118,459

Fourth Quartile (14 Restaurants)	\$811,189	8 or 57%	\$984,309	\$488,878	\$898,016
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**Table II: Reporting C&G Restaurants**

As of December 31, 2023, there were 53 Reporting C&G Restaurants. Table II below provides average Net Sales and the high, low and median Net Sales for the 53 Reporting C&G Restaurants. Table II then divides Reporting C&G Restaurants into four quartiles based on reported average Net Sales (i.e., first quartile, second quartile, third quartile and fourth quartile) and provides average Net Sales and the high, low and median Net Sales for each quartile of Reporting C&G Restaurants.

	<b>Average Net Sales</b>	<b>Number and percentage that attained or surpassed Average Net Sales</b>	<b>High Net Sales</b>	<b>Low Net Sales</b>	<b>Median Net Sales</b>
All Reporting C&G Restaurants (53 Restaurants)	\$785,264	23 or 43%	\$1,568,896	\$120,516	\$762,994
First Quartile (13 Restaurants)	\$1,191,868	5 or 38%	\$1,568,896	\$1,029,499	\$1,179,047
Second Quartile (13 Restaurants)	\$864,804	6 or 46%	\$992,972	\$768,078	\$850,517
Third Quartile (13 Restaurants)	\$658,919	6 or 46%	\$762,994	\$594,144	\$658,554
Fourth Quartile (14 Restaurants)	\$451,164	8 or 57%	\$593,989	\$120,516	\$466,155

**Table III: P&L For Reporting Freestanding Restaurants**

As of December 31, 2023, there were 56 Reporting Freestanding Restaurants, 24 of which provided us with profit and loss information. Table III below provides the following categories of profit and loss information for these Reporting Freestanding Restaurants: (i) Net Sales, (ii) Cost of Labor, (iii) Food and Paper Cost, (iv) Gross Profit; (v) Controllable G&A, (vi) Non-controllable G&A (including Royalty and Advertising Fees); (vii) Manageable Operating Expenses; (viii) Non-manageable Operating Expenses, and (ix) EBITDAR. The profit and loss information for these Reporting Freestanding Restaurants does not include rent, convention travel, officer salaries and benefits, automobile expenses or other uncommon expenses.

	<b>Average/As % of Net Sales</b>	<b>Median</b>
Net Sales	\$1,505,487	\$1,417,571
Cost of Labor	\$431,785 / 29%	\$399,706 / 28%
Food and Paper	\$458,083 / 30%	\$453,816 / 32%
Gross Profit	\$615,619 / 41%	\$559,859 / 39%
Controllable G&A	\$102,692 / 7%	\$82,939 / 6%
Non-Controllable G&A (including Royalty and Advertising Fees)	\$241,471 / 16%	\$177,451 / 13%
Manageable Operating Expenses	\$344,163 / 23%	\$254,990 / 18%
Non-Manageable Operating Expenses	\$6,017 / 0%	\$3,229 / 0%
EBITDAR	\$265,439 / 18%	\$245,093 / 17%

**Notes to Table III**

1. 3 of the 24 Reporting Freestanding Restaurants that provided us with profit and loss information are owned by the same franchisee. While that franchisee provided us with the Net Sales for each of those 3 Reporting Freestanding Restaurants individually, that franchisee provided us with the other categories of profit and loss information for those 3 Reporting Freestanding Restaurants as a combined amount. For that reason, A&W used the average of those 3 Reporting Freestanding Restaurants for each of those 3 Reporting Freestanding Restaurants in providing the disclosures for each profit and loss category other than Net Sales in these notes to Table III.
2. 9 or 38% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the stated average Net Sales stated in Table III.
3. 12 or 50% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Cost of Labor as a percentage



of Net Sales, meaning the Cost of Labor as a percentage of Net Sales was less than the average stated in Table III.

4. 6 or 25% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Food and Paper Cost as a percentage of Net Sales, meaning the Food and Paper Costs as a percentage of Net Sales was less than the average stated in Table III.
5. 8 or 33% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Gross Profit as a percentage of Net Sales, meaning that the Gross Profit as a percentage of Net Sales was greater than the average stated in Table III.
6. 12 or 50% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Controllable G&A, meaning the Controllable G&A as a percentage of Net Sales as a percentage of Net Sales was less than the average stated in Table III.
7. 20 or 83% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Non-Controllable G&A as a percentage of Net Sales, meaning the Non-Controllable G&A as a percentage of Net Sales was less than the average stated in Table III. Royalty and Advertising Fees for these Reporting Freestanding Restaurants with Drive-Thrus were adjusted to 5%/5% contributions for each for a total of 10% in Royalty and Advertising Fees.
8. 19 or 79% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Manageable Operating Expenses as a percentage of Net Sales, meaning the Manageable Operating Expenses as a percentage of Net Sales was less than the average stated in Table III.
9. 0 or 0% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average Non-manageable Operating Expenses as a percentage of Net Sales, meaning the Non-manageable Operating Expenses as a percentage of Net Sales was less than the average in Table III.
10. 12 or 50% of the 24 Reporting Freestanding Restaurants that provided profit and loss information attained or exceeded the average EBITDAR as a percentage of Net Sales, meaning that the EBITDAR as a percentage of Net Sales was greater than the average stated in Table III.

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**Table IV: P&L for Reporting C&G Restaurants**

As of December 31, 2023, there were 53 Reporting C&G Restaurants, 11 of which provided us with profit and loss information. Table IV below provides the following categories of profit and loss information for these Reporting C&G Restaurants: (i) Net Sales, (ii) Cost of Labor, (iii) Food and Paper Cost, (iv) Gross Profit; (v) Controllable G&A, (vi) Non-controllable G&A; (vii) Manageable Operating Expenses; (viii) Non-manageable Operating Expenses, and (ix) EBITDAR. The profit and loss information for these Reporting C&G Restaurants does not include rent, convention travel, officer salaries and benefits, automobile expenses or other uncommon expenses.

	<b>Average/As % of Net Sales</b>	<b>Median</b>
Net Sales	\$731,366	\$626,432
Cost of Labor	\$217,693 / 30%	\$190,884 / 30%
Food and Paper	\$244,452 / 33%	\$227,519 / 36%
Gross Profit	\$269,221 / 37%	\$241,771 / 39%
Controllable G&A	\$45,076 / 6%	\$25,553 / 4%
Non-Controllable G&A (including Royalty and Advertising Fees)	\$115,637 / 16%	\$67,238 / 11%
Manageable Operating Expenses	\$160,713 / 22%	\$92,791 / 15%
Non-Manageable Operating Expenses	\$6,320 / 1%	\$2,629 / 0%
EBITDAR	\$102,188 / 14%	\$119,341 / 19%

**Notes to Table IV**

1. 5 or 45% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Net Sales stated in Table IV.
2. 5 or 45% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Cost of Labor as a percentage of Net Sales, meaning the Cost of Labor as a percentage of Net Sales was less than the average stated in Table IV.

3. 4 or 36% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Food and Paper Cost as a percentage of Net Sales, meaning the Food and Paper Costs as a percentage of Net Sales was less than the average stated in Table IV.
4. 5 or 45% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Gross Profit as a percentage of Net Sales, meaning that the Gross Profit as a percentage of Net Sales was greater than the average stated in Table IV.
5. 6 or 55% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Controllable G&A as a percentage of Net Sales, meaning the Controllable G&A as a percentage of Net Sales was less than the average stated in Table IV.
6. 9 or 82% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Non-Controllable G&A as a percentage of Net Sales, meaning the Non-Controllable G&A as a percentage of Net Sales was less than the average stated in Table IV. Royalty and Advertising Fees for these Reporting C&G Restaurants with Drive-Thrus were adjusted to 5%/5% contributions for each for a total of 10% in Royalty and Advertising Fees.
7. 7 or 64% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Manageable Operating Expenses as a percentage of Net Sales, meaning the Manageable Operating Expenses as a percentage of Net Sales was less than the average stated in Table IV.
8. 6 or 55% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average Non-manageable Operating Expenses as a percentage of Net Sales, meaning the Non-manageable Operating Expenses as a percentage of Net Sales was less than the average stated in Table IV.
9. 6 or 55% of the 11 Reporting C&G Restaurants that provided profit and loss information attained or exceeded the average EBITDAR as a percentage of Net Sales, meaning that the EBITDAR as a percentage of Net Sales was greater than the average stated in Table IV.

### **Definitions**

The terms used in this Item 19 have the definitions below.

1. "Cost of Labor" - unit hourly labor, which is comprised of the average hourly rate and the number of hours worked. The cost of labor will vary from location to location and will be dependent upon factors beyond our and your control, including local minimum wage laws and local labor market conditions. Labor expenses also include the salaries of general and assistant managers where applicable. Labor expenses do not include any draw or salary for you. The other components of labor expenses are: payroll taxes, health insurance, vacation, wages, sick pay, bonuses and workers' compensation insurance.
2. "EBITDAR" means earnings before interest, taxes, depreciation, amortization, & rent. The "EBITDAR" should not be construed as the financial results or "profit" which

might be experienced by a Restaurant with similar Net Sales due to operating expense variations. Market conditions, operational and management methods, different geographic areas, and pricing variations may significantly affect operating results. Depreciation, amortization and interest will vary based upon the investment terms for the specific Restaurant. Organization overhead costs such as salaries and benefits of non-Restaurant personnel (if any), and other expenditures may significantly affect profits.

3. "Food and Paper" means the delivered cost of food, beverages, paper, to the restaurants as well as distribution and freight costs. Food and paper expenses are dependent upon seasonal, local and other factors, such as the franchisee's efficiency in the utilization of products, the costs of transportation and the fluctuation in market prices for food and other products.
4. "Gross Profit" means Net Sales less Direct Labor and Food & Paper. Gross Profit varies for each Restaurant, depending on operating costs (labor, food, paper goods) and other factors.
5. "Manageable Operating Expenses" is the combination of Controllable G&A and Non-Controllable G&A (including Royalty and Advertising Fees).
6. "Net Sales" means all revenue from the Restaurant, excluding local and state sales taxes. Sales for Restaurants will vary from franchisee to franchisee and from location to location, and are dependent upon the management, business and marketing experience of the manager(s), the quality of customer service, the quality of the food and beverages prepared by the employees, prices charged to customers, traffic count, the location, visibility and accessibility to the Restaurant, demographic factors, including population density, the local competition, economic trends, food trends, marketing and promotional efforts, and the length of time in operation.
7. "Non-Manageable Operating Expenses" means expenses incurred in operating the Restaurant that neither you nor we control. Examples include employee benefits, bonuses, charitable contributions.
8. "Royalty & Advertising Fees" means a total of 10% of Net Sales (which is the sum of the 5% of Net Sales Royalty Fee and the 5% of Net Sales Advertising Fee).
9. "Total Controllable G&A" means the combined costs of Supplies & Uniforms, Equipment & Repairs, and Other Operating Expenses. "Supplies & Uniforms" means the costs of supplies such as small wares and non-food related paper products and employee uniforms for your Restaurant. "Equipment & Repairs" means the cost to maintain and repair existing equipment and to purchase new equipment. "Other Operating Expenses" means other miscellaneous expenses required to run a Restaurant.
10. "Total Non-Controllable G&A" means the combined costs of Royalty & Advertising Fees, Bank & Credit Card Fees, Rents & Insurance, Professional Services, and Utilities & Telecom. "Bank & Credit Card Fees" means costs you may incur from bank activity (including overdraft fees, late fees, wire fees, and costs to issue certified and cashier's checks) and credit card providers (including the per transaction fee for the cost of providing the service and equipment necessary to conduct transactions by credit card). "Rents & Insurance" means the costs of rent (including security deposits) and insurance (in the types and amounts required in the Franchise Agreement) for a Restaurant. "Professional Services" means expenses incurred for services of professionals including

accountants and attorneys. "Utilities & Telecom" means the cost of electricity, gas, water, sewer, garbage, and phone and internet for a Restaurant.

### **General Notes**

Some outlets have earned this amount. Your individual results may differ. There is no assurance that you'll earn as much.

Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

We calculated the Net Sales data based on reports submitted to us by the Reporting Freestanding Restaurants and the Reporting C&G Restaurants.

We have not audited the information presented above, nor have we independently verified this information. Written substantiation of the data used in preparing these sales figures will be made available to you upon written request.

These results are based on the performance of specific Restaurants. Actual results vary from Restaurant to Restaurant and location to location, and your own financial results are likely to differ from these results. A number of factors will affect the Net Sales of a particular Restaurant, including, traffic count; accessibility and visibility of a site; the local marketplace and competition; general economic conditions; the prevailing wage rate; prices charged to customers; the personality and attitude of the manager(s) and the employees in dealing with customers; the quality of food and beverages prepared by employees; the sales level reached during the initial period and length of time in operation; the franchisee's management skill, experience, business acumen, and ability to promote and market the Restaurant in the local market; customer loyalty; customer referrals; and the degree of adherence to our methods and procedures in operating the Restaurant.

Except as set forth above, for two subsets (P&L Freestanding Restaurants and P&L C&G Restaurants), this Item 19 does not reflect the operating costs and expenses you will incur in operating a Restaurant, which operating costs and expenses will be deducted from Net Sales and affect the net income and cash flow of a Restaurant. Net income will vary from Restaurant to Restaurant depending upon factors such as rental or real estate costs, costs of goods sold, labor costs, how the Restaurant is operated and managed and other costs relating to the operation of the Restaurant. Some of the expenses that a franchisee will incur and should take into consideration are the following: (i) Royalties and Advertising Fees; (ii) payroll, payroll taxes and other employee benefits; (iii) licenses; (iv) rent and utilities; (v) Insurance; (vi) depreciation on fixed assets; (vii) cost of goods sold and equipment; (viii) food and other product costs; (ix) financing costs (in addition to occupancy expenses); (x) accounting and legal expenses; (xi) debt repayment.

You should conduct an independent investigation of the costs and expenses you will incur in operating your Restaurant. Franchisees or former franchisees, listed in the disclosure document, may be one source of this information. We strongly urge you to consult with your financial advisor or personal accountant concerning the financial analysis that you should make in determining whether or not to acquire a franchise to open and operate a Restaurant.

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 the franchisor's management by contacting the Legal Affairs Department, 1648 McGrathiana Parkway, Suite 380, Lexington, KY 40511 and (859) 219-0019, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20**  
**OUTLETS AND FRANCHISEE INFORMATION**

**Single Brand Outlets**

Table No. 1

**A&W Systemwide Outlet Summary  
For Years 2021 to 2023**

Column 1 Outlet Type	Column 2 Year	Column 3 Single Outlets at the Start of the Year	Column 4 Outlets at the End of the Year	Column 5 Net Change
Franchised	2021	229	219	-10
	2022	219	210	-9
	2023	210	212	+2
Company-Owned	2021	3	2	-1
	2022	2	2	0
	2023	2	2	0
Total Outlets	2021	232	221	-11
	2022	221	212	-9
	2023	212	214	+2

Table No. 2

**Transfers of A&W Franchised Outlets to New Owners (Other than the Franchisor)  
For Years 2021 to 2023**

Column 1 State	Column 2 Year	Column 3 Number of Transfers
Arizona	2021	0
	2022	0
	2023	0
California	2021	0
	2022	0
	2023	1
Colorado	2021	0
	2022	0
	2023	1
Idaho	2021	1
	2022	1
	2023	1
Illinois	2021	0
	2022	0
	2023	0
Iowa	2021	1
	2022	0
	2023	0

Column 1 State	Column 2 Year	Column 3 Number of Transfers
Kansas	2021	0
	2022	0
	2023	1
Michigan	2021	2
	2022	2
	2023	2
Minnesota	2021	0
	2022	1
	2023	1
Montana	2021	1
	2022	0
	2023	1
Nevada	2021	0
	2022	0
	2023	1
New Mexico	2021	0
	2022	0
	2023	0
New York	2021	0
	2022	1
	2023	1
Ohio	2021	1
	2022	0
	2023	0
Oregon	2021	1
	2022	0
	2023	0
South Dakota	2021	0
	2022	0
	2023	1
Utah	2021	0
	2022	1
	2023	0
Wisconsin	2021	2
	2022	1
	2023	2
Total	2021	9
	2022	7
	2023	13

Table No. 3

**Status of A&W Franchised Outlets  
For Years 2021 to 2023**

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operators – Other Reasons	Outlets at End of the Year
Arkansas	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	1	0	0	0	0
Arizona	2021	4	0	0	0	0	0	4
	2022	4	1	0	0	0	0	5
	2023	5	0	0	0	0	0	5
California	2021	16	1	2	0	0	0	15
	2022	15	0	1	1	0	0	13
	2023	13	0	1	1	0	0	11
Colorado	2021	5	0	0	0	0	0	5
	2022	5	0	0	0	0	0	5
	2023	5	0	1	0	0	0	4
Florida	2021	5	0	2	0	0	0	3
	2022	3	0	2	0	0	0	1
	2023	1	0	0	0	0	0	1
Idaho	2021	10	0	0	1	0	0	9
	2022	9	0	0	0	0	0	9
	2023	9	0	0	0	0	0	9
Illinois	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
	2023	2	1	0	0	0	0	3
Indiana	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Iowa	2021	11	0	1	0	0	0	10
	2022	10	0	1	0	0	0	9
	2023	9	2**	0	0	0	0	11
Kansas	2021	3	0	0	0	0	0	3
	2022	3	1	0	0	0	0	4
	2023	4	1	0	0	0	0	5
Maryland	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Massachusetts	2021	1	0	0	0	0	0	1
	2022	1	0	0	1	0	0	0
	2023	0	0	0	0	0	0	0
Michigan	2021	39	0	0	0	0	0	39
	2022	39	0	1	0	0	0	38



Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operators – Other Reasons	Outlets at End of the Year
	2023	38	0	0	0	0	0	38
Minnesota	2021	27	0	2	0	0	0	25
	2022	25	1	4	0	0	0	22
	2023	22	0	1	0	0	0	21
Missouri	2021	3	0	0	0	0	0	3
	2022	3	1	0	0	0	0	4
	2023	4	1	0	0	0	0	5
Montana	2021	2	0	1	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Nebraska	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
Nevada	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
New Mexico	2021	2	0	0	0	0	0	2
	2022	2	0	1	0	0	0	1
	2023	1	0	0	0	0	0	1
New York	2021	4	0	0	0	0	0	4
	2022	4	0	0	0	0	0	4
	2023	4	1	0	0	0	0	5
North Carolina	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
North Dakota	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Ohio	2021	6	0	1	0	0	0	5
	2022	5	0	0	0	0	0	5
	2023	5	0	0	0	0	0	5
Oklahoma	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Oregon	2021	11	0	2	0	0	0	9
	2022	9	1	0	0	0	1*	9
	2023	9	0	2	0	0	0	7
Pennsylvania	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Rhode Island	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
South Carolina	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operators – Other Reasons	Outlets at End of the Year
	2023	0	1	0	0	0	0	1
South Dakota	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Tennessee	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Texas	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Utah	2021	6	0	0	0	0	0	6
	2022	6	0	1	0	0	0	5
	2023	5	0	0	0	0	0	5
Vermont	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Washington	2021	2	0	0	0	0	0	2
	2022	2	1*	0	1	0	0	2
	2023	2	0	0	0	0	0	2
West Virginia	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Wisconsin	2021	47	1	1	0	0	0	47
	2022	47	0	0	0	0	0	47
	2023	47	2	0	0	0	0	49
Wyoming	2021	4	0	0	0	0	0	4
	2022	4	0	1	0	0	0	3
	2023	3	0	0	0	0	0	3
Total	2021	229	3	12	1	0	0	219
	2022	219	7	12	3	0	1	210
	2023	210	9	6	1	0	0	212

\* One franchisee relocated its A&W Restaurant from Oregon to Washington in 2022.

\*\* One franchisee in Iowa converted from a Co-Brand Restaurant to a single-brand A&W Restaurant on May 1, 2023.

Table No. 4

**Status of A&W Company Outlets  
For Years 2021 to 2023**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired from Franchisee	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisee	Col. 8 Outlets at End of Year
Kentucky	2021	3	0	0	1	0	2
	2022	2	0	0	0	0	2
	2023	2	0	0	0	0	2
Totals	2021	3	0	0	1	0	2
	2022	2	0	0	0	0	2
	2023	2	0	0	0	0	2

Table No. 5

**Projected Openings as of December 31, 2023**

State	Franchise Agreements Signed but Store Not Open	Projected New Franchised Stores in Next Fiscal Year	Projected New Company Owned Stores in Next Fiscal Year
Arizona	1	1	0
Colorado	1	0	0
Iowa	1	2	0
Kansas	1	0	0
Louisiana	1	0	0
Michigan	1	1	0
Nebraska	1	0	0
New York	1	0	0
Ohio	1	0	0
Oregon	1	1	0
South Dakota	0	2	0
Wisconsin	1	1	0
Wyoming	2	2	0
TOTALS	13	10	0

**Co-Brand Outlets**

Table No. 1

**A&W Systemwide Outlet Summary  
For Years 2021 to 2023**

Column 1 Outlet Type	Column 2 Year	Column 3 Outlets at the Start of the Year	Column 4 Outlets at the End of the Year	Column 5 Net Change
Franchised	2021	309	293	-16
	2022	293	277	-16
	2023	277	243	-34
Company-Owned	2021	0	0	0
	2022	0	0	0
	2023	0	0	0
	2021	309	293	-16

Total Outlets	2022	293	277	-16
	2023	277	243	-34

Table No. 2

**Transfers of A&W Franchised Outlets to New Owners (Other than the Franchisor)  
For Years 2021 to 2023**

Column 1 State	Column 2 Year	Column 3 Number of Transfers
Arkansas	2021	0
	2022	1
	2023	0
California	2021	0
	2022	0
	2023	0
Illinois	2021	1
	2022	0
	2023	0
Indiana	2021	0
	2022	0
	2023	0
Kansas	2021	0
	2022	0
	2023	0
Kentucky	2021	0
	2022	2
	2023	1
Michigan	2021	0
	2022	0
	2023	0
Missouri	2021	2
	2022	0
	2023	0
Montana	2021	6
	2022	0
	2023	0
New Mexico	2021	0
	2022	1
	2023	0
New York	2021	0
	2022	0
	2023	1
Ohio	2021	2
	2022	2
	2023	0
Oklahoma	2021	1
	2022	0
	2023	5
Pennsylvania	2021	0
	2022	3
	2023	0

Column 1 State	Column 2 Year	Column 3 Number of Transfers
South Carolina	2021	0
	2022	0
	2023	1
Tennessee	2021	0
	2022	0
	2023	2
Texas	2021	9
	2022	0
	2023	2
Virginia	2021	0
	2022	0
	2023	0
Wisconsin	2021	0
	2022	0
	2023	0
Total	2021	21
	2022	9
	2023	12

Table No. 3

**Status of A&W Franchised Outlets  
For Years 2021 to 2023**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Terminations	Col. 6 Non- Renewals	Col. 7 Reacquired by Franchisor	Col. 8 Ceased Operators – Other Reasons	Col. 9 Outlets at End of the Year
Alaska	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Arizona	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Arkansas	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	2	0	0	0	0
California	2021	51	0	2	0	0	0	49
	2022	49	0	2	0	0	0	47
	2023	47	0	5	0	0	0	42
Colorado	2021	27	0	0	0	0	0	27
	2022	27	0	1	0	0	0	26
	2023	26	0	4	0	0	0	22
Florida	2021	5	0	1	0	0	0	4
	2022	4	0	1	0	0	0	3
	2023	3	0	0	0	0	0	3
Georgia	2021	0	0	0	0	0	0	0

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operators – Other Reasons	Outlets at End of the Year
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Idaho	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
	2023	6	0	0	0	0	0	6
Illinois	2021	7	0	0	0	0	0	7
	2022	7	0	1	0	0	0	6
	2023	6	0	0	0	0	0	6
Indiana	2021	6	0	0	0	0	0	6
	2022	6	0	1	0	0	0	5
	2023	5	0	0	0	0	0	5
Iowa	2021	7	0	0	0	0	0	7
	2022	7	0	1	0	0	0	6
	2023	6	0	0	0	0	1*	5
Kansas	2021	9	0	1	0	0	0	8
	2022	8	0	0	0	0	0	8
	2023	8	0	0	0	0	0	8
Kentucky	2021	12	0	0	0	0	0	12
	2022	12	0	2	0	0	0	10
	2023	10	0	0	0	0	0	10
Michigan	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Minnesota	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Missouri	2021	10	0	4	0	0	0	6
	2022	6	0	0	0	0	0	6
	2023	6	0	0	0	0	0	6
Montana	2021	10	0	3	0	0	0	7
	2022	7	0	1	0	0	0	6
	2023	6	0	0	0	0	0	6
Nebraska	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
New Mexico	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
	2023	6	0	0	0	0	0	6
New York	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
North Carolina	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
North Dakota	2021	2	0	0	0	0	0	2

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operators – Other Reasons	Outlets at End of the Year
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Ohio	2021	17	0	0	0	0	0	17
	2022	17	0	2	0	0	0	15
	2023	15	0	0	0	0	0	15
Oklahoma	2021	11	0	2	0	0	0	9
	2022	9	0	0	0	0	0	9
	2023	9	0	2	0	0	0	7
Oregon	2021	13	0	0	0	0	0	13
	2022	13	0	0	0	0	0	13
	2023	13	0	0	0	0	0	13
Pennsylvania	2021	14	0	1	0	0	0	13
	2022	13	0	1	0	0	0	12
	2023	12	0	2	0	0	0	10
South Carolina	2021	5	0	0	0	0	0	5
	2022	5	0	0	0	0	0	5
	2023	5	0	4	0	0	0	1
South Dakota	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Tennessee	2021	6	0	0	0	0	0	6
	2022	6	0	1	0	0	0	5
	2023	5	0	1	0	0	0	4
Texas	2021	22	0	1	0	0	0	21
	2022	21	0	1	0	0	0	20
	2023	20	0	7	0	0	0	13
Utah	2021	19	0	0	0	0	0	19
	2022	19	0	0	0	0	0	19
	2023	19	0	3	0	0	0	16
Virginia	2021	2	0	1	0	0	0	1
	2022	1	0	1	0	0	0	0
	2023	0	0	0	0	0	0	0
Washington	2021	25	0	0	0	0	0	25
	2022	25	0	0	0	0	0	25
	2023	25	0	2	0	0	0	23
West Virginia	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	1	0	0	0	1
Wisconsin	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Wyoming	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Total	2021	309	0	16	0	0	0	293

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operators – Other Reasons	Outlets at End of the Year
	2022	293	0	16	0	0	0	277
	2023	277	0	33	0	0	1	243

\*\* This represents a franchisee in Iowa that converted from a Co-Brand Restaurant to a single-brand A&W Restaurant on May 1, 2023.

Table No. 4

**Status of A&W Company Outlets  
For Years 2021 to 2023**

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8
State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
All States	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
Totals	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0

Table No. 5

**Projected Openings as of December 31, 2023**

State	Franchise Agreements Signed but Store Not Open	Projected New Franchised Stores in Next Fiscal Year	Projected New Company Owned Stores in Next Fiscal Year
All States	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>

A listing of the names, addresses and telephone numbers of all of A&W's franchisees as of December 31, 2023 is attached to this Disclosure Document as Exhibit A.

The name, city and state, and current business telephone number or last known home telephone number of each franchisee who has had a Restaurant terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the 12-month period ending December 31, 2023 or who has not communicated with A&W within 10 weeks of the date of issuance of this Disclosure Document is attached to this Disclosure Document as Exhibit H. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Some franchisees have signed confidentiality clauses during the last three fiscal years. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with A&W. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.



Exhibit I-1 lists, to the extent known, the name, address, telephone number, email address, and Web address of each trademark-specific franchisee organization associated with the franchise system being offered, which A&W has created, sponsored, or endorsed by the franchisor.

Exhibit I-2 lists, to the extent known, the name, address, telephone number, email address, and Web address of each trademark-specific independent franchisee organizations that have asked to be included in this Disclosure Document.

### **ITEM 21 - FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit B are the audited consolidated financial statements of AGAB for the fiscal years ended December 31, 2023, December 31, 2022 and December 31, 2021.

AGAB absolutely and unconditionally guarantees to assume the duties and obligations of A&W under the Franchise Agreement should A&W become unable to perform its duties and obligations under the Franchise Agreement. AGAB's guaranty of performance is included in Exhibit B of this Disclosure Document.

### **ITEM 22 - CONTRACTS**

The following agreements are included as exhibits to this Disclosure Document:

Franchise Agreement (with state-required addenda following) -- Exhibit C  
Guaranty – Appendix III to Franchise Agreement  
New Restaurant Incentive Addendum – Exhibit C-1  
Captive Restaurant Addendum – Exhibit C-2  
Co-Brand Restaurant Addendum – Exhibit C-3  
Development Agreement – Exhibit D  
Technology Services Agreement – Exhibit J

### **ITEM 23 - RECEIPTS**

The last page of this Disclosure Document is a detachable document, in duplicate. Please detach, sign, date and return one copy of the Receipt to A&W, acknowledging that you received this Disclosure Document. Please keep the second copy for your records.

## **ADDENDUM TO DISCLOSURE DOCUMENT**

### **FOR MICHIGAN AND SOUTH DAKOTA**

**No Waiver of Disclaimer of Reliance in Certain States.** The following provision applies only to franchisees and franchises that are subject to the state franchise disclosure laws in Michigan or South Dakota:

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **STATE OF CALIFORNIA**

### **ADDENDUM TO DISCLOSURE DOCUMENT**

1. The California Franchise Investment Law requires a copy of all proposed agreements relating to the sale of the franchise be delivered together with the Disclosure Document.
2. Neither the franchisor, nor any person or franchise broker in Item 2 of the FDD, is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.
3. The earnings claim figures contained in Item 19 do not reflect the cost 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 franchise. Franchisees or former franchisees, listed in this offering circular, may be one source of this information.
4. The California Business and Professions Code 20000 through 20043 provides rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.
5. The franchise agreement may provide for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law. (11 U.S.C.A. Sec. 101 et seq.).
6. The franchise agreement may contain a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.
7. The franchise agreement may contain a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.
8. Prospective franchisees are encourage to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.
9. The franchise agreement requires application of the laws of Kentucky. This provision may not be enforceable under California law.
10. 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.
11. 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).
12. OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVAITON at [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

13. The row entitled "Interest on Late Payments" in Item 6 of the Disclosure Document is amended to state that the maximum interest rate in California is currently 10% annually.

14. Registration of this franchise does not constitute approval, recommendation, or endorsement by the Commissioner.

15. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**STATE OF ILLINOIS**

**ADDENDUM TO DISCLOSURE DOCUMENT**

This Disclosure Document and franchise agreement and the validity and performance thereof shall be governed by the laws of the State of Illinois in accordance with the Illinois Franchise Disclosure Act of 1987.

The cover page of the Disclosure Document, "Risk Factors" is supplemented by adding the following to Risk Factor 1:

"PURSUANT TO ILLINOIS COMPILED STATUTES 1992, CHAP. 815, SECTIONS 705/1 THROUGH 705/44, THIS STATEMENT SHALL NOT IN ANY WAY ABROGATE OR REDUCE ANY RIGHTS OF THE FRANCHISEE AS PROVIDED FOR IN THE ILLINOIS FRANCHISE DISCLOSURE ACT."

Item 17, Renewal, Termination, Transfer and Dispute Resolution. Items v and w are supplemented by adding the following note:

The provisions of the franchise agreement and all other agreements concerning governing law, jurisdiction, venue, choice of law and waiver of jury trials will not constitute a waiver of any right conferred upon franchisee by the Illinois Franchise Disclosure Act (815 ILCS 705/19 and 705/20). Illinois law will govern the franchise agreement with respect to Illinois licensees.

In conformance with Section 41 of the Illinois Franchise Disclosure Act, 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.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**STATE OF INDIANA**

**ADDENDUM TO DISCLOSURE DOCUMENT**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Indiana:

The laws of the State of Indiana supersede any provisions of this Disclosure Document, the Franchise Agreement, Development Agreement, other related agreements, or Kentucky law if such provisions are in conflict with Indiana law.

The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the franchise without good cause or in bad faith, good cause being defined therein as a material breach of the Franchise Agreement, shall supercede the provisions of Article 17 of the Franchise Agreement in the State of Indiana, but only to the extent that such provisions may be inconsistent with such prohibition.

No release language set forth in the Disclosure Document, Franchise Agreement, Development Agreement or other related agreement shall relieve Franchisor or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Indiana.

Any provision in the Disclosure Document, Franchise Agreement, Development Agreement or other related agreement which designates jurisdiction or venue, or requires franchisee to agree to jurisdiction or venue, in a forum outside of Indiana, may not be enforceable.

Item 17 of the Disclosure Document is supplemented by the following:

The State of Indiana has a statute [1C 23-2-2.7-1(10)] which restricts or prohibits the imposition of liquidated damages provisions. State Courts also restrict the imposition of budgeted damages. The imposition of liquidated damages is also restricted by fair practices laws, contract law and state and federal court decisions.”

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**STATE OF MARYLAND**

**ADDENDUM TO DISCLOSURE DOCUMENT**

Item 17 of the Disclosure Document is amended for Maryland Franchisees as follows:

The Maryland Franchise Registration and Disclosure Law shall override and supercede any inconsistent provisions in your Franchise Agreement.

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

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

Further nothing in the Franchise Agreement is intended to, nor shall it, act as a release, assignment, novation, waiver or estoppel that would relieve the Company from liability under the Maryland Franchise Registration and Disclosure Law.

Termination of the franchisee upon bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C. Sec. 101 et seq.).

You must bring any claims arising under the Maryland Franchise Registration and Disclosure Law within 3 years after the grant of the franchise.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## STATE OF MICHIGAN

### ADDENDUM TO DISCLOSURE DOCUMENT

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 AND/OR FRANCHISE AGREEMENT DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

- a) A prohibition on your right to join an association of franchisees.
- b) A requirement that you assent to a release, assignment, novation, waiver or estoppel which deprives you of rights and protections provided in this act. This will not preclude you, after entering into a franchise agreement, from settling any and all claims.
- c) A provision that permits A&W to terminate a franchise agreement prior to the expiration of its term except for good cause. Good cause will include your failure to comply with any lawful provision 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&W to refuse to renew a franchise agreement without fairly compensating you by repurchase or other means for the fair market value at the time of expiration of your inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to A&W and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (1) the term of the franchise agreement or co-brand franchise agreement is less than five (5) years and (2) you are 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 agreement or you do not receive at least six (6) months advance notice of A&W's intent not to renew the franchise agreement.
- e) A provision that permits A&W to refuse to renew a franchise agreement 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 will not preclude you 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&W to refuse to permit a transfer of ownership of a franchise agreement, except for good cause. This subdivision does not prevent A&W from exercising a right of first refusal to purchase the franchise agreement. Good cause will include, but is not limited to:



- 1) The failure of the proposed transferee to meet A&W's then current reasonable qualifications or standards.
  - 2) The fact that the proposed transferee is a competitor of A&W's or of the subfranchisor.
  - 3) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - 4) The failure of you or the proposed transferee to pay any sums owing to A&W or to cure any default in the franchise agreement existing at the time of the proposed transfer.
- h) A provision that requires you to resell to A&W items that are not uniquely identified with A&W. This subdivision does not prohibit a provision that grants A&W a right of first refusal to purchase the assets of yours 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 A&W the right to acquire your assets for the market or appraised value of the assets if you have breached the lawful provisions of the franchise agreement and have failed to cure the breach in the manner provided in subdivision (c).
- i) A provision which permits A&W to directly or indirectly convey, assign or otherwise transfer A&W's obligations to fulfill contractual obligations to you 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 YOU HAVE ANY QUESTIONS REGARDING THE ABOVE NOTICE, THOSE QUESTIONS SHOULD BE DIRECTED TO THE DEPARTMENT OF THE ATTORNEY GENERAL OF THE STATE OF MICHIGAN, 670 LAW BUILDING, LANSING, MICHIGAN 38913, (517) 373-7117.

## STATE OF MINNESOTA

### ADDENDUM TO DISCLOSURE DOCUMENT

THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE MINNESOTA FRANCHISE ACT. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OF MINNESOTA OR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THIS PUBLIC DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

The Cover page to the Disclosure Document “Risk Factors: 1” and Item 17 V “Choice of Forum” are deleted as to Minnesota Franchisees. Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce any of franchisee’s rights as provided for in Minnesota Statutes, Chapter 80C, or franchisee’s rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

In addition, Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statutes 1973 Supplement, sections 80C.01 to 80C.22; provided, that this part shall not bar the voluntary settlement of disputes.

Item 13 of the Disclosure Document is modified as to Minnesota Franchisees as follows. The Minnesota Department of Commerce requires that the Franchisor indemnify Minnesota Franchisees against liability to third parties resulting from claims by third parties that the Franchisee’s use of the Franchisor’s trademark infringes trademark rights of the third party. Franchisor does not indemnify against the consequences of Franchisee’s use of the Franchisor’s trademark except in accordance with the requirements of the Franchise Agreement, and, as a condition to indemnification, Franchisee must provide notice to Franchisor of any such claim within ten (10) days and tender the defense of the claim to Franchisor. If Franchisor accepts the tender of defense, Franchisor has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim.

Item 17 of the Disclosure Document is modified as to Minnesota Franchisees as follows. Minnesota law provides Franchisees with certain termination and nonrenewal rights. Minn. Stat. Sec. 80C.14, Subd. 3, 4 and 5 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 for nonrenewal of the Franchise Agreement.

Under the terms of the Franchise Agreement as modified by the Minnesota Addendum to the Franchise Agreement, you agree that, upon the expiration or termination of the Franchise Agreement, you consent to the seeking of a permanent injunction and/or restraining order against you prohibiting further use or display of any and all Trademarks, service marks and proprietary systems and products of any kind.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement,

or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

In the event that the terms of this Addendum conflict with the Disclosure Document, the terms of this Addendum shall prevail.

## **STATE OF NEW YORK**

### **ADDENDUM TO DISCLOSURE DOCUMENT**

The following paragraphs are added to the end of the State Cover Page:

THIS OFFERING PROSPECTUS IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS OFFERING PROSPECTUS AND ALL CONTRACTS OR AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

ALTHOUGH THESE FRANCHISES HAVE BEEN ACCEPTED FOR FILING, SUCH FILING UNDER GENERAL BUSINESS LAW, ARTICLE 33 OF THE STATE OF NEW YORK DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE NEW YORK STATE DEPARTMENT OF LAW THAT THE INFORMATION PROVIDED HEREIN IS TRUE. THE DEPARTMENT'S REVIEW DID NOT INCLUDE A DETAILED EXAMINATION OF THE MATERIALS SUBMITTED. A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT MAY CONSTITUTE A VIOLATION OF BOTH FEDERAL AND STATE LAW, AND SHOULD BE REPORTED TO BOTH THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C., 20580 AND THE NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21ST FLOOR, NEW YORK, NEW YORK 10005.

GENERAL BUSINESS LAW, ARTICLE 33 OF THE STATE OF NEW YORK MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WHICH IS SUBJECT TO REGISTRATION WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE A COPY OF THE OFFERING PROSPECTUS, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE AT THE EARLIER OF (a) THE FIRST PERSONAL MEETING BETWEEN THE FRANCHISOR OR ITS AGENT AND THE PROSPECTIVE FRANCHISEE, (b) AT LEAST TEN BUSINESS DAYS PRIOR TO THE EXECUTION OF A BINDING FRANCHISE OR OTHER AGREEMENT OR (c) AT LEAST TEN BUSINESS DAYS PRIOR TO THE RECEIPT OF ANY CONSIDERATION IN CONNECTION WITH THE SALE OR PROPOSED SALE OF A FRANCHISE.

Except as disclosed in Item 3 of this Disclosure Document, neither A&W, nor its predecessors, affiliates, or a person identified in Item 2 of this Disclosure Document has ever had 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. No one 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. No one has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-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. No one is subject to any 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 exchanges, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A., 78a et seq., suspending or expelling such persons 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.

Except as disclosed in Item 4 of this Disclosure Document, neither A&W nor its affiliates, predecessors, or officers, during the 10-year period immediately before the date of this Disclosure Document has: (a) filed as debtor (or had filed against it) a petition to start an action under the US Bankruptcy Code or any foreign bankruptcy code; (b) obtained a discharge of its debts under the bankruptcy code or any foreign bankruptcy code; or (c) was a principle 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 US Bankruptcy Code or any foreign bankruptcy code or that obtained a discharge of its debts under the US Bankruptcy Code or any foreign bankruptcy code during or within the 1 year after the officer of the franchisor had held this position in the company.

Item 5 is amended by adding the following new paragraph at the end of the Item:

The initial franchise fee and the development fee paid under the Development Agreement are not used for any specific purpose.

Item 11 is amended by adding the following sentence at the end of the Operations Manual section:

We may modify the Operations Manual. However, no change to the Operations Manual will be made which would impose an unreasonable economic burden on you, unreasonably increase your obligations, or materially alter your status or rights under the Franchise Agreement.

Item 17 is amended by adding the following language at the beginning of the Item:

THIS TABLE LISTS CERTAIN IMPORTANT PROVISIONS OF THE FRANCHISE AND RELATED AGREEMENTS PERTAINING TO RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION. YOU SHOULD READ THESE PROVISIONS IN THE AGREEMENTS ATTACHED TO THIS DISCLOSURE DOCUMENT.

The “Summary” sections of Item 17(c), entitled “Requirements for Member to renew or extend”, and Item 17(m), entitled “Conditions for licensor approval of transfer”, of the Franchise Agreement chart in the Disclosure Document are amended by adding the following:

, provided, however, that to the extent required by Article 33 of the General Business Law of the State of New York, 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 GBL Sections 687.4 and 687.5 be satisfied.

Row (d) of Item 17 entitled “Termination by you” is amended by adding the following language to the Summary column:

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

The “Summary” sections of Item 17(v), entitled “Choice of forum”, and Item 17(w), entitled “Choice of law”, of the Franchise Agreement chart in the Disclosure Document are amended by adding the following:

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.

The following is added immediately preceding Item 23:

We represent that this prospectus does not knowingly omit any material fact or contain any untrue statement of a material fact.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **STATE OF NORTH DAKOTA**

### **ADDENDUM TO DISCLOSURE DOCUMENT**

Item 17 of the Disclosure Document is amended by the addition of the following:

- 1) “Section 51-19-09 of North Dakota Franchise Investment Law prohibits the waiver of punitive damages.”
- 2) “Section 9-08-06 of the North Dakota Century Code limits A&W’s ability to restrict your activity after the Franchise Agreement has ended.”
- 3) The general release required as a condition of renewal shall not relieve the Franchisor or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of North Dakota.
- 4) North Dakota Franchise Investment Law Section 51-19-09 prohibits requiring a franchisee to consent to liquidated damages. Under the terms of the Franchise Agreement, as modified by the North Dakota Addendum to the Franchise Agreement, all references to liquidated damages are deleted.
- 5) Any provision in the Franchise Agreement which designates jurisdiction or venue or requires the Franchisee to agree to jurisdiction or venue, in a forum outside of North Dakota, is deleted from Franchise Agreements issued in the State of North Dakota.
- 6) The laws of the State of North Dakota supersede any provisions of the Franchise Agreement or Kentucky law if such provisions are in conflict with North Dakota law. The Franchise Agreement will be governed by North Dakota law, rather than Kentucky law, as stated in Section 18 of the Franchise Agreement.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **STATE OF RHODE ISLAND**

### **ADDENDUM TO DISCLOSURE DOCUMENT**

THIS DISCLOSURE DOCUMENT IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS DISCLOSURE DOCUMENT AND ALL CONTRACTS OR AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

ALTHOUGH THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE FRANCHISE LAW, REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE RHODE ISLAND DEPARTMENT OF BUSINESS REGULATION THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE, ACCURATE OR NOT MISLEADING. IF THIS DISCLOSURE DOCUMENT IS NOT DELIVERED ON TIME OR IF IT CONTAINS A FALSE, INCOMPLETE, INCORRECT OR MISLEADING STATEMENT, A VIOLATION OF BOTH FEDERAL AND STATE LAWS MAY HAVE OCCURRED, AND SHOULD BE REPORTED TO BOTH THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND RHODE ISLAND DEPT. OF BUSINESS REGULATION, 1511 PONTIAC AVENUE, CRANSTON, RHODE ISLAND 02920.

Item 17 of the Disclosure Document is supplemented by the following:

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

A condition, stipulation or provision requiring you to waive compliance with or relieving a person of a duty of liability imposed by or a right provided by this Act or a rule or order under this Act is void. An acknowledgement provision, disclaimer or integration clause or a provision having a similar effect in a franchise agreement does not negate or act to remove from judicial review any statement, misrepresentation or action that would violate this Act or a rule or order under this Act. This section shall not affect the settlement of disputes, claims or civil lawsuits arising or brought under this Act.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.



## **ADDENDUM TO THE DISCLOSURE DOCUMENT PURSUANT TO THE VIRGINIA RETAIL FRANCHISING ACT**

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of Virginia:

1. The following is added to Item 17 h:

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act (the "Virginia Act"), it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement and/or the Development Agreement do not constitute reasonable cause, as that term may be defined in the Virginia Act or the laws of Virginia, that provision may not be enforceable.

2. The proposed agreements described in Item 22, including all agreements that a franchisee must sign, are accurately presented in this Disclosure Document.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **STATE OF WASHINGTON**

### **ADDENDUM TO DISCLOSURE DOCUMENT**

In recognition of the requirements of the Washington Investment Protection Act at RCW 19.100.010 to RCW 19.100.940, the Franchise Disclosure Document for Virtual Brands, Inc. (“we”, “our” or “us”) for use in the State of Washington shall be amended as follows:

The state of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal of your franchise.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect our reasonable estimated or actual costs in effecting a transfer.

Each provision of this Addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Washington Franchise Investment Protection Act at RCW 19.100.010 to RCW 19.100.940, are met independently without reference to this Addendum to the Disclosure Document.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee’s earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor’s earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**STATE OF WISCONSIN**

**ADDENDUM TO DISCLOSURE DOCUMENT**

THE WISCONSIN FAIR DEALERSHIP LAW CH. 135 STATS. SUPERSEDES ANY PROVISION OF THIS DISCLOSURE DOCUMENT THAT IS INCONSISTENT WITH THAT LAW.

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**EXHIBIT A**  
**LIST OF FRANCHISEES**

## ACTIVE FRANCHISEES BY STATE - SINGLE BRAND

as of 12/31/2023

Store #	Franchise Partner	Address	City	State	Zip	Phone
<b>ARIZONA</b>						
94559	TA Operating LLC	2929 S Toltec Road	Eloy	Arizona	85131	(440) 617-8931
94500	Vincent Farr	101 West Hopi Drive	Holbrook	Arizona	86025	(928) 524-2685
94671	Brian Johnson	527 W Chino	Seligman	Arizona	86337	(928) 422-3624
94704	Adeeb Hattar	6261 E Benson Highway	Tucson	Arizona	85756	(909) 556-5535
90307	Robert & Mary Hamill	6640 North Viewpoint Drive	Prescott Valley	Arizona	86314	(928) 420-9213
<b>CALIFORNIA</b>						
90028	Rajwant Grewal	72363 Baker Boulevard	Baker	California	92309	(818) 294-2980
94241	Craig Van Horn	420 North Kaweah	Exeter	California	93221	(559) 972-8996
94022	Jasmeet Kaur	203 South Street	Hollister	California	95023	(831) 637-2700
94006	Pete Knight	216 E Lodi Avenue	Lodi	California	95240	(209) 366-3462
90021	Mohammad Ali Khan	1930 Mentone Boulevard	Mentone	California	92359	(661) 888-0148
90250	Pete Knight	501 Main Street	Saint Helena	California	94574	(209) 366-3462
94030	Michael Bromberger	3741 Redwood Highway	San Rafael	California	94903	(415) 479-9652
94228	Craig Van Horn	133 North J Street	Tulare	California	93274	(559) 972-8996
94033	Craig Van Horn	2611 S Mooney Boulevard	Visalia	California	93277	(559) 972-8996
90243	Craig Van Horn	2124 W. Riggin Ave	Visalia	California	93291	(559) 972-8996
90309	Amer Chris Sabbah	39263 Harvard Road	Yermo	California	92398	(909) 239-2792
<b>COLORADO</b>						
94036	Randy Hamann	802 Mountain Avenue	Berthoud	Colorado	80513	(970) 532-2272
94042	Jonathan Onoh	680 Oak Avenue	Eaton	Colorado	80615	(417) 396-6802
90173	Regina Pitsch	2424 Highways 6 & 50	Grand Junction	Colorado	81505	(970) 208-4569
94658	TA Operating LLC	455 Us Highway 85	Walsenburg	Colorado	81089	(440) 617-8931
<b>FLORIDA</b>						
95089	Paul Lance	5770 W Irlo Bronson Highway, Suite 326	Kissimmee	Florida	34746	(407) 448-6555
<b>IDAHO</b>						
90111	Sam Shahram	320 W. Highway 26	Blackfoot	Idaho	83221	(801) 392-9584
94685	Jackson Food Stores, Inc.	2001 Highway 30 W	Fruitland	Idaho	83619	(208) 888-6061
90193	Sam Shahram	898 E Highway 30	McCammon	Idaho	83250	(801) 392-9584
94622	Tobe Finch	1317 S Main Street	Moscow	Idaho	83843	(208) 790-1082
94822	Moquey Marquross	420 Virginia Street	New Meadows	Idaho	83654	(406) 609-6945
94043	Casey Jones	340 S Main Street	Payette	Idaho	83661	(208) 914-4425
90263	Prasanth Nagalingam	1335 North Arthur	Pocatello	Idaho	83204	(740) 802-8074
90192	Sam Shahram	295 E 2nd Street	Soda Springs	Idaho	83276	(801) 392-9584
94746	Conrad & Bishcoff, LLC, a Subsidiary of Parkland Corp.	240 W Addison Avenue	Twin Falls	Idaho	83301	(801) 910-0072
<b>ILLNOIS</b>						
94229	Karin Ackermann Fry	113 S Lincoln Way	North Aurora	Illinois	60542	(630) 254-1821
20109	Karin Ackermann Fry	1012 N Rohlwing Road	Addison	Illinois	60101	(630) 254-1821
20104	Jim Sprick	648 Carlyle Avenue	Belleville	Illinois	62221	(314) 570-5555
<b>INDIANA</b>						
94052	Janie Fry	1501 N Lincoln Street	Greensburg	Indiana	47240	(616) 350-0301
90188	Nick Al-Farah	49 West Maryland Street	Indianapolis	Indiana	46204	(708) 204-3266
<b>IOWA</b>						
08177	Wayne Mashek	628 2nd Ave. SW	Cresco	Iowa	52136	(563) 547-3112
20130	Cooperative Energy Company	1706 Pierce Avenue	Sibley	Iowa	51249	(712) 754-2586
94543	Khiyyam Fazal	250 W 1st Street	Dubuque	Iowa	52001	(201) 294-1656
94060	James Davis	3401 W Main Street	Emmetsburg	Iowa	50536	(712) 298-1169

Store #	Franchise Partner	Address	City	State	Zip	Phone
94056	James Davis	1106 Highway 69 N	Forest City	Iowa	50436	(712) 298-1169
94059	James McConnell	109 E 2nd Avenue	Indianola	Iowa	50125	(515) 494-5538
90216	Thomas Harrington	300 North Elm	Jefferson	Iowa	50129	(808) 295-5422
90275	Laura Cobb	2021 E Washington Street	Mt. Pleasant	Iowa	52641	(319) 694-2200
90276	Laura Cobb	805 E Jackson	Sigourney	Iowa	52591	(319) 694-2200
94280	Estate of Michael Snydergaard - Ken Schroeder Pres Mgr	1804 Highway Boulevard	Spencer	Iowa	51301	(712) 262-0409
90300	James Davis	2308 17th Street	Spirit Lake	Iowa	51360	(712) 298-1169
<b>KANSAS</b>						
94071	James Daugharthy	1421 East Street	Iola	Kansas	66749	(620) 365-5061
94683	Sapp Bros Inc - Keith Dragoo	1911 Lacy Drive	Junction City	Kansas	66441	(785) 238-1600
90074	Timothy Cook	300 S Fossil	Russell	Kansas	67665	(785) 483-2557
20124	Sarbjit Singh	203 West 2nd Street	Ellis	Kansas	67637	(216) 469-3624
20135	Lisette Amiel	201 West Old Hwy 75	Fairview	Kansas	66425	(702) 380-0912
<b>MARYLAND</b>						
90073	Mohammad Qureshi	20815 Callaway Village Way #9	Callaway	Maryland	20620	(240) 299-5634
<b>MICHIGAN</b>						
90292	Michael Vinckier Jr.	4549 South Van Dyke Road	Almont	Michigan	48003	(810) 798-0000
90196	Linda Mulder	4434 Baldwin Road FC SP #3	Auburn Hills	Michigan	48326	(517) 627-2230
94082	Terry Burger	301 Lafayette Street	Bay City	Michigan	48708	(989) 892-0321
90314	Matthew Lang	370 N Ross Street	Beaverton	Michigan	48612	(989) 435-6263
94087	Michael Leonard	148 W Columbia Avenue	Belleville	Michigan	48111	(734) 699-1800
94084	Larry Streetman	4100 12 Mile Road	Berkley	Michigan	48072	(248) 547-7126
94077	Michael Page	304 N State Street	Big Rapids	Michigan	49307	(231) 796-6405
94281	Kevin Klein	12200 Marketplace Drive	Birch Run	Michigan	48415	(586) 247-0072
90108	Linda Mulder	210 Town Center Drive	Dearborn	Michigan	48126	(517) 627-2230
90010	Coley O'Brien	8220 Dexter-Chelsea Rd.	Dexter	Michigan	48130	(734) 645-4091
94089	Nader Kharsa	30732 Grand River Avenue	Farmington	Michigan	48336	(248) 826-4885
94859	Robert E. Eastman II	3011 Thompson Road	Fenton	Michigan	48430	(810) 750-3002
94882	Amer Saleh	3805 Pine Grove	Fort Gratiot	Michigan	48059	(810) 985-6560
90278	Linda Mulder	840 South Grand	Fowlerville	Michigan	48836	(517) 627-2230
94098	Jason Kolehmainen	21 Lake Street	Frankfort	Michigan	49635	(231) 352-9021
94104	Michael Chaaban	32227 Ford Road	Garden City	Michigan	48135	(313) 247-2011
94076	Linda Mulder	525 W Saginaw	Grand Ledge	Michigan	48837	(517) 627-2230
90019	Linda Mulder	Rivertown Cross. Mall	Grandville	Michigan	49418	(517) 627-2230
94075	Christina & James Strauss	200 Margaret Street	Iron Mountain	Michigan	49801	(906) 774-2723
94254	Linda Mulder	4919 W Saginaw Highway	Lansing	Michigan	48917	(517) 627-2230
94100	Steven Stencel	5309 Main Street	Lexington	Michigan	48450	(248) 613-9307
94085	Karon & Orval Demers	1467 Southfield Road	Lincoln Park	Michigan	48146	(734) 748-1229
94083	Mary Wilkosz	133 Cypress Street	Manistee	Michigan	49660	(231) 723-7010
90302	Michael Vinckier Jr.	1601 Gratiot Blvd	Marysville	Michigan	48040	(310) 432-8938
94107	Linda Mulder	628 N Cedar Street	Mason	Michigan	48854	(517) 627-2230
90103	Kristofer Smith	3730 Tenth Street	Menominee	Michigan	49858	(906) 864-3066
90189	Bill Strohkirch	1514 Washington Street	Midland	Michigan	48640	(989) 832-3811
94219	Kevin Graham	1200 N Monroe Street	Monroe	Michigan	48162	(734) 242-3330
90294	Scott Nelson	4181 W Mount Morris	Mt. Morris	Michigan	48458	(810) 223-0923
90179	Nick Al-Farah	27500 Novi Road	Novi	Michigan	48377	(248) 349-8900
94088	Norman Barman	470 South Street	Ortonville	Michigan	48462	(248) 915-8454
94090	Stephanie Hewlett	31930 W Jefferson	Rockwood	Michigan	48173	(734) 236-4483
94078	William Teifer	12820 Eureka Road	Southgate	Michigan	48192	(734) 752-0365

Store #	Franchise Partner	Address	City	State	Zip	Phone
94093	William Strohkirch	302 S Main	Standish	Michigan	48658	(989) 529-2642
94106	Kevin Graham	27293 Eureka Road	Taylor	Michigan	48180	(734) 457-2960
94097	Fadi Salame	12831 Telegraph Road	Taylor	Michigan	48180	(374) 657-3507
90067	Salim Bayyouk	350 W 14 Mile	Troy	Michigan	48083	(313) 515-3939
94091	Mark Kettlewell	208 N Main Street	Yale	Michigan	48097	(810) 387-4052
<b>MINNESOTA</b>						
94979	Julie Glenz	121 8th Street South	Albany	Minnesota	56307	(320) 845-6999
94114	John Rossiter	103 S Main Street	Aurora	Minnesota	55705	(218) 229-2240
90282	Galen Tiechert	515 Anne Street NW	Bemidji	Minnesota	56601	(218) 444-2442
90218	Stephen Oborn	Mall of America 376 Central Parkway	Bloomington	Minnesota	55426	(612) 598-8803
94894	Stephen Oborn	376 South Avenue	Bloomington	Minnesota	55425	(612) 598-8803
90287	Robert Marohn	140 Orr Avenue	Buffalo	Minnesota	55313	(612) 422-0237
94110	Stephen Oborn	404 Wilson Avenue	Faribault	Minnesota	55021	(612) 598-8803
94117	Kay Balstad	506 W 1st Street	Fosston	Minnesota	56542	(218) 435-6999
90254	Les Jepsen	9061 Buchanan Trail	Inver Grove Heights	Minnesota	55076	(612) 730-7750
90298	Dan Weiner	1850 Adams Street, Ste. 536	Mankato	Minnesota	56001	(507) 779-7668
20107	David & Sandy Rollins	620 Dutch Lake Drive	Howard Lake	Minnesota	55349	(320) 543-0179
90306	Betty Adrian	Highway 60	Mountain Lake	Minnesota	56159	(507) 301-4099
94420	Christenson Family Trust	17280 Highway 23	New London	Minnesota	56273	(320) 231-1023
94123	Emma Krueger	5446 Lakers Lane	Nisswa	Minnesota	56468	(218) 963-4361
94120	Glen & Lori Breitwieser	1004 Park Ave. S.	Park Rapids	Minnesota	56470	(218) 252-5674
94115	Nick Berchin	820 Main Street S	Pine City	Minnesota	55063	(320) 629-3955
90258	Julie & Jeremy Glenz	780 1st Street SE	Richmond	Minnesota	56368	(320) 597-7668
92004	Cheryl Savage	Apache Mall	Rochester	Minnesota	55902	(507) 202-4032
94644	Kristopher Lema	518 W 6th Street	Saint Charles	Minnesota	55972	(507) 932-4267
90249	Scott Bergland	17859 Highway 59 S	Thief River Falls	Minnesota	56701	(218) 681-3512
90180	Thomas Seiler	925 Frontenac Drive	Winona	Minnesota	55987	(507) 452-1030
<b>MISSOURI</b>						
20119	Jim Sprick	3998 Jeffco Blvd.	Arnold	Missouri	63010	(314) 570-5555
20143	Jim Sprick	998 Knaust Road	Cottleville	Missouri	63376	(314) 570-5556
94300	Claude Lauer	320 Ashley Road	Boonville	Missouri	65233	(660) 882-7407
94766	Steve Onoh	300 Tanger Blvd., #218	Branson	Missouri	65616	(417) 337-7112
90305	Jim Sprick	3788 Elm Street	St. Charles	Missouri	63301	(314) 570-5555
<b>MONTANA</b>						
94127	Linda Parker	7320 Highway 2E	Columbia Falls	Montana	59912	(208) 260-2595
<b>NEBRASKA</b>						
90280	Sapp Bros Inc - Keith Dragoo	4260 North Broad	Fremont	Nebraska	68025	(402) 721-7620
94473	CHS Inc dba Cenex Zip Trip	1103 W 1st Street	Ogallala	Nebraska	69153	(509) 535-7701
92002	Rigel Airport Services LLC / Brian Bartling	4501 Abbott Drive	Omaha	Nebraska	68110	(402) 345-1223
<b>NEVADA</b>						
90057	Roy Fritz	1410 Nevada Highway	Boulder City	Nevada	89005	(702) 293-2340
94223	Mike Baker	1311 Baring Boulevard	Sparks	Nevada	89434	(775) 331-6777
90308	Long Shot, LLC	112 N Main Street	Tonopah	Nevada	89049	(775) 482-3842
<b>NEW MEXICO</b>						
90013	Laura Cummings	908 W Aztec Blvd	Aztec	New Mexico	87410	(801) 815-0319
<b>NEW YORK</b>						
20141	Muhammad Shoaib	303 Rainbow Blvd.	Niagara Falls	New York	14303	(716) 544-0122
94141	Demetrios Souzas	883 Route 13	Cortland	New York	13045	(607) 756-2021
90200	Vinny Anand	177 Union Turnpike	Hudson	New York	12534	(518) 828-8400



Store #	Franchise Partner	Address	City	State	Zip	Phone
94139	Hao Yang	2208 Route 9	Lake George	New York	12845	(347) 403-2212
94142	Linda Johnson	5629 State Route 86	Wilmington	New York	12997	(518) 946-7569
<b>OHIO</b>						
94148	Donald Unruh	924 E 5th Street	Delphos	Ohio	45833	(419) 695-1632
94145	Kevin Roen	1124 W Main Street	Kent	Ohio	44240	(419) 504-8500
94143	Amanda Smith	769 E Main Street	Ravenna	Ohio	44266	(330) 296-5028
90241	Croton Holding Co	2455 West Pike	Zanesville	Ohio	43701	(740) 450-7820
95023	David Arnold	23 W Main Street	Orwell	Ohio	44076	(440) 437-8480
<b>OKLAHOMA</b>						
94377	Jackie Pitmon	12253 Hwy 7 West	Davis	Oklahoma	73030	(580) 369-2992
90271	Saqib Anwar	16401 West South Avenue	Tonkawa	Oklahoma	74653	(580) 308-6105
<b>OREGON</b>						
90077	John Jackson	33157 Highway 34 S.E.	Albany	Oregon	97322	(541) 924-2716
94155	Ann Jensen-Bradley	1690 Highway 101 N.	Florence	Oregon	97439	(541) 997-8124
95167	James Pliska	77522 S Highway 207	Hermiston	Oregon	97838	(541) 564-6969
94153	Theodore Frahm	511 Main Street	Nyssa	Oregon	97913	(541) 372-2986
94629	Andrew Shirtcliff	292 Pruner Road	Riddle	Oregon	97469	(541) 863-4776
94151	Brenda Lederer	1215 W Washington Street	Stayton	Oregon	97383	(503) 769-6450
94154	Joshua Hankins	1010 Main Street	Sweet Home	Oregon	97386	(541) 367-4893
<b>PENNSYLVANIA</b>						
94395	Jeffrey Calhoun	10071 Lincoln Highway	Everett	Pennsylvania	15537	(814) 623-2989
90270	Martin Brown	18844 Sandy Ridge Station	Orbisonia	Pennsylvania	17243	(814) 447-3500
<b>RHODE ISLAND</b>						
94272	Stephanie Mosca	460 Putnam Pike	Smithfield	Rhode Island	02828-3007	(401) 949-9892
<b>SOUTH CAROLINA</b>						
	Ronald B. Jennings, Jr.	4875 Old York Road	Rock Hill	South Carolina	29732	(908) 966-1940
<b>SOUTH DAKOTA</b>						
90089	Troy Erickson	501 Deadwood Avenue	Rapid City	South Dakota	57702	(605) 216-3538
90068	Erica Aldrich	10 E Highway 12	Webster	South Dakota	57274	(605) 345-4140
<b>TENNESSEE</b>						
94164	Peter Moser	3989 Highway 411	Madisonville	Tennessee	37354	(423) 442-2128
94277	David O'Shields	929 Dolly Parton Parkway	Sevierville	Tennessee	37862	(423) 453-8627
<b>UTAH</b>						
94745	Tom Clark	12 W Center Street	Blanding	Utah	84511	(801) 435-3900
94484	Trent Leavitt	40 N 6300 W	Hurricane	Utah	84737	(435) 654-0065
90251	Sam Shahram	6030 West 20800 North	Plymouth	Utah	84330	(435) 458-3676
90260	Sam Shahram	75 S Stone Street	Snowville	Utah	84336	(435) 872-8228
90284	Doug & Tressa Moody	6765 North Highway 36	Stansbury Park	Utah	84074	(435) 830-8701
<b>VERMONT</b>						
90080	Anthony Neri	U.S. Highway 7 South	Middlebury	Vermont	05753	(802) 388-2876
<b>WASHINGTON</b>						
90264	James Pliska	9515 Old Pacific Highway North	Castle Rock	Washington	98611	(503) 969-1066
94243	Duane Behrens	4750 N Division, Suite 283	Spokane	Washington	99207	(509) 482-4839
<b>WEST VIRGINIA</b>						
90303	Croton Holding Co	2204 Pleasant Valley Road	Pleasant Valley	West Virginia	26554	(304) 363-9369
<b>WISCONSIN</b>						
20133	Deanne Wells	609 Crestwood Drive	Cadott	Wisconsin	54727	(715) 229-4241
20136	Deanne Wells	2870 Woodman Drive	Altoona	Wisconsin	54720	(715) 229-4242
90290	James Graf	1025 Lake Street	Algoma	Wisconsin	54201	(920) 487-8236

Store #	Franchise Partner	Address	City	State	Zip	Phone
90113	James Brajdic	3801 E. Calumet Street	Appleton	Wisconsin	54915	(920) 993-9999
94189	Randy Walker	1035 Bergslien Street	Baldwin	Wisconsin	54002	(715) 684-2134
90274	United Ag Cooperative	1710 East Division Street	Barron	Wisconsin	54812	(715) 637-6500
90107	James Brajdic	2646 Manitowoc Road	Bellevue	Wisconsin	54311	(920) 661-9140
94186	Duane DeYoung	507 Elm Street	Boscobel	Wisconsin	53805	(608) 375-5171
94176	Bruce Hundertmark	271 S Main Street	Clintonville	Wisconsin	54929	(715) 823-3355
94832	Kurt Bauman	215 W Follett	Coloma	Wisconsin	54930	(715) 228-2003
90246	TMart Operations	4905 County Highway V	Deforest	Wisconsin	53532	(608) 692-4505
90030	James Brajdic	1501 Main Avenue	De Pere	Wisconsin	54115	(920) 330-0033
94192	Duane DeYoung	201 County Road YZ	Dodgeville	Wisconsin	53533	(608) 935-3056
94187	Theresa Schaaf-Reed	601 N Main Street	Edgerton	Wisconsin	53534	(608) 884-8412
94180	James Brajdic	269 Winnebago Dr	Fond Du Lac	Wisconsin	54935	(920) 921-4320
94195	Philip Welch	13520 Northwestern Avenue	Franksville	Wisconsin	53126	(262) 835-0089
90041	James Brajdic	510 S Monroe Avenue	Green Bay	Wisconsin	54301	(920) 437-4725
90240	James Brajdic	3630 Riverside Drive	Green Bay	Wisconsin	54301	(920) 347-0314
90042	James Brajdic	2145 University Avenue	Green Bay	Wisconsin	54302	(920) 406-8212
90043	James Brajdic	2002 Velp Avenue	Green Bay	Wisconsin	54303	(920) 661-9140
94207	Simranjot Singh	5133 S 108th Street	Hales Corners	Wisconsin	53130	(414) 425-1010
94190	Jay Link	7885 US Highway 2	Iron River	Wisconsin	54847	(715) 372-4202
90197	Duane DeYoung	936 Conde Street	Janesville	Wisconsin	53546	(608) 348-4225
20108	Etem Selimi	1415 W Junction Road	Jefferson	Wisconsin	53549	(920) 605-2002
94179	Thomas Seiler	3005 South Avenue	La Crosse	Wisconsin	54601	(608) 788-5336
94199	Joshua Burr	1307 S Madison Street	Lancaster	Wisconsin	53813	(608) 723-2090
94726	TMart Operations	N 1551 Sunset Drive	Lodi	Wisconsin	53555	(608) 692-4505
90122	James Brajdic	4141 Harbor Town Lane	Manitowoc	Wisconsin	54220	(920) 652-9570
94542	Jay Link	1020 W. Hokah Road	Minong	Wisconsin	54859	(715) 466-5929
90247	James Brajdic	1370 Jacobsen Road	Neenah	Wisconsin	54956	(920) 886-1748
90114	James Brajdic	1196 Westowne Drive	Neenah	Wisconsin	54956	(920) 751-6847
94271	Jason Dull	501 E Division	Neillsville	Wisconsin	54456	(719) 937-5402
31161	Barbara Gretzinger	5070 U.S. Highway 141	Oconto	Wisconsin	54153	(920) 834-9283
90104	James Brajdic	2187 W. Ninth Avenue	Oshkosh	Wisconsin	54904	(920) 233-4677
94203	Michael Reed	774 N Lake Avenue	Phillips	Wisconsin	54555	(715) 339-3104
90252	Duane DeYoung	111 Millennium Drive	Platteville	Wisconsin	53818	(608) 342-2929
94178	Joshua Paul	717 East Wisconsin St.	Portage	Wisconsin	53901	(414) 737-0631
94494	Kurt Bauman	811 Green Lake Road	Princeton	Wisconsin	54968	(920) 295-3593
94635	Steven Zutz CEO	525 Main Street	Reedsville	Wisconsin	54230	(920) 754-4309
90059	Kurt Bauman	204 E Fond Du Lac Street	Ripon	Wisconsin	54971	(920) 748-5769
90283	Jay Link	7389 Airport Road	Siren	Wisconsin	54872	(715) 349-5164
90286	Deanne Wells	804 South Pacific Street	Spencer	Wisconsin	54479	(715) 368-1144
94858	Joe Sedlacek	175 Pine Street	Stanley	Wisconsin	54768	(715) 644-3346
94210	Avis Phelps	701 Belknap Street	Superior	Wisconsin	54880	(715) 392-6125
94833	Kurt Bauman	715 W. Main Street	Waupun	Wisconsin	53963	(920) 324-5615
94177	Joshua Erickson	248 E Main Street	Wautoma	Wisconsin	54982	(920) 787-3710
94211	George Polnow	4505 Lake Circle	Windsor	Wisconsin	53598	(608) 575-4162
90312	James Brajdic	6088 Harbour view	Winneconne	Wisconsin	54986	(920) 706-2000
90265	Deanne Wells	212 Division Street	Withee	Wisconsin	54498	(715) 229-9944
<b>WYOMING</b>						
94214	Thomas Goton	1140 North 6th Street	Greybull	Wyoming	82426	(307) 765-2312
90288	Sam Shahram	8 Purple Sage Road	Rock Springs	Wyoming	82901	(307) 362-2171

<b>Store #</b>	<b>Franchise Partner</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Phone</b>
95030	Sam Shahram	81 Swanson Road	Wheatland	Wyoming	82201	(307) 322-1885

## ACTIVE FRANCHISEES BY STATE - CO BRAND

as of 12/31/2023

Store #	Franchise Partner	Address	City	State	Zip	Phone
<b>ALASKA</b>						
E730013	Fred Jackson	3428 Airport Way	Fairbanks	Alaska	99709	(816) 678-4898
C219011	Robert Carle	1761 Palmer Wasilla Highway	Wasilla	Alaska	99654	(907) 376-8089
<b>ARIZONA</b>						
K400011	Lonnie Noble	11183 S. Frontage Drive	Yuma	Arizona	85367	(928) 305-9339
<b>CALIFORNIA</b>						
E720367	Harman Management Corporation	8101 Watt Avenue	Antelope	California	95843	(650) 941-5681
E720347	Harman Management Corporation	7810 Brentwood Boulevard	Brentwood	California	94513	(650) 941-5681
C301007	Jason Baker	2120 41st Avenue	Capitola	California	95010	(831) 476-1170
E720422	Harman Management Corporation	1467 Mitchell Rd.	Ceres	California	95351	(650) 941-5681
E720167	Harman Management Corporation	7098 Auburn Boulevard	Citrus Heights	California	95621	(650) 941-5681
90214	Jim Sprick	406 W. Shaw Ave.	Clovis	California	93612	(314) 570-5555
E720287	Harman Management Corporation	4660 Clayton Road	Concord	California	94521	(650) 941-5681
E720274	Harman Management Corporation	6797 Village Parkway	Dublin	California	94568	(650) 941-5681
E720439	Harman Management Corporation	2330 Longport Court	Elk Grove	California	95758	(650) 941-5681
E720448	Harman Management Corporation	2535 Iron Point Road	Folsom	California	95630	(650) 941-5681
E720503	Harman Management Corporation	37123 Fremont Boulevard	Fremont	California	94536	(650) 941-5681
E720320	Harman Management Corporation	1983 Nevada City Hwy.	Grass Valley	California	95945	(650) 941-5681
E720407	Harman Management Corporation	150 E. Louise Ave.	Lathrop	California	95330	(650) 941-5681
E720457	Harman Management Corporation	35 Lincoln Blvd.	Lincoln	California	95648	(650) 941-5681
E720423	Harman Management Corporation	6061 Northfront Road	Livermore	California	94550	(650) 941-5681
E720385	Harman Management Corporation	748 West Pacheco Boulevard	Los Banos	California	93635	(650) 941-5681
E720176	Harman Management Corporation	180 West Olive Avenue	Merced	California	95348	(650) 941-5681
E720026	Harman Management Corporation	950 El Camino Real	Millbrae	California	94030	(650) 941-5681
E720334	Harman Management Corporation	1560 East "F" Street	Oakdale	California	95361	(650) 941-5681
E720306	Harman Management Corporation	7272 International Boulevard	Oakland	California	94621	(650) 941-5681
E720068	Harman Management Corporation	701 East Washington Street	Petaluma	California	94952	(650) 941-5681
E720208	Harman Management Corporation	635 Contra Costa Boulevard	Pleasant Hill	California	94523	(650) 941-5681
E720065	Harman Management Corporation	10399 Folsom Blvd.	Rancho Cordova	California	95670	(650) 941-5681
E720472	Harman Management Corporation	15555 San Pablo Ave.	Richmond	California	94806	(650) 941-5681
E720453	Harman Management Corporation	6328 Rio Linda Blvd.	Rio Linda	California	95673	(650) 941-5681
E720180	Harman Management Corporation	6700 Commerce Boulevard	Rohnert Park	California	94928	(650) 941-5681
E720444	Harman Management Corporation	5130 Foothills Blvd.	Roseville	California	95747	(650) 941-5681
E720431	Harman Management Corporation	1089 Sunrise Avenue	Roseville	California	95661	(650) 941-5681
E720452	Harman Management Corporation	2920 Del Paso Road	Sacramento	California	95834	(650) 941-5681
E720474	Harman Management Corporation	2312 Arden Way	Sacramento	California	95825	(650) 941-5681
E720410	Harman Management Corporation	8335 Elk Grove Florin Road	Sacramento	California	95829	(650) 941-5681
E720507	Harman Management Corporation	3820 Florin Road	Sacramento	California	95823	(650) 941-5681
E720066	Harman Management Corporation	4219 Marconi Ave.	Sacramento	California	95821	(650) 941-5681

Store #	Franchise Partner	Address	City	State	Zip	Phone
E720022	Harman Management Corporation	3144 South Bascom Avenue	San Jose	California	95124	(650) 941-5681
E720260	Harman Management Corporation	2187 Merced Street	San Leandro	California	94577	(650) 941-5681
E720296	Harman Management Corporation	3519 East Hammer Lane	Stockton	California	95212	(650) 941-5681
E720019	Harman Management Corporation	134 E. Martin Luther King Jr Blvd	Stockton	California	95206	(650) 941-5681
E720434	Harman Management Corporation	2290 W. Grant Line Road	Tracy	California	95377	(650) 941-5681
E720442	Harman Management Corporation	2705 W. Monte Vista Avenue	Turlock	California	95380	(650) 941-5681
E720504	Harman Management Corporation	2150 Redwood Street	Vallejo	California	94590	(650) 941-5681
E720437	Harman Management Corporation	6610 Hembree Lane	Windsor	California	95492	(650) 941-5681
E720041	Harman Management Corporation	812 Westacre Road	West Sacramento	California	95691	(650) 941-5681
<b>COLORADO</b>						
E720477	Harman Management Corporation	7785 Wadsworth Blvd.	Arvada	Colorado	80003	(650) 941-5681
E720327	Harman Management Corporation	16901 East Quincy	Aurora	Colorado	80015	(650) 941-5681
E720494	Harman Management Corporation	1551 S. Havana Street	Aurora	Colorado	80012	(650) 941-5681
E720302	Harman Management Corporation	6400 West 120th Avenue	Broomfield	Colorado	80020	(650) 941-5681
E720428	Harman Management Corporation	2835 New Center Point	Colorado Springs	Colorado	80922	(650) 941-5681
E720314	Harman Management Corporation	3101 W. Colorado Avenue	Colorado Springs	Colorado	80904	(650) 941-5681
E720411	Harman Management Corporation	15495 E. Andrews Drive	Denver	Colorado	80239	(650) 941-5681
E720267	Harman Management Corporation	1679 Federal Boulevard	Denver	Colorado	80204	(650) 941-5681
E720227	Harman Management Corporation	7140 Pecos Street	Denver	Colorado	80221	(650) 941-5681
E720229	Harman Management Corporation	302 South Colorado Boulevard	Denver	Colorado	80246	(650) 941-5681
E720436	Harman Management Corporation	7384 McLaughlin Rd.	Falcon	Colorado	80831	(650) 941-5681
E720346	Harman Management Corporation	4001 South College Avenue	Fort Collins	Colorado	80525	(650) 941-5681
E720317	Harman Management Corporation	6660 Camden Ave.	Fountain	Colorado	80817	(650) 941-5681
E720343	Harman Management Corporation	2804 West 10th Street	Greeley	Colorado	80634	(650) 941-5681
E720221	Harman Management Corporation	200 Wadsworth Boulevard	Lakewood	Colorado	80226	(650) 941-5681
E720242	Harman Management Corporation	10220 West Colfax Ave.	Lakewood	Colorado	80215	(650) 941-5681
E720475	Harman Management Corporation	2599 South Lewis Way	Lakewood	Colorado	80227	(650) 941-5681
E720336	Harman Management Corporation	1960 East County Line Road	Littleton	Colorado	80126	(650) 941-5681
E720226	Harman Management Corporation	2900 W. Belleview Avenue	Littleton	Colorado	80123	(650) 941-5681
E720486	Harman Management Corporation	2604 Main Street	Longmont	Colorado	80504	(650) 941-5681
08476	Gregory Parish	2020 N. Townsend Ave.	Montrose	Colorado	81401	(970) 249-1818
E720390	Harman Management Corporation	2581 E. 120th Ave.	Thornton	Colorado	80233	(650) 941-5681
<b>FLORIDA</b>						
31439	J Robles	2082 US Highway 92	Auburndale	Florida	33823	(954) 560-1604
31428	J Robles	2440 Commercial Way	Spring Hill	Florida	34606	(954) 560-1604
31434	J Robles	1707 E Fowler Ave	Tampa	Florida	33612	(954) 560-1604
<b>IDAHO</b>						
90232	Todd Stewart	3545 South Federal Way	Boise	Idaho	83705	(541) 281-0949
90233	Todd Stewart	13375 W. Chinden Blvd.	Boise	Idaho	83713-1335	(541) 281-0949
90230	Todd Stewart	8440 West Overland Rd	Boise	Idaho	83709	(541) 281-0949
90231	Todd Stewart	5102 E. Cleveland Boulevard	Caldwell	Idaho	83607	(541) 281-0949

Store #	Franchise Partner	Address	City	State	Zip	Phone
90229	Todd Stewart	677 S. Main Street	Meridian	Idaho	83642	(541) 281-0949
90235	Todd Stewart	145 Maine Avenue E.	Nampa	Idaho	83686	(541) 281-0949
<b>ILLINOIS</b>						
31283	LJS Opco Two LLC	379 North Bluff Road, Lot 10	Collinsville	Illinois	62234	(502) 815-6100
31307	Mark Levitt	140 N Main St.	East Peoria	Illinois	61611	(309) 698-0515
08077	LJS Opco Two LLC	1 Ohren Drive	Litchfield	Illinois	62056	(502) 815-6100
32039	LJS Opco Two LLC	4960 West 211th St	Matteson	Illinois	60443	(502) 815-6100
07501	Mark Levitt	4420 16th Street	Moline	Illinois	61265	(309) 764-2234
07564	LJS Opco Two LLC	1030 Clock Tower Dr.	Springfield	Illinois	62704	(502) 815-6100
<b>INDIANA</b>						
G103005	James McKenzie	6620 South Scatterfield Road	Anderson	Indiana	46013	(317) 710-4588
07100	Ronald Switzer	2839 Teal Rd.	Lafayette	Indiana	47905	(765) 474-0304
07295	Ronald Switzer	1409 W. Kem Road	Marion	Indiana	46952	(765) 664-7042
07220	Ronald Switzer	3110 Wheeling Ave	Muncie	Indiana	47303	(765) 747-0557
31686	David Fletcher	3707 National Rd E	Richmond	Indiana	47374	(765) 966-6245
<b>IOWA</b>						
31257	Mark Levitt	1414 N. Roosevelt Avenue	Burlington	Iowa	52601	(319) 753-5000
07605	Mark Levitt	3702 Brady St.	Davenport	Iowa	52806	(563) 386-3262
31834	Mark Levitt	2522 E University Avenue	Des Moines	Iowa	50317	(515) 262-4700
07730	Mark Levitt	4420 Sergeant Road	Sioux City	Iowa	51106	(712) 274-2202
07113	Mark Levitt	7421 Douglas Avenue	Urbandale	Iowa	50322	(515) 276-6222
<b>KANSAS</b>						
90048	LJS Opco Two LLC	911 W Wyatt Earp Blvd	Dodge City	Kansas	67801	(502) 815-6100
31465	LJS Opco Two LLC	3380 Vine Street	Hays	Kansas	67601	(502) 815-6100
31459	LJS Opco Two LLC	2928 N Main Street	Hutchinson	Kansas	67502	(502) 815-6100
31625	Brian Johnson	3201 S 4th Street	Leavenworth	Kansas	66048	(913) 682-5255
31623	Brian Johnson	9900 W 63rd Street	Merriam	Kansas	66203	(913) 831-3585
31624	Brian Johnson	607 E Santa Fe St.	Olathe	Kansas	66061	(913) 764-1511
31864	LJS Opco Two LLC	2616 N Maize Road	Wichita	Kansas	67208	(502) 815-6100
31832	LJS Opco Two LLC	547 S Rock Road	Wichita	Kansas	67207	(502) 815-6100
<b>KENTUCKY</b>						
31787	Frank Kapfhammer	3840 E. John Rowan Blvd.	Bardstown	Kentucky	40004	(502) 348-8570
31202	Robert Jenkins	200 Brenwood Street	Berea	Kentucky	40403	(859) 986-3996
07079	Patrick Gaunce	816 Mammoth Cave Street	Cave City	Kentucky	42127	(270) 651-9302
31201	Robert Jenkins	1520 Hustonville Rd	Danville	Kentucky	40422	(859) 236-8570
07934	Jami Feeny	175 State Hwy 1947	Grayson	Kentucky	41143	(419) 545-1379
31786	Frank Kapfhammer	8315 Preston Hwy	Louisville	Kentucky	40219	(502) 961-6234
07128	Jami Feeny	243 Flemingsburg Rd.	Morehead	Kentucky	40351	(419) 545-1379
023355	LJS Opco Two LLC	555 Lone Oak Road	Paducah	Kentucky	42001	(502) 815-6100
07438	Joseph Feeny	176 May-O Circle	Pikeville	Kentucky	41501	(606) 432-3339
08033	Frank Kapfhammer	3218 S. Hwy 27	Somerset	Kentucky	42501	(606) 677-9813

Store #	Franchise Partner	Address	City	State	Zip	Phone
<b>MICHIGAN</b>						
E331003	Rodney Walker	14107 Whitecreek	Cedar Springs	Michigan	49319	(616) 696-3600
D644005	Michael Kulp	8130 Gratiot Road	Saginaw	Michigan	48609	(989) 781-3700
<b>MISSOURI</b>						
07964	Hector Gomez	788 Maple Valley Drive	Farmington	Missouri	63640	(573) 756-1000
32076	Hector Gomez	1230 Graham Road	Florissant	Missouri	63031	(314) 921-2717
31631	Brian Johnson	11211 E 40 Hwy	Independence	Missouri	64055	(816) 358-9733
31630	Brian Johnson	1175 Elizabeth St.	Liberty	Missouri	64068	(816) 781-3990
07210	Aaron Moss	2108 N Westwood Blvd	Poplar Bluff	Missouri	63901	(573) 785-1750
31154	Thomas Jorgensen	922 S Limit Street	Sedalia	Missouri	65301	(660) 826-0880
<b>MONTANA</b>						
94750	Brady Steinke	1550 N. 19th Ave	Bozeman	Montana	59718	(406) 587-0716
90203	Todd Stewart	3099 Harrison Ave	Butte	Montana	59701	(541) 281-0949
90257	Todd Stewart	317 Central Avenue West	Great Falls	Montana	59404	(541) 281-0949
94632	Todd Stewart	1345 North 1st	Hamilton	Montana	59840	(541) 281-0949
90208	Todd Stewart	3306 Brooks Street	Missoula	Montana	59801	(541) 281-0949
94132	Curtiss Lafontaine	1 Commercial Way	Whitehall	Montana	59759	(406) 287-3412
<b>NEBRASKA</b>						
08478	Jed Brunken	220 23rd St.	Columbus	Nebraska	68601	(402) 564-0770
31420	Brian Johnson	8220 Giles Road	La Vista	Nebraska	68128	(402) 991-1520
<b>NEW MEXICO</b>						
07644	LJS Opco Two LLC	19 S White Sands Blvd	Alamogordo	New Mexico	88310	(502) 815-6100
08216	Daljit Singh	1304 S. Main St.	Belen	New Mexico	87002	(505) 554-6269
07633	LJS Opco Two LLC	1227 W Pierce	Carlsbad	New Mexico	88220	(502) 815-6100
07458	LJS Opco Two LLC	1101 Mabry Dr.	Clovis	New Mexico	88101	(502) 815-6100
07486	LJS Opco Two LLC	624 W. Bender Blvd.	Hobbs	New Mexico	88240	(502) 815-6100
08059	LJS Opco Two LLC	1011 Rio Rancho Blvd	Rio Rancho	New Mexico	87124	(502) 815-6100
<b>NEW YORK</b>						
D785003	Georgios Menegatos	59 West Merritt Boulevard	Fishkill	New York	12524	(917) 566-1748
J426005	Syed-Talal Kirmani	803 State Route 17C	Owego	New York	13827	(607) 687-3808
08732	Sukhminder Pannu	1919 Vestal Parkway East	Vestal	New York	13850	(607) 786-3500
<b>NORTH DAKOTA</b>						
F275002	Brian Johnson	235 Osborn Drive	Dickinson	North Dakota	58601	(701) 225-3838
F275017	Brian Johnson	3100 South Broadway	Minot	North Dakota	58701	(701) 852-1397
<b>OHIO</b>						
J318001	John Jefferis	1105 East Main Street	Barnesville	Ohio	43713	(740) 425-1773
D480007	FQSR, LLC dba KBP Foods	1113 South Main Street.	Bryan	Ohio	43506	(419) 636-4015
31673	LJS Opco Two LLC	3561 Cleveland Ave.	Columbus	Ohio	43224	(502) 815-6100
31675	LJS Opco Two LLC	4670 W. Broad St.	Columbus	Ohio	43228	(502) 815-6100
31696	David Fletcher	1540 Miamisburg Centerville Rd.	Dayton	Ohio	45459	(937) 439-0325
31697	David Fletcher	2235 Needmore Rd	Dayton	Ohio	45414	(937) 275-5940

Store #	Franchise Partner	Address	City	State	Zip	Phone
31665	LJS Opco One LLC	15891 State Rt. 170	East Liverpool	Ohio	43920	(502) 815-6100
J803001	Michael Kulp	10919 New Haven Road	Harrison	Ohio	45030	(913) 356-6342
31684	LJS Opco Two LLC	1560 Marion-Mt Gilead Rd	Marion	Ohio	43302	(502) 815-6100
31694	David Fletcher	1219 East Ash St	Piqua	Ohio	45356	(937) 773-0174
07194	Jami Feeney	1102 Chillicothe St.	Portsmouth	Ohio	45662	(419) 545-1379
31689	LJS Opco Two LLC	2217 S. Limestone St.	Springfield	Ohio	45505	(502) 815-6100
31687	LJS Opco Two LLC	717 N. Limestone St.	Springfield	Ohio	45503	(502) 815-6100
D480004	FQSR, LLC dba KBP Foods	1180 N. Shoop Avenue	Wauseon	Ohio	43567	(419) 337-5111
31679	LJS Opco Two LLC	4628 E Main St.	Whitehall	Ohio	43213	(502) 815-6100
<b>OKLAHOMA</b>						
31546	LJS Opco Two LLC	2918 S. Douglas Blvd.	Midwest City	Oklahoma	73130-7126	(502) 815-6100
31524	LJS Opco Two LLC	7609 S Western Avenue	Oklahoma City	Oklahoma	73139	(502) 815-6100
31548	LJS Opco Two LLC	2101 NW 122nd St.	Oklahoma City	Oklahoma	73120	(502) 815-6100
31267	Mohammad Choudhry	2425 State Highway 74	Purcell	Oklahoma	73080	(405) 527-5300
31013	Ben Ephie	600 W. Ruth St	Sallisaw	Oklahoma	74955	(918) 790-2070
31537	LJS Opco Two LLC	3152 E 51st St.	Tulsa	Oklahoma	74105	(502) 815-6100
31521	LJS Opco Two LLC	1109 S Garth Brooks Blvd	Yukon	Oklahoma	73099	(502) 815-6100
<b>OREGON</b>						
D947005	David G. Herber	2145 Pacific Blvd. SW	Albany	Oregon	97321	(541) 926-4409
E080044	Brett Sibert	10190 SW Beaverton Hillsdale	Beaverton	Oregon	97005	(425) 486-6336
E080072	Brett Sibert	1101 S.W. First Avenue	Canby	Oregon	97013	(425) 486-6336
E080045	Brett Sibert	10185 SE Sunnyside Rd.	Clackamas	Oregon	97015	(425) 486-6336
E080073	Brett Sibert	7340 NW Butler Road	Hillsboro	Oregon	97124	(425) 486-6336
D947013	David G. Herber	51 Cascade Drive	Lebanon	Oregon	97355	(541) 258-7755
C411001	Greg Schons	1075 SW Highway 97	Madras	Oregon	97741	(541) 475-3368
D947009	David G. Herber	380 S. Pacific Highway	Monmouth	Oregon	97361	(503) 838-4266
90234	Todd Stewart	1639 E. Idaho Avenue	Ontario	Oregon	97914-3007	(541) 281-0949
E080043	Brett Sibert	1308 Molalla Ave.	Oregon City	Oregon	97045	(425) 486-6336
E080021	Brett Sibert	8131 SE Powell Blvd.	Portland	Oregon	97206	(425) 486-6336
D947007	David G. Herber	3937 Devonshire Avenue, N.E.	Salem	Oregon	97305	(503) 391-8868
E080071	Brett Sibert	15971 S. W. Tualatin Sherwood Hwy.	Sherwood	Oregon	97140	(425) 486-6336
<b>PENNSYLVANIA</b>						
31662	LJS Opco One LLC	806 Rostraver Rd.	Belle Vernon	Pennsylvania	15012	(502) 815-6100
31661	LJS Opco One LLC	106 Moraine Pointe Plaza	Butler	Pennsylvania	16001	(502) 815-6100
31492	LJS Opco One LLC	1255 Dubois Ave	Du Bois	Pennsylvania	15801	(502) 815-6100
31645	LJS Opco One LLC	750 Ohio River Blvd.	East Rochester	Pennsylvania	15074	(502) 815-6100
31647	LJS Opco One LLC	100 Tarentum Bridge Rd	New Kensington	Pennsylvania	15068	(502) 815-6100
31660	LJS Opco One LLC	300 Rodi Rd	Penn Hills	Pennsylvania	15235	(502) 815-6100
31499	LJS Opco One LLC	6198 Cressona Mall	Pottsville	Pennsylvania	17901	(502) 815-6100
31495	LJS Opco One LLC	440 Carbondale Scranton Hwy	Scranton	Pennsylvania	18519	(502) 815-6100
31642	LJS Opco One LLC	409 Route 40 W Main St.	Uniontown	Pennsylvania	15401	(502) 815-6100



Store #	Franchise Partner	Address	City	State	Zip	Phone
31656	LJS Opco One LLC	2220 Lebanon Church Rd	West Mifflin	Pennsylvania	15122	(502) 815-6100
<b>SOUTH CAROLINA</b>						
08075	Robert Jenkins	104 E. Blackstock Rd.	Spartanburg	South Carolina	29301	(423) 587-0690
<b>SOUTH DAKOTA</b>						
F275007	Brian Johnson	3401 East 10th Street	Sioux Falls	South Dakota	57103	(605) 336-1710
<b>TENNESSEE</b>						
31891	Robert Jenkins	116 E. Broadway	Newport	Tennessee	37821	(423) 587-0690
025412	Robert Jenkins	970 Pickwick Street	Savannah	Tennessee	38372	(423) 587-0690
31092	Robert Jenkins	403 Hwy 68	Sweetwater	Tennessee	37874	(423) 337-9490
J575059	Alice Schleicher	803 Hwy.76	White House	Tennessee	37188	(615) 285-0444
<b>TEXAS</b>						
31280	Charles Penland	5600 Cameron Rd.	Austin	Texas	78723	(512) 419-9030
31796	LJS Opco Two LLC	9375 Forest Lane	Dallas	Texas	75243	(502) 815-6100
31707	LJS Opco Two LLC	1205 Veterans Blvd	Del Rio	Texas	78840	(502) 815-6100
31822	LJS Opco Two LLC	4561 Western Center Blvd	Fort Worth	Texas	76137	(502) 815-6100
31813	LJS Opco Two LLC	680 W Hwy 303	Grand Prairie	Texas	75051	(502) 815-6100
31310	LJS Opco Two LLC	10270 North Freeway	Houston	Texas	77037	(502) 815-6100
J417001	Rafiq Moosa	733 Hebron Parkway	Lewisville	Texas	75057	(972) 315-8600
31811	LJS Opco Two LLC	1414 N Town E Blvd	Mesquite	Texas	75150	(502) 815-6100
31708	LJS Opco Two LLC	161 Interstate Hwy 35 W	New Braunfels	Texas	78130	(502) 815-6101
31709	LJS Opco Two LLC	12812 I-10 West	San Antonio	Texas	78249	(502) 815-6102
31706	LJS Opco Two LLC	183 SW Military Dr., #2	San Antonio	Texas	78221	(502) 815-6103
31711	LJS Opco Two LLC	3318 SE Military Dr.	San Antonio	Texas	78223	(502) 815-6104
31823	LJS Opco Two LLC	1320 US Highway 77 North	Waxahachie	Texas	75165	(502) 815-6105
<b>UTAH</b>						
94614	Harman Management Corporation	439 E. State St.	American Fork	Utah	84003	(650) 941-5681
95415	Harman Management Corporation	895 West 200 N	Cedar City	Utah	84720	(650) 941-5681
94754	Harman Management Corporation	4761 S. 4015 W	Kearns	Utah	84118	(650) 941-5681
94753	Harman Management Corporation	3554 So. 8400 West	Magna	Utah	84044	(650) 941-5681
94711	Harman Management Corporation	1216 Grant Ave	Ogden	Utah	84404	(650) 941-5681
94718	Harman Management Corporation	433 N. State St.	Orem	Utah	84057	(650) 941-5681
94721	Harman Management Corporation	130 N. Carbonville Rd.	Price	Utah	84501	(650) 941-5681
90022	Harman Management Corporation	1034 S. University Avenue	Provo	Utah	84601	(650) 941-5681
94675	Harman Management Corporation	1827 W. 12600 S	Riverton	Utah	84065	(650) 941-5681
94729	Harman Management Corporation	5445 S. 1900 W	Roy	Utah	84067	(650) 941-5681
94848	Harman Management Corporation	2045 S. 1300 E	Salt Lake City	Utah	84105	(650) 941-5681
95289	Harman Management Corporation	555 E. 400 S	Salt Lake City	Utah	84102	(650) 941-5681
94674	Harman Management Corporation	132 N. Redwood Rd.	Salt Lake City	Utah	84116	(650) 941-5681
95032	Harman Management Corporation	1260 W. 500 S	Vernal	Utah	84078	(650) 941-5681
94860	Harman Management Corporation	3753 Jordan Landing Blvd.	West Jordan	Utah	84088	(650) 941-5681
95380	Harman Management Corporation	1680 West 9000 South	West Jordan	Utah	84088	(650) 941-5681

Store #	Franchise Partner	Address	City	State	Zip	Phone
<b>WASHINGTON</b>						
E080088	Samuel Sibert	11921 W. Sunset Highway	Airway Heights	Washington	99001	(425) 486-6336
E720388	Harman Management Corporation	20601 Highway 410	Bonney Lake	Washington	98390	(650) 941-5681
E080078	Brett Sibert	1120 Barkley Blvd	Bellingham	Washington	98225	(425) 486-6336
E080015	Brett Sibert	619 West Main Street	Centralia	Washington	98531	(425) 486-6336
D181007	Amin Vakil	227 128th St. SW	Everett	Washington	98204	(425) 347-0963
E720356	Harman Management Corporation	2631 West Kennewick Avenue	Kennewick	Washington	99336	(650) 941-5681
G141001	Jeffrey Gray	920 Washington Way	Longview	Washington	98632	(360) 425-4040
C150003	Calvin White	411 E. Third Ave.	Moses Lake	Washington	98837	(509) 765-4333
E080009	Brett Sibert	2003 Riverside Drive	Mount Vernon	Washington	98273	(425) 486-6336
E720476	Harman Management Corporation	2210 W. Court Street	Pasco	Washington	99301	(650) 941-5681
E720456	Harman Management Corporation	11418 Canyon Road East	Puyallup	Washington	98373	(650) 941-5681
E720398	Harman Management Corporation	604 Ranier Ave. S.	Renton	Washington	98055-2409	(650) 941-5681
E720502	Harman Management Corporation	2750 Duportail Street	Richland	Washington	99352	(650) 941-5681
E720403	Harman Management Corporation	10050 16th Ave. SW	Seattle	Washington	98146	(650) 941-5681
E080083	Brett Sibert	2819 E. 29th Street	Spokane	Washington	99223	(425) 486-6336
E720193	Harman Management Corporation	1928 Yakima Valley Hwy.	Sunnyside	Washington	98944	(650) 941-5681
E720373	Harman Management Corporation	2006 Sixth Avenue	Tacoma	Washington	98403	(650) 941-5681
E720374	Harman Management Corporation	11719 Bridgeport Way	Tacoma	Washington	98499	(650) 941-5681
E720375	Harman Management Corporation	14522 Pacific Avenue	Tacoma	Washington	98444	(650) 941-5681
E720359	Harman Management Corporation	595 W. Rose St.	Walla Walla	Washington	99362	(509) 525-2921
C150001	Calvin White	1015 N. Mission Street	Wenatchee	Washington	98801	(509) 662-2171
E720190	Harman Management Corporation	2325 S. First Street	Yakima	Washington	98903	(650) 941-5681
E720189	Harman Management Corporation	107 South 5th Avenue	Yakima	Washington	98902	(650) 941-5681
<b>WEST VIRGINIA</b>						
31757	LJS Opco One LLC	32 Patrick Henry Way	Charles Town	West Virginia	25414	(502) 815-6100
<b>WISCONSIN</b>						
H805010	Michael Kulp	900 U.S. Highway 12	Baraboo	Wisconsin	53913	(608) 356-0747
<b>WYOMING</b>						
07683	Joseph Oleinik	1920 Cliff Davis Drive	Gillette	Wyoming	82716	(307) 682-6280

## Franchise Agreements Signed but Outlet Not Yet Open as of 12/31/2023

<b>Franchisee</b>	<b>Address</b>	<b>City, State</b>	<b>Zip Code</b>	<b>Phone</b>
*Richard Wayne Carns	2750 E Germann Road	Chandler, AZ	85286	(480) 390-8989
Eldringhoff Investments, LLC	No Site Address	Deer Trail, CO	TBD	(303) 884-8367
Brady & Jodi Boell	No Site Address	Carroll, IA	TBD	(712) 830-9070
*Stan Keim	1021 Poplar Street	Wellsville, KS	66095	(785) 285-2147
*Eddie Khoury	No Site Address	Lafayette, LA	TBD	(337) 316-4020
Mike Vinckier	Wadham Road	Kimball Township, MI	48074	(810) 304-1481
Sam Shahram	814 North Spur 56C	Hershey, NE	69143	(801) 392-9584
Robin Greaves	No Site Address	Allegany, NY	TBD	(716) 307-8557
Donald Unruh	1929 Allentown Road	Lima, OH	45805	(419) 348-5440
Luke Fortier	47841 Hwy 58	Oakridge, OR	97463	(541) 990-4934
Deanne Wells	Hwy 13 & Elderberry Road	Colby, WI	54421	(715) 229-4242
Michael Bailey	2502 Roger Sedam Drive	Cody, WY	82414	(307) 851-5171
Sam Shahram	8 Purple Sage Road	Rock Springs, WY	82901	(801) 392-9584

\*Under a Development Agreement

**EXHIBIT B**  
**FINANCIAL STATEMENTS**



Consolidated Financial Statements

for

**A GREAT AMERICAN BRAND, LLC**

Years Ended December 31, 2023 and 2022  
with Independent Auditor's Report

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## **Independent Auditor's Report**

Board of Directors and Members  
A Great American Brand, LLC d/b/a A&W Restaurants  
Lexington, Kentucky

### **Opinion**

We have audited the consolidated financial statements of A Great American Brand, LLC d/b/a A&W Restaurants (the Company), which comprise the consolidated balance sheets as of December 31, 2023 and 2022, the related consolidated statements of income, changes in members' equity and cash flows for the years then ended, and the related notes to the consolidated financial statements (collectively, the financial statements).

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 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 audits in accordance with auditing standards generally accepted in the United States of America (GAAS). 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 audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the 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 financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the 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 financial statements are issued or available to be issued.

### **Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the 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 GAAS 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 judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the 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 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 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.

*Dean Dutton Allen Ford, PLLC*

Lexington, Kentucky  
March 28, 2024



## A GREAT AMERICAN BRAND, LLC

### Consolidated Balance Sheets

December 31, 2023 and 2022

<b>Assets</b>	<b><u>2023</u></b>	<b><u>2022</u></b>
Current assets:		
Cash and cash equivalents	\$ 3,647,814	\$ 4,265,666
Certificates of deposit	6,999,725	-
Investments	-	1,934,699
U.S. franchise/licensee royalties receivable, net	1,106,017	895,354
Inventories	15,136	17,079
Notes receivable, current portion	648,132	8,064
Other receivables, net	131,695	441,721
Prepaid income taxes	88,728	-
Prepaid expenses and other current assets	<u>338,493</u>	<u>503,930</u>
Total current assets	<b>12,975,740</b>	8,066,513
Property and equipment, net	<b>2,716,302</b>	2,897,344
Other non-current assets:		
Notes receivable, less current portion	1,225,853	1,861,514
Certificates of deposit	-	4,499,725
Right-of-use asset - operating leases	1,940,523	2,339,496
Intangible assets, net	14,681,146	15,414,413
Other assets	<u>115,757</u>	<u>41,989</u>
Total assets	<b><u>\$ 33,655,321</u></b>	<b><u>\$ 35,120,994</u></b>

**A GREAT AMERICAN BRAND, LLC**

Consolidated Balance Sheets, continued

December 31, 2023 and 2022

	<u>2023</u>	<u>2022</u>
<b>Liabilities and Members' Equity</b>		
Current liabilities:		
Accounts payable	\$ 121,396	\$ 107,823
Accrued expenses	1,421,062	1,061,514
Accrued market development fees	179,772	98,748
Current portion of operating lease liabilities	383,647	376,493
Current portion of deferred compensation	30,000	-
Current portion of contract liabilities	<u>152,475</u>	<u>637,469</u>
Total current liabilities	<b>2,288,352</b>	2,282,047
Non-current liabilities:		
Deferred tax liability	2,916,878	3,024,198
Operating lease liabilities, less current portion	1,651,398	2,035,173
Deferred compensation, less current portion	3,045,658	3,137,234
Contract liabilities, less current portion	1,079,055	913,560
Other non-current liabilities	<u>30,752</u>	<u>56,274</u>
Total liabilities	<b>11,012,093</b>	11,448,486
Members' equity	<u>22,643,228</u>	<u>23,672,508</u>
Total liabilities and members' equity	<b>\$ <u>33,655,321</u></b>	<b>\$ <u>35,120,994</u></b>

See accompanying notes.

## A GREAT AMERICAN BRAND, LLC

### Consolidated Statements of Income

Years ended December 31, 2023 and 2022

	<u>2023</u>	<u>2022</u>
Contract revenue:		
U.S. royalties	\$ 11,149,143	\$ 10,708,576
Franchise and other fee income	<u>583,001</u>	<u>843,207</u>
Total revenue	<b>11,732,144</b>	11,551,783
Corporate units:		
Sales	1,387,172	1,279,377
Cost of sales	<u>(1,021,832)</u>	<u>(1,019,543)</u>
Gross profit, corporate units	<b>365,340</b>	259,834
Expenses:		
General and administrative expenses	8,789,000	8,598,354
Amortization	733,267	810,079
Advertising trust fund remittances	500,354	548,829
Market development fees	277,254	201,294
Depreciation	<u>251,065</u>	<u>233,984</u>
Total expenses	<u>10,550,940</u>	<u>10,392,540</u>
Operating income	<b>1,546,544</b>	1,419,077
Other income (expense):		
Interest income	241,068	95,885
Interest expense	(7,092)	(9,318)
Loss on disposal of fixed assets	(659)	(28,611)
Other income	<u>11,425</u>	<u>6,816</u>
Total other income	<u>244,742</u>	<u>64,772</u>
Income before income taxes	<b>1,791,286</b>	1,483,849
Income tax provision	<u>(572,424)</u>	<u>(433,555)</u>
Net income	<u>\$ 1,218,862</u>	<u>\$ 1,050,294</u>

See accompanying notes.

**A GREAT AMERICAN BRAND, LLC**

Consolidated Statements of Changes in Members' Equity

Years ended December 31, 2023 and 2022

	Members' Capital	Retained Earnings	Total
Balances, December 31, 2021	\$ 17,895,932	\$ 6,167,880	\$ 24,063,812
Dividends declared	-	(1,441,598)	(1,441,598)
Net income	-	1,050,294	1,050,294
Balances, December 31, 2022	17,895,932	5,776,576	23,672,508
Class A units redeemed	(1,000)	(163)	(1,163)
Dividends declared	-	(2,246,979)	(2,246,979)
Net income	-	1,218,862	1,218,862
Balances, December 31, 2023	<b>\$ 17,894,932</b>	<b>\$ 4,748,296</b>	<b>\$ 22,643,228</b>

*See accompanying notes.*

## A GREAT AMERICAN BRAND, LLC

### Consolidated Statements of Cash Flows

Years ended December 31, 2023 and 2022

	<u>2023</u>	<u>2022</u>
<b>Cash flows from operating activities:</b>		
Net income	\$ 1,218,862	\$ 1,050,294
Adjustments to reconcile net income to net cash provided by operating activities:		
Credit losses (recovery)	87,071	(4,060)
Depreciation	251,065	233,984
Amortization of intangibles	733,267	733,266
Amortization of goodwill	-	76,813
Amortization of premiums and accretion of discounts on investments	-	(6,412)
Reduction of operating lease ROU asset	398,973	431,000
Deferred income taxes	(107,320)	(491,854)
Loss on disposal of property and equipment	659	28,611
Increase (decrease) in cash due to changes in:		
Royalties and other receivables	12,292	(234,926)
Inventories	1,943	6,851
Prepaid expenses and other assets	2,941	(89,662)
Accounts payable	13,573	4,888
Accrued expenses and other liabilities	415,050	(406,864)
Deferred rent	-	(38,448)
Deferred compensation	(61,576)	1,024,136
Operating lease liabilities	(376,621)	(358,830)
Contract liabilities	(319,499)	578,498
	<hr/>	<hr/>
Net cash provided by operating activities	2,270,680	2,537,285
<b>Cash flows from investing activities:</b>		
Proceeds from maturity of certificates of deposits	-	250,000
Payments received on notes receivable	75,648	13,477
Capital expenditures	(70,682)	(42,000)
Purchases of certificates of deposit	(2,500,000)	(4,499,725)
New note disbursement	(80,055)	(623,484)
Proceeds from maturity of investments	1,934,699	-
Purchase of investments	-	(1,928,287)
	<hr/>	<hr/>
Net cash used in investing activities	(640,390)	(6,830,019)

## A GREAT AMERICAN BRAND, LLC

### Consolidated Statements of Cash Flows, continued

Years ended December 31, 2023 and 2022

	<u>2023</u>	<u>2022</u>
<b>Cash flows from financing activities:</b>		
Dividends paid	(2,246,979)	(1,441,598)
Class A units redeemed	<u>(1,163)</u>	<u>-</u>
Net cash used in financing activities	<u>(2,248,142)</u>	<u>(1,441,598)</u>
Net decrease in cash and cash equivalents	(617,852)	(5,734,332)
Cash and cash equivalents, beginning of year	<u>4,265,666</u>	<u>9,999,998</u>
Cash and cash equivalents, end of year	<u>\$ 3,647,814</u>	<u>\$ 4,265,666</u>
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid during the year for:		
Income taxes	\$ 768,225	\$ 712,397
Interest	7,092	9,318
Additions to ROU assets obtained from operating lease liabilities	\$ -	\$ 2,770,496

See accompanying notes.

# A GREAT AMERICAN BRAND, LLC

## Notes to the Consolidated Financial Statements

### 1. Description of the Organization

A Great American Brand, LLC d/b/a A&W Restaurants, and its wholly owned subsidiaries, A Great American Brand Real Estate, LLC and Yorkshire Global Restaurants, Inc. (YGR), and YGR's wholly-owned subsidiary, A&W Restaurants, Inc. (A&W) (collectively, the Company), franchises and licenses A&W restaurants in the United States as well as a United States military base in a foreign country. The Company is headquartered in Lexington, Kentucky. Operations outside of the United States are subject to risks inherent in operating under different legal systems and various political and economic environments. Among the risks are changes in existing regulations and tax laws, possible limitations on foreign investment and income repatriation, and government price or foreign exchange controls.

As of December 31, 2023, the Company operates two corporate-owned restaurant units. All other A&W restaurant units are owned and operated by independent franchisees or licensees under the terms of franchise or license agreements. Franchisees consist of individuals or entities owning just one unit, as well as those owning multiple units. A&W restaurant units serve A&W draft root beer and signature A&W root beer floats, as well as hot dogs, hamburgers, and other similar food items.

### 2. Summary of Significant Accounting Policies

The consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) which require management to make estimates and assumptions that affect the reported amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates. The following is a summary of the significant accounting policies consistently followed by the Company in the preparation of its consolidated financial statements:

#### Consolidation

The consolidated financial statements include the accounts of A Great American Brand, LLC d/b/a A&W Restaurants and its wholly-owned subsidiaries. Significant intercompany transactions and accounts have been eliminated.

#### Adoption of New Accounting Standard

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which creates a new credit impairment standard for financial assets measured at amortized cost and available-for-sale debt securities. The ASU requires financial assets measured at amortized cost (including loans, trade receivables and held-to-maturity debt securities) to be presented at the net amount expected to be collected, through an allowance for credit losses that are expected to occur over the remaining life of the asset, rather than incurred losses. The measurement of credit losses for newly recognized financial assets (other than certain purchased assets) and subsequent changes in the allowance for credit losses are recorded in the consolidated statement of income as the amounts expected to be collected change.

The adoption of the new standard did not result in a cumulative-effect adjustment to the opening balance of members' equity.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity, at time of purchase, of three months or less to be cash equivalents.

The Company has a concentration of credit risk in that it periodically maintains bank accounts which, at times, may exceed the coverage provided by the Federal Deposit Insurance Corporation (FDIC). Cash balances in excess of insured limits were approximately \$1,350,000 and \$4,000,000 as of December 31, 2023 and 2022, respectively.

#### U.S. Franchisee/Licensee Royalties Receivable

The Company's receivables are primarily generated as a result of ongoing business arrangements with franchises and licenses as a result of royalty and license agreements. Receivables consisting of royalties from franchisees and licensees are based on unit sales and are generally due within 30 days of the period in which the corresponding sales occur.

Receivables are recorded net of credit losses of \$26,899 for the year ended December 31, 2023. No allowance was considered necessary for the year ended December 31, 2022. The Company provides a credit loss that is based upon a review of the outstanding receivables, historical collection information, and existing economic conditions. Accounts receivable are written off and recorded in the respective period based upon the specific identification method.

In addition, a portion of the Company's other receivables includes amounts due from franchisees and is recorded net of credit losses. No allowance was considered necessary for both the years ended December 31, 2023 and 2022.

#### Notes and Other Receivables

The Company provides a provision for noncollectible notes and other receivables that is based on management's review of whether debtors are paying in accordance with terms, the existence of adverse situations that may affect the debtor's ability to repay, the estimated value of any collateral, and prevailing economic conditions. At December 31, 2023 and 2022, management determined no provision was necessary for notes or other receivables. Notes and other receivables that are ultimately deemed to be uncollectible are written off against the allowance and recorded in the respective period. The Company does not charge interest on its past due receivables.

#### Inventories

Corporate unit inventories are valued using the first-in, first-out method. All inventories are stated at the lower of cost or net realizable value.



## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Property and Equipment

Property and equipment is recorded at cost, net of accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful life of the assets. Leasehold improvements are amortized over the life of the related asset or the term of the lease, whichever is shorter. The gain or loss on the sale of property and equipment is recorded in the year of disposition. The capitalization threshold used for the years ended December 31, 2023 and 2022 was \$1,000. Estimated useful lives are as follows:

	<u>Years</u>
Land improvements	15
Leasehold improvements	5-15
Building	39
Restaurant equipment	5-7
Fleet vehicles	4
Office equipment and furniture and fixtures	3-7
Signage	5

If facts and circumstances suggest that a long-lived asset may be impaired, the carrying value is reviewed. If this review indicates that the value of the asset will not be recoverable, as determined based on projected undiscounted cash flows related to the asset over its remaining useful life, then the carrying value of the asset is reduced to its estimated fair value. There were no impairments recorded during the years ended December 31, 2023 and 2022.

#### Intangible Assets

Intangible assets consist of franchise rights and brand value. Brand value is estimated as having an indefinite life and therefore is not amortized. Brand value is tested for impairment annually or when circumstances arise that indicate that impairment may have occurred. Franchise rights are amortized over their estimated useful life of 15 years. Franchise rights are tested for impairment as circumstances arise that indicate impairment may have occurred. For December 31, 2023 and 2022, no impairment was indicated.

#### Advertising Fund

The Company remits a portion of certain royalties and license fees collected to an advertising fund that is managed and controlled by the Class C unitholder (Note 12). As of December 31, 2023 and 2022, the balance accrued and payable to the advertising fund was \$50,487 and \$60,323, respectively, and is included in accrued expenses on the consolidated balance sheets. Advertising fund collections are a part of total royalties, and are reported as part of U.S. royalties on the consolidated statements of income. The related advertising fund payments are separately stated in expenses for the years ended December 31, 2023 and 2022.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Revenue Recognition

The Company derives its revenues from three sources: (1) royalties, the Company's primary source of revenue; (2) fees from franchisees; and (3) sales from corporate units. Franchise rights are granted through restaurant-level franchise agreements that set out the terms of the agreement with the franchisee. The franchise agreements require that the franchisee remit royalties to the Company as a percentage of the applicable restaurant's net sales in exchange for the license of the intellectual property associated with the A&W brand. Royalties represent the substantial majority of the consideration the Company receives under the franchise agreements. Royalties are recognized as the related restaurant net sales occur and are billed monthly.

The Company has determined that certain services it provides in exchange for the franchise fees, which primarily relate to pre-opening support, training, and updating to current A&W brand standards upon renewal, are separate and distinct services from the license of intellectual property. The portion of franchise fees related to pre-opening support is considered one performance obligation and is recognized when the performance obligation is satisfied, while the license of the intellectual property associated with the A&W brand is recognized as revenue over the term of each respective franchise agreement. Revenues for franchise fees that are being deferred over the term of franchise agreement are recognized on a straight-line basis, which is consistent with the franchisee's right to use and benefit from the intellectual property.

Pre-opening services provided to franchisees are recognized as a single performance obligation and accounted as distinct from the franchise license. In accordance with the practical expedient, non-public franchisors are entitled to account for pre-opening services provided to a franchisee as distinct from the franchise license if the services are consistent with those included in a predefined list within the guidance. In addition, the practical expedient provides an accounting policy election to recognize the pre-opening services as a single performance obligation.

Sales from the corporate units are recognized upon the completion of a restaurant order which is when the transfer of control of promised products to customers occur. Sales are recognized in an amount that reflects the consideration the Company expects to receive in exchange for those products, and are reported net of any discounts. Cost of sales includes direct and indirect labor, and costs of food, beverage and paper inventory.

In instances where the timing of revenue recognition differs from the timing of invoicing and/or payment, the contracts generally do not include a significant financing component as the period between when the Company transfers a promised good or service to the customer and when the customer pays for that good or service is one year or less. Contract liabilities represent amounts collected from franchisees in excess of revenues recognized. Contract liabilities include the portion of franchise fees related to the license of the intellectual property, which is recognized as revenue over the term of the underlying franchise agreement. In addition, contract liabilities include franchise fees collected at the signing of a franchise agreement for which performance obligations, such as pre-opening services, have yet to be satisfied.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Revenue Recognition, continued

The Company receives a management fee from A Great American Brand International Pte. LTD (AGABI), a related party through common ownership (Note 13). These fees are recorded monthly as earned within other fee income on the consolidated statements of income.

#### Leases

Lease assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease, measured on a discounted basis. The Company determines if an arrangement is, or contains, a lease at inception of the agreement, which is the date on which the terms of the contract are agreed to, and the agreement creates enforceable rights and obligations. A contract is or contains a lease when (i) explicitly or implicitly identified assets have been deployed in the contract and (ii) the Company obtains substantially all of the economic benefits from the use of that underlying asset and directs how and for what purpose the asset is used during the term of the contract. The Company also considers whether its service arrangements include the right to control the use of an asset.

The Company has made an accounting policy election not to recognize right-of-use (ROU) assets and lease liabilities for leases with a term of 12 months or less. Lease expense for such leases is recognized on a straight-line basis over the lease term. For all other leases, they are classified as either finance or operating leases.

Operating leases are included in right-of-use asset - operating leases, and operating lease liabilities (current and non-current) in the consolidated balance sheets. Operating lease expense is recognized on a straight-line basis over the lease term.

Operating lease ROU assets and liabilities are recognized at the lease commencement date based on the present value of future lease payments over the lease term. The ROU assets also include any initial direct costs incurred and lease payments made at or before the commencement date of the lease, and are reduced by any lease incentives.

For leases that do not provide an implicit rate, the Company has made an accounting policy election to utilize a risk-free borrowing rate, which is aligned with the lease term at the lease commencement date.

Lease terms may include options to extend or terminate the lease. Where management concludes that it is reasonably certain that a renewal or termination option will be exercised, that renewal period or termination option is used to determine the lease term and the related payments that are reflected in the ROU asset and lease liability.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Leases, continued

Some of the Company's leases include variable lease payments. Variable lease payments are only included in measuring ROU assets and lease liabilities if they depend on an index or a rate, or are in substance fixed payments. Variable payments that are not included in measuring the ROU assets are expensed when incurred. Subsequent changes of an index and other periodic market-rate adjustments to base rent are recorded in variable lease expense in the period incurred. Residual value guarantees or payments for terminating the lease are included in the lease payments only when it is probable they will be incurred.

Lease agreements with lease and non-lease components are generally accounted for separately based upon the standalone price of the separate lease and non-lease components at the commencement date of the lease. The non-lease components generally relate to the separate payments made to the lessor based on the lessor's property and casualty insurance costs and the property taxes assessed on the property, as well as a portion of the common area maintenance costs associated with the property. The non-lease components are variable in nature and are recorded in variable lease expense in the period incurred.

#### Advertising Costs

Advertising costs are expensed as incurred and are included in general and administrative expenses in the consolidated statements of income. Advertising costs were \$190,082 and \$188,602 for the years ended December 31, 2023 and 2022, respectively.

#### Income Taxes

The Company is a limited liability company that has elected to be taxed as a corporation and will file a consolidated return. The Company accounts for its income taxes using accounting for income taxes which requires recognition of deferred tax liabilities and assets for the expected future tax consequences of events that have been included in the consolidated financial statements or tax returns. Deferred taxes are provided on a liability method whereby deferred tax assets are recognized for deductible temporary differences and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax bases. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of changes in tax laws and rates on the date of enactment. The Company may be subject to U.S. personal holding company (PHC) tax in certain tax years.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Income Taxes, continued

The Company may recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position. The tax benefits recognized in the consolidated financial statements from such a position are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. The Company has evaluated the tax positions taken on all income tax returns that remain open to examination by the respective taxing authorities. The Company does not believe that there are any uncertain positions on those returns that require recognition or disclosure in the consolidated financial statements.

The Company has filed its federal and state income tax returns for periods through December 31, 2022, and is subject to routine audits by taxing jurisdictions. These income tax returns are generally open to examination by the relevant taxing authorities for a period of three years from the later of the date the return was filed or its due date (including approved extensions).

#### Subsequent Events

Management has evaluated subsequent events for accounting and disclosure requirements through March 28, 2024, the date that the consolidated financial statements were available to be issued.

### 3. Contract Balances

Receivables and contract balances from contracts with customers were as follows at December 31:

	<u>2023</u>	<u>2022</u>
U.S. franchisee/licensee royalties receivable, net	\$ 1,106,017	\$ 895,354
Contract liabilities:		
Deferred franchise fees subject to amortization	\$ 514,030	\$ 512,929
Deferred franchise fees not subject to amortization	717,500	622,500
Deferred convention receipts	<u>-</u>	<u>415,600</u>
Total contract liabilities	<u>\$ 1,231,530</u>	<u>\$ 1,551,029</u>

U.S. franchisee/licensee royalties receivable as of January 1, 2022 totaled \$853,882. Total contract liabilities as of January 1, 2022 totaled \$972,531.

### 4. Certificates of Deposit

Certificates of deposit with an initial value of \$6,999,725 and \$4,499,725 were held at December 31, 2023 and 2022, respectively. Certificates held at December 31, 2023 and 2022 mature in 2024. At December 31, 2023 the interest rates on certificates of deposit ranged from 1.55% to 5.50%. At December 31, 2022 the interest rates on certificates of deposit ranged from 1.55% to 4.15%.

## A GREAT AMERICAN BRAND, LLC

### Notes to the Consolidated Financial Statements, continued

#### 5. Investments

Investments consist of a U.S. Treasury Note totaling \$1,934,699 at December 31, 2022. The note matured on October 31, 2023 and paid interest at a rate of 0.375%. Investment income is included in interest income on the consolidated statements of income.

#### 6. Notes Receivable

##### Franchise Note Receivable

Certain notes receivable held by the Company relate to ongoing business agreements with its franchisees and licensees and may be considered to have similar risk characteristics for purposes of estimating the related allowance for credit losses. The balance of the note receivable due within one year is included in notes receivables current portion, whereas amounts due beyond one year are reflected as non-current on the consolidated balance sheets. The balance of the franchise related note receivable, net of allowances, was \$12,471 as of December 31, 2023. There was no balance as of December 31, 2022.

##### Equipment Note Receivable

During 2021, the Company signed an unsecured promissory note with Restaurant Supply Chain Solutions, LLC (RSCS) totaling \$253,074 to enable the supplier to keep equipment on-hand for the opening of new A&W franchises. During 2022, the note was amended and restated to increase the total note borrowings to \$876,558. Repayment of the note will occur in installments whenever RSCS sells the equipment to new franchisees, except that the full amount of the note must be paid by March 31, 2024. On March 15, 2024, the note was amended to revise the repayment terms and extend the maturity date to March 31, 2025. The balance of this note receivable at December 31, 2023 and 2022, was \$876,558 and is included in non-current assets.

##### Mortgage Notes Receivable

The Company holds notes receivable from the sale of several real estate properties. The notes required interest-only payments at 4.00% until the notes matured in November 2017, at which time the note holders elected to extend the notes in accordance with the terms in the note. The notes now mature through January 2025 and bear interest rates ranging from 4.35% to 4.50%. These notes are secured by the underlying properties and all holders have paid according to terms through December 31, 2023. Management monitors these notes to ensure payments are received in accordance with terms and, based on the note holders' payment history, believes these to be fully collectible. The balances of these mortgage notes receivable at December 31, 2023 and 2022, were \$984,956 and \$993,020, respectively, and are recorded between current and non-current assets based on the repayment terms of the notes.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 7. Property and Equipment

Property and equipment consists of the following at December 31:

	<u>2023</u>	<u>2022</u>
Land improvements	\$ 338,314	\$ 338,314
Land	1,381,519	1,381,519
Leasehold improvements	920,775	920,775
Building	750,480	750,480
Restaurant equipment	489,962	518,822
Fleet vehicles	38,400	38,400
Office equipment and furniture and fixtures	302,665	272,012
Signage	<u>203,361</u>	<u>203,361</u>
	<b>4,425,476</b>	4,423,683
Accumulated depreciation	<u>(1,709,174)</u>	<u>(1,526,339)</u>
	<b>\$ <u>2,716,302</u></b>	<b>\$ <u>2,897,344</u></b>

### 8. Intangible Assets

Intangible assets are comprised of the following at December 31:

	<u>2023</u>	<u>2022</u>
Franchise rights	\$ 10,999,000	\$ 10,999,000
Accumulated amortization	<u>(8,822,854)</u>	<u>(8,089,587)</u>
	<b>2,176,146</b>	2,909,413
Brand value	<u>12,505,000</u>	<u>12,505,000</u>
Intangible assets, net	<b>\$ <u>14,681,146</u></b>	<b>\$ <u>15,414,413</u></b>

At December 31, 2023, the estimated annual amortization of franchise rights is as follows for the years ended December 31:

2024	\$ 733,267
2025	733,267
2026	<u>709,612</u>
	<b>\$ <u>2,176,146</u></b>

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 9. Leases

The Company is party to various operating leases for office and restaurant space as well as fleet vehicles. These leases have terms ranging from 3 to 15 years, expiring through 2029, with renewal options to extend in some cases. The components of lease expense for the years ended December 31, were as follows:

	<u>2023</u>	<u>2022</u>
Operating lease cost	\$ 438,760	\$ 406,748
Short term lease cost	<u>8,276</u>	<u>36,734</u>
Total lease cost	<u>\$ 447,036</u>	<u>\$ 443,482</u>

Lease expense for both years is reported in general and administrative expenses. The weighted average remaining lease term was 5.6 and 6.4 years and the weighted average discount rate was 1.77% and 1.83% for the years ended December 31, 2023 and 2022, respectively.

Maturities of these operating lease liabilities as of December 31, 2023 were as follows:

Year ending December 31,	
2024	\$ 415,547
2025	375,337
2026	340,480
2027	343,064
2028	345,692
Thereafter	<u>309,598</u>
Total lease payments	2,129,718
Less imputed interest	<u>(94,673)</u>
Total	<u>\$ 2,035,045</u>



## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 10. Deferred Compensation - Phantom Equity Plan

On December 19, 2012, the Company entered into a deferred phantom equity compensation agreement with an employee. Under the deferred compensation agreement, the employee is awarded one Appreciation Unit and one Full Value Unit. The Appreciation Unit is defined as 5.0% of the lesser of: (i) Final Enterprise Value (based on four times combined earnings before interest, taxes, depreciation and amortization of the Company and its affiliates) over the Base Enterprise Value of \$31,000,000, or (ii) Final Equity Value (Final Enterprise Value less debt of the Company and its affiliates) over Base Equity Value of \$17,000,000. The Full Value Unit is defined as 5.0% of the Final Equity Value. Both the Appreciation Unit and Full Value Unit (collectively referred to as the Units) will be determined as of the earlier of: (i) the employee's termination of employment, or (ii) with respect to 20% of the total as yet-unpaid Full Value and Appreciation Units, on each January 1, 2017, 2018, 2019, 2020, and 2021 (Initial Payment Triggering Dates). Under the agreement, the employee may elect to defer each of the Initial Payment Triggering Dates to a new date, at least five years into the future. During 2023, the employee elected to defer each of these payments to a new five year period beginning on January 1, 2026.

Effective January 1, 2020, the Company entered into a deferred phantom equity compensation agreements with other executive employees. Under the deferred compensation agreements, the employees are awarded one Appreciation Unit. Each Appreciation Unit is defined as a percentage (ranging from 3.0% - 5.0%), aggregating 8.0%, of the lesser of: (i) Final Value (based on four times combined earnings before interest, taxes, depreciation and amortization of A&W Restaurants, Inc.) over the Base Value of \$8,000,000, or (ii) Final Equity Value (Final Value less debt of A&W Restaurants, Inc.) over Base Equity Value of \$8,000,000. The Appreciation Units will be determined as of the earlier of: (i) each employee's termination of employment, or (ii) with respect to 20% of the total as yet-unpaid Appreciation Units, annually on each January 1, from 2023 through 2027 (Initial Payment Triggering Dates) based on the terms in each of the agreements. The Appreciation Units shall vest on January 1, 2023. Each employee may elect to defer the Initial Payment Triggering Dates to a new date, at least five years in the future. In 2023, one employee with the compensation agreement vesting on January 1, 2025 elected to defer the Initial Payment Triggering Date, such that the Initial Payment Triggering date now occurs on each January 1, from 2026 through 2030. Subsequent to year-end, one employee with the compensation agreement terminated employment, triggering four equal annual payments beginning June 2024.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 10. Deferred Compensation - Phantom Equity Plan, continued

Effective July 12, 2023, the Company entered into a deferred phantom equity compensation agreement with an executive employee. Under the deferred compensation agreement, the employee is awarded one Appreciation Unit and one Full Value Unit. The Appreciation Unit is defined as 3.0% of the lesser of: (i) Final Value (based on four times combined earnings before interest, taxes, depreciation and amortization of A&W Restaurants, Inc.) over the Base Value of \$12,000,000, or (ii) Final Equity Value (Final Value less debt of A&W Restaurants, Inc.) over Base Equity Value of \$12,000,000. The Full Value Unit is defined as 3.0% of the Final Equity Value. The Appreciation Units shall vest on the first five anniversaries of the date on which the units are awarded. The Full Value Units shall vest upon the earlier of: (i) a change of control, or (ii) the fifth anniversary of the date on which such Full Value Units were awarded if executive remains employed. Both the Appreciation Units and the Full Value Units will be determined as of the earlier of: (i) the employee's termination of employment, or (ii) with respect to 20% of the total as yet-unpaid Appreciation Units and Full Value units, annually on each July 12, 2028 through 2032 (Initial Payment Triggering Dates) based on the terms in the agreement. The employee may elect to defer the Initial Payment Triggering Dates to a new date, at least five years into the future.

Deferred compensation cost is recognized over the service period with a corresponding credit to deferred compensation liability based on the Units' value calculated at that time. Deferred compensation liability totaled \$3,075,658 and \$3,137,234 at December 31, 2023 and 2022, respectively, and is classified as current and non-current on the consolidated balance sheets based on the underlying payment dates.

### 11. Income Taxes

The income tax expense (benefit) consists of the following for the years ended December 31:

	<u>2023</u>	<u>2022</u>
Current income tax expense:		
Federal	\$ 499,606	\$ 687,183
State	<u>180,138</u>	<u>238,226</u>
Total current income tax expense	<b>679,744</b>	925,409
Deferred income tax benefit:		
Federal	(146,722)	(408,570)
State	<u>39,402</u>	<u>(83,284)</u>
Total deferred income tax benefit	<u>(107,320)</u>	<u>(491,854)</u>
Total income tax expense	<b><u>\$ 572,424</u></b>	<b><u>\$ 433,555</u></b>

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 11. Income Taxes, continued

The major temporary differences between the financial statements and tax returns which give rise to deferred taxes are shown below as of December 31:

	<u>2023</u>	<u>2022</u>
Deferred tax assets:		
Allowance for receivables	\$ 7,164	\$ -
Accrued expenses	12,768	8,927
Sublease settlement liability	14,987	20,623
Store development	47,878	25,674
Other accrued liabilities	39,949	97,500
Contract liabilities	131,435	130,567
Right-of-use asset - operating leases	541,987	627,033
Deferred compensation liability	<u>819,131</u>	<u>815,681</u>
Total deferred tax assets	<b>1,615,299</b>	1,726,005
Deferred tax liabilities:		
Prepaid expenses and other assets	(32,203)	(34,824)
Property and equipment	(73,175)	(99,363)
Intangible assets	(3,909,985)	(4,007,747)
Operating lease liabilities	<u>(516,814)</u>	<u>(608,269)</u>
Total deferred tax liabilities	<u>(4,532,177)</u>	<u>(4,750,203)</u>
Total deferred tax liabilities, net	<b>\$ (2,916,878)</b>	<b>\$ (3,024,198)</b>

In December 2013, the Company entered into a tax incentive agreement with the Kentucky Economic Development Finance Authority. Under the terms of the agreement, the Company is eligible to receive aggregate tax credits up to \$600,000 over 10 years (not to exceed \$60,000 per year, from 2016 through 2025) that can be applied to Kentucky state income tax or state payroll tax. The awarding of the annual tax credit is contingent upon the Company meeting defined employment and wage requirements. Due to uncertainties regarding the continued achievement of the defined requirements, management has elected to recognize the deferred tax benefit only to the extent of the amounts earned in the current year. During both years ended December 31, 2023 and 2022, a credit of \$60,000 was used to reduce payroll taxes owed to the Commonwealth of Kentucky, respectively.

### 12. Members' Equity

The Company has two classes of units. The number of Class A voting units authorized, issued and outstanding consists of 13,000,000 and 13,001,000 as of December 31, 2023 and 2022. The number of Class C preferred units authorized, issued and outstanding consists of 4,894,932 as of December 31, 2023 and 2022. During the year ended December 31, 2023, the Company retired 1000 of the Class A units for \$1,163. The excess of the purchase price over the member's capital was charged to retained earnings.

## **A GREAT AMERICAN BRAND, LLC**

Notes to the Consolidated Financial Statements, continued

### **12. Members' Equity, continued**

All units contain transfer restrictions. Each unitholder is allowed a preemptive right with respect to any issuance of membership units. The Company has the right of first refusal to acquire any units being offered for sale. The Class C preferred unitholders receive a 3% per annum dividend on their units. During the years ended December 31, 2023, and 2022 an equitable cash dividend of \$2,100,131 and \$1,294,750, respectively, was declared to Class A voting unitholders. For each of the years ended December 31, 2023 and 2022, dividends declared were recorded of \$2,246,979 and \$1,441,598, respectively. The membership agreement includes certain liquidation preferences by which Class C unitholders shall first receive all accrued but unpaid dividends, with remaining amounts distributed to Class A and Class C unitholders based on their proportionate units, provided that Class C unitholders shall not receive more than \$1.00 per Class C unit.

In accordance with the terms of the membership agreement, beginning on January 1, 2036, and on every fifth anniversary thereafter, the Company will have the right to purchase all of the issued and outstanding Class C preferred units for an aggregate purchase price equal to \$1.00 per unit, plus the amount of any accrued and unpaid Class C dividends. Additionally, beginning on January 2, 2017, and on every fifth anniversary thereafter, the holders of Class C preferred units will have the right to cause the Company to purchase all of the Class C preferred units owned by the unit holders for an aggregate purchase price equal to \$1.00 per unit.

Per the membership agreement, no member will have personal liability for the Company's obligations or liabilities by virtue of membership status. Members are required to make additional capital contributions at such times and amounts as may be called for by the Board of Directors and agreed to by the Class A and Class C unitholders.

### **13. Related Party Transactions**

Among related party transactions described in Note 2 and Note 15, the Company has a management services agreement with AGABI to provide administration and consulting services to support the international operations of the brand. The initial term of the agreement was for one year and has been completed. The agreement continues on a year to year basis until either party gives written notice to cancel. The agreement allows for an initial annual fee of \$180,000 and subsequent annual fees adjusted yearly by a factor equal to the percentage increase, if any, of the Consumer Price Index. The management fee is receivable in monthly installments. Total revenues earned under this agreement for the years ended December 31, 2023 and 2022 were \$201,640 and \$185,000, respectively. As of December 31, 2023 and 2022, the related receivable was \$17,887 and \$17,042, respectively.

In accordance with an agreement with a member of the Company, the Company paid \$125,000 annually for consulting services rendered. The Company expenses the consulting payments as services are rendered. During 2023, the agreement was terminated with the final billing occurring in February 2023.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 14. Retirement Plan

The Company offers a defined contribution retirement plan to provide retirement benefits to all full-time employees under the provisions of Section 401(k) of the Internal Revenue Code. The Company, at its discretion, may choose to match 50% of each employee's contributions up to 3% of wages. The plan also allows for discretionary profit sharing contributions. Contributions are based on W-2 wages. In order to become eligible, employees must be at least 21 years of age and complete three consecutive months of service. To receive matching contributions, employees must complete one year of service in addition to meeting the age requirement. Employees vest in their matching contributions 20% each year, over 5 years. The Company did not authorize a profit sharing contribution for either year ended December 31, 2023 or 2022. Total employer contributions for the years ended December 31, 2023 and 2022, were \$93,754 and \$91,503, respectively.

### 15. Commitments and Contingencies

From time to time, the Company may temporarily reduce royalty rates as a means to settle disputes and grow the number of operating units. These arrangements often require franchisee investments in exchange for lower royalty payments. Any financial impact associated with these modifications are recorded during the respective annual period.

In the normal course of business, there are various contingent liabilities such as legal claims which are not reflected in the consolidated financial statements. The Company records a liability for such matters when a loss becomes probable and the amount is reasonably estimable. The Company does not anticipate any material losses from such claims.

The Company has a market development obligation requiring an annual payment based upon a defined rate per store, for specified stores, and the number of open stores on each June 30 annual measurement date. The rate per store was fixed through 2013 at which time it adjusted for the cumulative year Consumer Price Index since inception. The annual payments continue through June 30, 2024, as long as the stores are open and operational. The Company accrues and expenses these payments throughout the year for the stores that are under this contract. As of December 31, 2023 and 2022, the balance of this liability is \$179,772 and \$98,748.

The Company is a party to a purchasing program management agreement for the U.S. between Restaurant Supply Chain Solutions, LLC (RSCS) and A&W National Purchasing Co-op, Inc. (A&W Co-op). RSCS supplies inventories and equipment for use in A&W restaurants. The A&W Co-op receives fees from RSCS. Fees in excess of expenses are returned through participation dividends to franchise operators. The Company does not own or control A&W Co-op, however it approves suppliers as well as inventories and equipment used in the restaurants. The term of the agreement is one year, with automatic renewals for successive one year terms unless terminated by either party with six months notice. In conjunction with the purchasing program management agreement, the Company has provided a payment guarantee for purchases made by A&W Co-op in an aggregate amount not to exceed \$750,000. As of December 31, 2023 and 2022, A&W Co-op is current with all obligations under the agreement, and therefore the Company has not incurred any liabilities, or made any payments, related to this guarantee.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 15. Commitments and Contingencies, continued

#### Sublease Settlement Liability

As part of a settlement agreement related to termination of a real estate lease, the Company has agreed to, jointly with a third party (Party A), evenly share in any remaining lease obligation payments through termination of the lease in 2026. Party A currently occupies a portion of the leased location whereas the Company has no physical presence. The Company and Party A have agreed to sublease a portion of the leased location to another third party (Party B), through January 2026, with monthly sublease payments of \$1,650 through expiration of the lease. Under the settlement agreement, the Company will receive reimbursement from Party A, equal to 50% of the Company's portion of the monthly rent payment, for every month in which Party B remits rent. As of December 31, 2023 and 2022, the present value of minimum lease payments net of expected sublease reimbursements under this agreement was \$56,273 and \$79,319, respectively.

Minimum future lease payments under the accrued liability are as follows for the years ending December 31:

2024	\$	30,113
2025		30,113
2026		<u>2,509</u>
		62,735
Amount representing interest		<u>6,462</u>
Total principal payments		56,273
Less: current portion		<u>25,521</u>
	\$	<u>30,752</u>



Consolidated Financial Statements

for

**A GREAT AMERICAN BRAND, LLC**

Years Ended December 31, 2022 and 2021  
with Report of Independent Auditors

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## Report of Independent Auditors

Board of Directors and Members  
A Great American Brand, LLC d/b/a A&W Restaurants  
Lexington, Kentucky

### Opinion

We have audited the consolidated financial statements of A Great American Brand, LLC d/b/a A&W Restaurants (the Company), which comprise the consolidated balance sheets as of December 31, 2022 and 2021, the related consolidated statements of income, changes in members' equity and cash flows for the years then ended, and the related notes to the consolidated financial statements (collectively, the financial statements).

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, 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 audits in accordance with auditing standards generally accepted in the United States of America (GAAS). 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 audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Emphasis of Matter

As discussed in Note 2 to the financial statements, effective January 1, 2022, the Company adopted Accounting Standards Update 2016-02, *Leases (Topic 842)* and associated amendments. Our opinion is not modified with respect to this matter.

### Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the 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 financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the 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 financial statements are issued or available to be issued.

### **Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the 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 GAAS 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 judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the 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 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 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.

*Dean Dotson Allen Ford, PLLC*

Louisville, Kentucky  
March 30, 2023

## A GREAT AMERICAN BRAND, LLC

### Consolidated Balance Sheets

December 31, 2022 and 2021

<b>Assets</b>	<u><b>2022</b></u>	<u><b>2021</b></u>
Current assets:		
Cash and cash equivalents	\$ <b>4,265,666</b>	\$ 9,999,998
Certificates of deposit	-	250,000
Investments	<b>1,934,699</b>	-
U.S. franchise/licensee royalties receivable, net	<b>895,354</b>	853,882
Inventories	<b>17,079</b>	23,930
Notes receivable, current portion	<b>884,622</b>	264,363
Other receivables, net	<b>441,721</b>	244,207
Prepaid income taxes	-	83,321
Prepaid expenses and other current assets	<u><b>503,930</b></u>	<u>293,405</u>
Total current assets	<b>8,943,071</b>	12,013,106
Property and equipment, net	<b>2,897,344</b>	3,117,939
Other non-current assets:		
Notes receivable, less current portion	<b>984,956</b>	995,208
Certificates of deposit	<b>4,499,725</b>	-
Right-of-use asset - operating leases	<b>2,339,496</b>	-
Intangible assets, net	<b>15,414,413</b>	16,147,679
Goodwill, net	-	76,813
Other assets	<u><b>41,989</b></u>	<u>79,531</u>
Total assets	<u><b>\$ 35,120,994</b></u>	<u>\$ 32,430,276</u>

**A GREAT AMERICAN BRAND, LLC**

Consolidated Balance Sheets, continued

December 31, 2022 and 2021

	<u>2022</u>	<u>2021</u>
<b>Liabilities and Members' Equity</b>		
Current liabilities:		
Accounts payable	\$ 107,823	\$ 102,935
Accrued expenses	1,061,514	1,445,333
Accrued market development fees	98,748	98,748
Current portion of operating lease liabilities	376,493	-
Current portion of contract liabilities	<u>637,469</u>	<u>233,883</u>
Total current liabilities	<b>2,282,047</b>	1,880,899
Non-current liabilities:		
Deferred tax liability	3,024,198	3,516,052
Operating lease liabilities, less current portion	2,035,173	-
Deferred compensation	3,137,234	2,113,098
Deferred rent	-	38,448
Contract liabilities, less current portion	913,560	738,648
Other non-current liabilities	<u>56,274</u>	<u>79,319</u>
Total liabilities	<b>11,448,486</b>	8,366,464
Members' equity	<u>23,672,508</u>	<u>24,063,812</u>
Total liabilities and members' equity	<b>\$ <u>35,120,994</u></b>	<b>\$ <u>32,430,276</u></b>

See accompanying notes.

**A GREAT AMERICAN BRAND, LLC**

Consolidated Statements of Income

Years ended December 31, 2022 and 2021

	<u>2022</u>	<u>2021</u>
Contract revenue:		
U.S. royalties	\$ <b>10,708,576</b>	\$ 10,990,349
Franchise and other fee income	<u>843,207</u>	<u>447,156</u>
Total revenue	<b>11,551,783</b>	11,437,505
Corporate units:		
Sales	<b>1,279,377</b>	1,621,741
Cost of sales	<u>(1,019,543)</u>	<u>(1,194,131)</u>
Gross profit, corporate units	<b>259,834</b>	427,610
Expenses:		
General and administrative expenses	<b>8,598,354</b>	8,307,183
Amortization	<b>810,079</b>	810,079
Advertising trust fund remittances	<b>548,829</b>	603,698
Market development fees	<b>201,294</b>	198,762
Depreciation	<u>233,984</u>	<u>267,892</u>
Total expenses	<u><b>10,392,540</b></u>	<u>10,187,614</u>
Operating income	<b>1,419,077</b>	1,677,501
Other income (expense):		
Interest income	<b>95,885</b>	86,378
Interest expense	<b>(9,318)</b>	(12,343)
Loss on disposal of fixed assets	<b>(28,611)</b>	(9,439)
Other income	<u>6,816</u>	<u>1,703</u>
Total other income	<u><b>64,772</b></u>	<u>66,299</u>
Income before income taxes	<b>1,483,849</b>	1,743,800
Income tax provision	<u>(433,555)</u>	<u>(483,947)</u>
Net income	<u><b>\$ 1,050,294</b></u>	<u>\$ 1,259,853</u>

See accompanying notes.

## A GREAT AMERICAN BRAND, LLC

### Consolidated Statements of Changes in Members' Equity

Years ended December 31, 2022 and 2021

	<u>Members' Capital</u>	<u>Retained Earnings</u>	<u>Total</u>
Balances, December 31, 2020	\$ 17,895,932	\$ 7,905,096	\$ 25,801,028
Dividends declared	-	(2,997,069)	(2,997,069)
Net income	<u>-</u>	<u>1,259,853</u>	<u>1,259,853</u>
Balances, December 31, 2021	17,895,932	6,167,880	24,063,812
Dividends declared	-	(1,441,598)	(1,441,598)
Net income	<u>-</u>	<u>1,050,294</u>	<u>1,050,294</u>
Balances, December 31, 2022	<u>\$ 17,895,932</u>	<u>\$ 5,776,576</u>	<u>\$ 23,672,508</u>

See accompanying notes.

**A GREAT AMERICAN BRAND, LLC**

Consolidated Statements of Cash Flows

Years ended December 31, 2022 and 2021

	<u>2022</u>	<u>2021</u>
<b>Cash flows from operating activities:</b>		
Net income	\$ 1,050,294	\$ 1,259,853
Adjustments to reconcile net income to net cash provided by operating activities:		
Net recoveries of bad debt	(4,060)	(6,702)
Depreciation	233,984	267,892
Amortization of intangibles	733,266	733,267
Amortization of goodwill	76,813	76,813
Amortization of premiums and accretion of discounts on investments	(6,412)	-
Reduction of operating lease ROU asset	431,000	-
Deferred income taxes	(491,854)	(438,474)
Loss on disposal of property and equipment	28,611	9,439
Increase (decrease) in cash due to changes in:		
Royalties and other receivables	(234,926)	(205,102)
Inventories	6,851	(716)
Prepaid expenses and other assets	(89,662)	321,192
Accounts payable	4,888	(22,362)
Accrued expenses and other liabilities	(406,864)	(129,981)
Deferred rent	(38,448)	(3,606)
Deferred compensation	1,024,136	555,882
Operating lease liabilities	(358,830)	-
Contract liabilities	578,498	235,733
Net cash provided by operating activities	<u>2,537,285</u>	<u>2,653,128</u>
<b>Cash flows from investing activities:</b>		
Proceeds from maturity of certificates of deposits	250,000	4,000,000
Payments received on notes receivable	13,477	10,742
Capital expenditures	(42,000)	(202,763)
Purchases of certificates of deposit	(4,499,725)	-
New note disbursement	(623,484)	(253,074)
Purchase of investments	<u>(1,928,287)</u>	<u>-</u>
Net cash (used in) provided by investing activities	<u>(6,830,019)</u>	<u>3,554,905</u>

## A GREAT AMERICAN BRAND, LLC

### Consolidated Statements of Cash Flows, continued

Years ended December 31, 2022 and 2021

	<u>2022</u>	<u>2021</u>
<b>Cash flows from financing activities:</b>		
Dividends paid	<u>(1,441,598)</u>	<u>(2,997,069)</u>
Net cash used in financing activities	<u>(1,441,598)</u>	<u>(2,997,069)</u>
Net (decrease) increase in cash and cash equivalents	<b>(5,734,332)</b>	3,210,964
Cash and cash equivalents, beginning of year	<u>9,999,998</u>	<u>6,789,034</u>
Cash and cash equivalents, end of year	<b><u>\$ 4,265,666</u></b>	<b><u>\$ 9,999,998</u></b>
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid during the year for:		
Income taxes	<b>\$ 712,397</b>	\$ 562,905
Interest	<b>9,318</b>	12,343
Additions to ROU assets obtained from operating lease liabilities	<b>\$ 2,770,496</b>	\$ -

See accompanying notes.



## **A GREAT AMERICAN BRAND, LLC**

### Notes to the Consolidated Financial Statements

#### **1. Description of the Organization**

A Great American Brand, LLC d/b/a A&W Restaurants, and its wholly owned subsidiaries, A Great American Brand Real Estate, LLC and Yorkshire Global Restaurants, Inc. (YGR), and YGR's wholly-owned subsidiary, A&W Restaurants, Inc. (A&W) (collectively, the Company), franchises and licenses A&W restaurants in the United States as well as United States military bases in two foreign countries. The Company is headquartered in Lexington, Kentucky. Operations outside of the United States are subject to risks inherent in operating under different legal systems and various political and economic environments. Among the risks are changes in existing regulations and tax laws, possible limitations on foreign investment and income repatriation, and government price or foreign exchange controls.

As of December 31, 2022, the Company operates two corporate-owned restaurant units. All other A&W restaurant units are owned and operated by independent franchisees or licensees under the terms of franchise or license agreements. Franchisees consist of individuals or entities owning just one unit, as well as those owning multiple units. A&W restaurant units serve A&W draft root beer and signature A&W root beer floats, as well as hot dogs, hamburgers, and other similar food items.

#### **2. Summary of Significant Accounting Policies**

The consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) which require management to make estimates and assumptions that affect the reported amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates. The following is a summary of the significant accounting policies consistently followed by the Company in the preparation of its consolidated financial statements:

##### Consolidation

The consolidated financial statements include the accounts of A Great American Brand, LLC d/b/a A&W Restaurants and its wholly-owned subsidiaries. Significant intercompany transactions and accounts have been eliminated.

##### Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity, at time of purchase, of three months or less to be cash equivalents.

The Company has a concentration of credit risk in that it periodically maintains bank accounts which, at times, may exceed the coverage provided by the Federal Deposit Insurance Corporation (FDIC). Cash balances in excess of insured limits were approximately \$4,000,000 and \$9,700,000 as of December 31, 2022 and 2021, respectively.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### U.S. Franchisee/Licensee Royalties Receivable

The Company's receivables are primarily generated as a result of ongoing business arrangements with franchises and licenses as a result of royalty and license agreements. Receivables consisting of royalties from franchisees and licensees are based on unit sales and are generally due within 30 days of the period in which the corresponding sales occur.

Receivables are recorded net of an allowance for doubtful accounts of \$3,414 for the year ended December 31, 2021. No allowance was considered necessary for the year ended December 31, 2022. The Company provides an allowance that is based upon a review of the outstanding receivables, historical collection information, and existing economic conditions. Accounts receivable are written off and recorded in the respective period based upon the specific identification method.

In addition, a portion of the Company's other receivables includes amounts due from franchisees and is recorded net of an allowance for doubtful accounts of \$23,748 for the year ended December 31, 2021. No allowance was considered necessary for the year ended December 31, 2022.

#### Notes and Other Receivables

The Company provides a provision for noncollectible notes and other receivables that is based on management's review of whether debtors are paying in accordance with terms, the existence of adverse situations that may affect the debtor's ability to repay, the estimated value of any collateral, and prevailing economic conditions. At December 31, 2022 management determined no provision was necessary for notes or other receivables. As of December 31, 2021, management recorded an allowance of \$23,748 for other receivables and determined no provision was necessary for notes receivable. Notes and other receivables that are ultimately deemed to be uncollectible are written off against the allowance and recorded in the respective period. The Company does not charge interest on its past due receivables.

#### Inventories

Corporate unit inventories are valued using the first-in, first-out method. All inventories are stated at the lower of cost or market or net realizable value.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Property and Equipment

Property and equipment is recorded at cost, net of accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful life of the assets. Leasehold improvements are amortized over the life of the related asset or the term of the lease, whichever is shorter. The gain or loss on the sale of property and equipment is recorded in the year of disposition. The capitalization threshold used for the years ended December 31, 2022 and 2021 was \$1,000. Estimated useful lives are as follows:

	<u>Years</u>
Land improvements	15
Leasehold improvements	5-15
Finance lease assets	Term of the lease
Building	39
Restaurant equipment	5-7
Fleet vehicles	4
Office equipment and furniture and fixtures	3-7
Signage	5

If facts and circumstances suggest that a long-lived asset may be impaired, the carrying value is reviewed. If this review indicates that the value of the asset will not be recoverable, as determined based on projected undiscounted cash flows related to the asset over its remaining useful life, then the carrying value of the asset is reduced to its estimated fair value. There were no impairments recorded during the years ended December 31, 2022 and 2021.

#### Intangible Assets

Intangible assets consist of franchise rights and brand value. Brand value is estimated as having an indefinite life and therefore is not amortized. Brand value is tested for impairment annually or when circumstances arise that indicate that impairment may have occurred. Franchise rights are amortized over their estimated useful life of 15 years. Franchise rights are tested for impairment as circumstances arise that indicate impairment may have occurred. For December 31, 2022 and 2021, no impairment was indicated.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Goodwill

Goodwill represents the excess of the fair value of the purchase price, including liabilities assumed, over the fair value of the identifiable net assets acquired in connection with various acquisitions. The Company has elected the private company goodwill accounting alternative. Under this accounting alternative, goodwill is amortized on a straight-line basis over a period of ten years. Pursuant to the accounting alternative, the Company tests for goodwill impairment upon the occurrence of an event or circumstance that may indicate the fair value of the Company is less than its carrying amount and has elected to perform this test at the consolidated company level. If events or circumstances are present that may indicate the fair value of the Company is less than its carrying value, the estimated fair value of the Company is compared to its carrying amount and an impairment loss is recognized for the excess of the carrying amount over fair value (if any), not to exceed the carrying amount of goodwill. No indicators of impairment were identified during the year ended December 31, 2022 and 2021.

#### Advertising Fund

The Company remits a portion of certain royalties and license fees collected to an advertising fund that is managed and controlled by the Class C unitholder (Note 13). As of December 31, 2022 and 2021, the balance accrued and payable to the advertising fund was \$60,323 and \$62,408, respectively, and is included in accrued expenses on the consolidated balance sheets. Advertising fund collections are a part of total royalties, and are reported as part of U.S. royalties on the consolidated statements of income. The related advertising fund payments are separately stated in expenses for the years ended December 31, 2022 and 2021.

#### Revenue Recognition

The Company derives its revenues from three sources: (1) royalties, the company's primary source of revenue; (2) fees from franchisees; and (3) sales from corporate units. Franchise rights are granted through restaurant-level franchise agreements that set out the terms of the agreement with the franchisee. The franchise agreements require that the franchisee remit royalties to the Company as a percentage of the applicable restaurant's net sales in exchange for the license of the intellectual property associated with the A&W brand. Royalties represent the substantial majority of the consideration the Company receives under the franchise agreements. Royalties are recognized as the related restaurant net sales occur and are billed monthly.

The Company has determined that certain services it provides in exchange for the franchise fees, which primarily relate to pre-opening support, training, and updating to current A&W brand standards upon renewal, are separate and distinct services from the license of intellectual property. The portion of franchise fees related to pre-opening support is considered one performance obligation and is recognized when the performance obligation is satisfied, while the license of the intellectual property associated with the A&W brand is recognized as revenue over the term of each respective franchise agreement. Revenues for franchise fees that are being deferred over the term of franchise agreement are recognized on a straight-line basis, which is consistent with the franchisee's right to use and benefit from the intellectual property.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Revenue Recognition, continued

Pre-opening services provided to franchisees are recognized as a single performance obligation and accounted as distinct from the franchise license. In accordance with the practical expedient, non-public franchisors are entitled to account for pre-opening services provided to a franchisee as distinct from the franchise license if the services are consistent with those included in a predefined list within the guidance. In addition, the practical expedient provides an accounting policy election to recognize the pre-opening services as a single performance obligation.

Sales from the corporate units are recognized upon the completion of a restaurant order which is when the transfer of control of promised products to customers occur. Sales are recognized in an amount that reflects the consideration the Company expects to receive in exchange for those products, and are reported net of any discounts. Cost of sales includes direct and indirect labor, and costs of food, beverage and paper inventory.

In instances where the timing of revenue recognition differs from the timing of invoicing and/or payment, the contracts generally do not include a significant financing component as the period between when the Company transfers a promised good or service to the customer and when the customer pays for that good or service is one year or less. Contract liabilities represent amounts collected from franchisees in excess of revenues recognized. Contract liabilities include the portion of franchise fees related to the license of the intellectual property, which is recognized as revenue over the term of the underlying franchise agreement. In addition, contract liabilities include franchise fees collected at the signing of a franchise agreement for which performance obligations, such as pre-opening services, have yet to be satisfied.

The Company receives a management fee from A Great American Brand International Pte. LTD (AGABI), a related party through common ownership (Note 15). These fees are recorded monthly as earned within other fee income on the consolidated statements of income.

#### Adoption of New Accounting Standard

Effective January 1, 2022, the Company adopted Accounting Standards Update (ASU) 2016-02, *Leases (Topic 842)* and associated amendments. This standard requires all leases to be recognized on the Company's consolidated balance sheet as a right-of-use asset and a lease liability, unless the lease is a short term lease (generally a lease with a term of twelve months or less). The Company recognizes: 1) a lease liability for the Company's obligation to make payments under the lease agreement, measured on a discounted basis; and 2) a right-of-use asset that represents the Company's right to use, or control the use of, the specified asset for the lease term.

The Company recognized and measured its leases at January 1, 2022 in accordance with Accounting Standards Codification (ASC) Topic 842 using the optional transition method to the modified retrospective approach, which eliminates the requirement to restate the prior-period consolidated financial statements. Amounts as of and for the year ended December 31, 2021 are accounted for in accordance with previous guidance (ASC Topic 840).

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Adoption of New Accounting Standard, continued

The Company elected the “package of practical expedients” under the transition guidance within ASC Topic 842, in which the Company does not reassess (1) the historical lease classification, (2) whether any existing contracts at transition are or contain leases, or (3) the initial direct costs for any existing leases. The Company has not elected to adopt the “hindsight” practical expedient, and therefore measured the ROU assets and lease liabilities using the remaining portion of the lease term upon adoption of ASC 842.

The adoption of the new lease standard did not materially impact consolidated net income or consolidated cash flows and did not result in a cumulative-effect adjustment to the opening balance of members' equity.

#### Leases

Lease assets represent the Company’s right to use an underlying asset for the lease term and lease liabilities represent the Company’s obligation to make lease payments arising from the lease, measured on a discounted basis. The Company determines if an arrangement is, or contains, a lease at inception of the agreement, which is the date on which the terms of the contract are agreed to, and the agreement creates enforceable rights and obligations. A contract is or contains a lease when (i) explicitly or implicitly identified assets have been deployed in the contract and (ii) the Company obtains substantially all of the economic benefits from the use of that underlying asset and directs how and for what purpose the asset is used during the term of the contract. The Company also considers whether its service arrangements include the right to control the use of an asset.

The Company has made an accounting policy election not to recognize right-of-use (ROU) assets and lease liabilities for leases with a term of 12 months or less. Lease expense for such leases is recognized on a straight-line basis over the lease term. For all other leases, they are classified as either finance or operating leases.

Operating leases are included in right-of-use asset - operating leases, and operating lease liabilities (current and non-current) in the consolidated balance sheet. Operating lease expense is recognized on a straight-line basis over the lease term.

Operating lease ROU assets and liabilities are recognized at the lease commencement date based on the present value of future lease payments over the lease term. The ROU assets also include any initial direct costs incurred and lease payments made at or before the commencement date of the lease, and are reduced by any lease incentives.

For leases that do not provide an implicit rate, the Company has made an accounting policy election to utilize a risk-free borrowing rate, which is aligned with the lease term at the lease commencement date.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Leases, continued

Lease terms may include options to extend or terminate the lease. Where management concludes that it is reasonably certain that a renewal or termination option will be exercised, that renewal period or termination option is used to determine the lease term and the related payments that are reflected in the ROU asset and lease liability.

Some of the Company's leases include variable lease payments. Variable lease payments are only included in measuring ROU assets and lease liabilities if they depend on an index or a rate, or are in substance fixed payments. Variable payments that are not included in measuring the ROU assets are expensed when incurred. Subsequent changes of an index and other periodic market-rate adjustments to base rent are recorded in variable lease expense in the period incurred. Residual value guarantees or payments for terminating the lease are included in the lease payments only when it is probable they will be incurred.

Lease agreements with lease and non-lease components are generally accounted for separately based upon the standalone price of the separate lease and non-lease components at the commencement date of the lease. The non-lease components generally relate to the separate payments made to the lessor based on the lessor's property and casualty insurance costs and the property taxes assessed on the property, as well as a portion of the common area maintenance costs associated with the property. The non-lease components are variable in nature and are recorded in variable lease expense in the period incurred.

#### Advertising Costs

Advertising costs are expensed as incurred and are included in general and administrative expenses in the consolidated statements of income. Advertising costs were \$188,602 and \$265,837 for the years ended December 31, 2022 and 2021, respectively.

#### Income Taxes

The Company is a limited liability company that has elected to be taxed as a corporation and will file a consolidated return. The Company accounts for its income taxes using accounting for income taxes which requires recognition of deferred tax liabilities and assets for the expected future tax consequences of events that have been included in the consolidated financial statements or tax returns. Deferred taxes are provided on a liability method whereby deferred tax assets are recognized for deductible temporary differences and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax bases. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of changes in tax laws and rates on the date of enactment. The Company may be subject to U.S. personal holding company (PHC) tax in certain tax years.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 2. Summary of Significant Accounting Policies, continued

#### Income Taxes, continued

The Company may recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. The Company has evaluated the tax positions taken on all income tax returns that remain open to examination by the respective taxing authorities. The Company does not believe that there are any uncertain positions on those returns that require recognition or disclosure in the consolidated financial statements.

The Company has filed its federal and state income tax returns for periods through December 31, 2021, and is subject to routine audits by taxing jurisdictions. These income tax returns are generally open to examination by the relevant taxing authorities for a period of three years from the later of the date the return was filed or its due date (including approved extensions).

#### Subsequent Events

Management has evaluated subsequent events for accounting and disclosure requirements through March 30, 2023, the date that the consolidated financial statements were available to be issued.

#### Reclassifications

Certain amounts in the 2021 consolidated financial statements have been reclassified to conform to the 2022 presentation with no impact on total assets, liabilities, members' equity or net income.

#### Recent Accounting Pronouncement

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which creates a new credit impairment standard for financial assets measured at amortized cost and available-for-sale debt securities. The ASU requires financial assets measured at amortized cost (including loans, trade receivables and held-to-maturity debt securities) to be presented at the net amount expected to be collected, through an allowance for credit losses that are expected to occur over the remaining life of the asset, rather than incurred losses. The measurement of credit losses for newly recognized financial assets (other than certain purchased assets) and subsequent changes in the allowance for credit losses are recorded in the statement of income as the amounts expected to be collected change. The standard will be effective for the year ending December 31, 2023. The Company is currently evaluating the effect that the new standard will have on its consolidated financial statements.



## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 3. Contract Balances

Receivables and contract balances from contracts with customers were as follows at December 31:

	<u>2022</u>	<u>2021</u>
U.S. franchisee/licensee royalties receivable, net	\$ 895,354	\$ 853,882
Contract liabilities:		
Deferred franchise fees subject to amortization	\$ 512,929	\$ 473,031
Deferred franchise fees not subject to amortization	622,500	499,500
Deferred convention receipts	<u>415,600</u>	<u>-</u>
Total contract liabilities	<u>\$ 1,551,029</u>	<u>\$ 972,531</u>

### 4. Certificates of Deposit

Certificates of deposit with an initial value of \$4,499,725 and \$250,000 were held at December 31, 2022 and 2021, respectively. Certificates held at December 31, 2022 mature in 2024 and are included in non-current assets on the consolidated balance sheets. At December 31, 2022 the interest rates on certificates of deposit ranged from 1.55% to 4.15%. At December 31, 2021 the interest rate was 0.75%.

### 5. Investments

Investments consist of a U.S. Treasury Note totaling \$1,934,699 at December 31, 2022. The note matures on October 31, 2023 and pays interest of 0.375%. Investment income is included in interest income on the consolidated statements of income.

### 6. Notes Receivable

#### Franchise Note Receivable

Certain notes receivable held by the Company relate to ongoing business agreements with its franchisees and licensees and may be considered to have similar risk characteristics for purposes of estimating the related allowance for doubtful royalties receivable amounts. The balance of the note receivable due within one year is included in notes receivables current portion, whereas amounts due beyond one year are reflected as non-current on the consolidated balance sheets. The balances of the franchise related note receivable, net of allowances, was \$5,767 as of December 31, 2021. There was no balance as of December 31, 2022.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 6. Notes Receivable, continued

#### Equipment Note Receivable

During 2021, the Company signed an unsecured promissory note with Restaurant Supply Chain Solutions, LLC (RSCS) totaling \$253,074 to enable the supplier to keep equipment on-hand for the opening of new A&W franchises. During 2022, the note was amended and restated to increase the total note borrowings to \$876,558. Repayment of the note will occur in installments whenever RSCS sells the equipment to new franchisees, except that the full amount of the note must be paid by March 31, 2023. The balances of this note receivable at December 31, 2022 and 2021, were \$876,558 and \$253,074, respectively, and are included in current assets. On March 16, 2023, the note was amended to revise the repayment terms and extend the maturity date to March 31, 2024.

#### Mortgage Notes Receivable

The Company holds notes receivable from the sale of several real estate properties. The notes required interest-only payments at 4.00% until the notes matured in November 2017, at which time the note holders elected to extend the notes in accordance with the terms in the note. The notes now mature through January 2025 and bear interest rates ranging from 4.35% to 4.50%. These notes are secured by the underlying properties and all holders have paid according to terms through December 31, 2022. Management monitors these notes to ensure payments are received in accordance with terms and, based on the note holders' payment history, believes these to be fully collectible. The balances of these mortgage notes receivable at December 31, 2022 and 2021, were \$993,020 and \$1,000,730, respectively, and are recorded between current and non-current assets based on the repayment terms of the notes.

### 7. Property and Equipment

Property and equipment consists of the following at December 31:

	<u>2022</u>	<u>2021</u>
Land improvements	\$ 338,314	\$ 336,924
Land	1,381,519	1,381,519
Leasehold improvements	920,775	920,775
Building	750,480	750,480
Restaurant equipment	518,822	597,248
Fleet vehicles	38,400	38,400
Office equipment and furniture and fixtures	272,012	273,765
Signage	<u>203,361</u>	<u>219,320</u>
	4,423,683	4,518,431
Accumulated depreciation	<u>(1,526,339)</u>	<u>(1,400,492)</u>
	<u>\$ 2,897,344</u>	<u>\$ 3,117,939</u>

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 8. Intangible Assets

Intangible assets are comprised of the following at December 31:

	<u>2022</u>	<u>2021</u>
Franchise rights	\$ <b>10,999,000</b>	\$ 10,999,000
Accumulated amortization	<u>(8,089,587)</u>	<u>(7,356,321)</u>
	<b>2,909,413</b>	3,642,679
Brand value	<u>12,505,000</u>	<u>12,505,000</u>
Intangible assets, net	<u>\$ <b>15,414,413</b></u>	<u>\$ 16,147,679</u>

At December 31, 2022, the estimated annual amortization of franchise rights is as follows for the years ended December 31:

2023	\$ 733,267
2024	733,267
2025	733,267
2026	<u>709,612</u>
	<u>\$ 2,909,413</u>

### 9. Goodwill

Goodwill is comprised of the following at December 31:

	<u>2022</u>	<u>2021</u>
Gross carrying value	\$ <b>768,128</b>	\$ 768,128
Accumulated amortization	<u>(768,128)</u>	<u>(691,315)</u>
Goodwill, net	<u>\$ -</u>	<u>\$ 76,813</u>

During both years ended December 31, 2022 and 2021, amortization expense of goodwill totaled \$76,813.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 10. Leases

The Company is party to various operating leases for office and restaurant space as well as fleet vehicles. These leases have terms ranging from 3 to 15 years, expiring through 2029, with renewal options to extend in some cases. The components of lease expense for the years ended December 31, were as follows:

	<u>2022</u>	<u>2021</u>
Operating lease cost	\$ <b>406,748</b>	\$ 481,000
Short term lease cost	<u>36,734</u>	<u>-</u>
Total lease cost	<u>\$ <b>443,482</b></u>	<u>\$ 481,000</u>

Lease expense for both years is reported in general and administrative expenses. The weighted average remaining lease term as of December 31, 2022 is 6.4 years and the weighted average discount rate at December 31, 2022 is 1.83%.

Maturities of these operating lease liabilities as of December 31, 2022 were as follows:

Year ending December 31,	
2023	\$ 416,439
2024	415,547
2025	375,337
2026	340,480
2027	343,064
Thereafter	<u>655,290</u>
Total lease payments	2,546,157
Less imputed interest	<u>(134,491)</u>
Total	<u>\$ 2,411,666</u>

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 11. Deferred Compensation - Phantom Equity Plan

On December 19, 2012, the Company entered into a deferred phantom equity compensation agreement with an employee. Under the deferred compensation agreement, the employee is awarded one Appreciation Unit and one Full Value Unit. The Appreciation Unit is defined as 5.0% of the lesser of: (i) Final Enterprise Value (based on four times combined earnings before interest, taxes, depreciation and amortization of the Company and its affiliates) over the Base Enterprise Value of \$31,000,000, or (ii) Final Equity Value (Final Enterprise Value less debt of the Company and its affiliates) over Base Equity Value of \$17,000,000. The Full Value Unit is defined as 5.0% of the Final Equity Value. Both the Appreciation Unit and Full Value Unit (collectively referred to as the Units) will be determined as of the earlier of: (i) the employee's termination of employment, or (ii) with respect to 20% of the total as yet-unpaid Full Value and Appreciation Units, on each January 1, 2017, 2018, 2019, 2020, and 2021 (Initial Payment Triggering Dates). Under the agreement, the employee may elect to defer each of the Initial Payment Triggering Dates to a new date, at least five years into the future. During 2022, the employee elected to defer each of these payments to a new five year period beginning on January 1, 2025.

Effective January 1, 2020, the Company entered into additional deferred phantom equity compensation agreements with other executive employees. Under the deferred compensation agreements, the employees are awarded one Appreciation Unit. Each Appreciation Unit is defined as a percentage (ranging from 3.0% - 5.0%), aggregating 8.0%, of the lesser of: (i) Final Value (based on four times combined earnings before interest, taxes, depreciation and amortization of A&W Restaurants, Inc.) over the Base Value of \$8,000,000, or (ii) Final Equity Value (Final Value less debt of A&W Restaurants, Inc.) over Base Equity Value of \$8,000,000. The Appreciation Units will be determined as of the earlier of: (i) each employee's termination of employment, or (ii) with respect to 20% of the total as yet-unpaid Appreciation Units, annually on each January 1, from 2023 through 2027 (Initial Payment Triggering Dates) based on the terms in each of the agreements. The Appreciation Units shall vest on January 1, 2023. Each employee may elect to defer the Initial Payment Triggering Dates to a new date, at least five years in the future. In 2022, the employees with the compensation agreements vesting on January 1, 2024 elected to defer their first Initial Payment Triggering Date, such that the Initial Payment Triggering dates now occur on each January 1, from 2025 through 2029.

Deferred compensation cost is recognized over the service period with a corresponding credit to deferred compensation liability based on the Units' value calculated at that time. Deferred compensation liability totaled \$3,137,234 and \$2,113,098 at December 31, 2022 and 2021, respectively, and is classified as noncurrent based on the underlying payment dates.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 12. Income Taxes

The income tax expense (benefit) consists of the following for the years ended December 31:

	<u>2022</u>	<u>2021</u>
Current income tax expense:		
Federal	\$ 687,183	\$ 686,617
State	<u>238,226</u>	<u>235,804</u>
Total current income tax expense	<b>925,409</b>	922,421
Deferred income tax benefit:		
Federal	<b>(408,570)</b>	(351,455)
State	<u>(83,284)</u>	<u>(87,019)</u>
Total deferred income tax benefit	<u>(491,854)</u>	<u>(438,474)</u>
Total income tax expense	<b>\$ <u>433,555</u></b>	<b>\$ <u>483,947</u></b>

The major temporary differences between the financial statements and tax returns which give rise to deferred taxes are shown below as of December 31:

	<u>2022</u>	<u>2021</u>
Deferred tax assets:		
Allowance for receivables	\$ -	\$ 7,062
Accrued expenses	<b>8,927</b>	5,730
Sublease settlement liability	<b>20,623</b>	26,033
Deferred rent	-	9,997
Store development	<b>25,674</b>	25,674
Other accrued liabilities	<b>97,500</b>	97,500
Contract liabilities	<b>130,567</b>	122,013
Right-of-use asset - operating leases	<b>627,033</b>	-
Deferred compensation liability	<u>815,681</u>	<u>549,405</u>
Total deferred tax assets	<b>1,726,005</b>	843,414
Deferred tax liabilities:		
Prepaid expenses and other assets	<b>(34,824)</b>	(25,885)
Property and equipment	<b>(99,363)</b>	(135,185)
Intangible assets	<b>(4,007,747)</b>	(4,198,396)
Operating lease liabilities	<u>(608,269)</u>	<u>-</u>
Total deferred tax liabilities	<u>(4,750,203)</u>	<u>(4,359,466)</u>
Total deferred tax liabilities, net	<b>\$ <u>(3,024,198)</u></b>	<b>\$ <u>(3,516,052)</u></b>

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 12. Income Taxes, continued

The reconciliation between the expected income tax provision based on the statutory federal income tax rates and the actual income tax recognized in the consolidated statements of income is as follows:

	<u>2022</u>	<u>2021</u>
Income tax provision:		
Federal tax expense at 21% statutory rate	\$ 311,608	\$ 366,198
State and local income tax, net of federal benefit	77,264	68,880
Permanent items - other	24,015	26,726
Tax credits	(2,400)	(3,243)
Other	<u>23,068</u>	<u>25,386</u>
Total income tax provision	<u>\$ 433,555</u>	<u>\$ 483,947</u>

In December 2013, the Company entered into a tax incentive agreement with the Kentucky Economic Development Finance Authority. Under the terms of the agreement, the Company is eligible to receive aggregate tax credits up to \$600,000 over 10 years (not to exceed \$60,000 per year, from 2016 through 2025) that can be applied to Kentucky state income tax or state payroll tax. The awarding of the annual tax credit is contingent upon the Company meeting defined employment and wage requirements. Due to uncertainties regarding the continued achievement of the defined requirements, management has elected to recognize the deferred tax benefit only to the extent of the amounts earned in the current year. In 2021, the Company was informed by the Kentucky Department of Revenue that their records reflect an agreement period of 2015 through 2024; as a result, the Company was able to claim unused prior year credits in 2021. During the years ended December 31, 2022 and 2021, a credit of \$60,000 and \$120,940 was used to reduce payroll taxes owed to the Commonwealth of Kentucky, respectively.

### 13. Members' Equity

The Company has two classes of units. The number of units authorized, issued and outstanding consists of 13,001,000 Class A voting units and 4,894,932 Class C preferred units as of December 31, 2022 and 2021.

All units contain transfer restrictions. Each unitholder is allowed a preemptive right with respect to any issuance of membership units. The Company has the right of first refusal to acquire any units being offered for sale. The Class C preferred unitholders receive a 3% per annum dividend on their units. During the years ended December 31, 2022, and 2021 an equitable cash dividend of \$1,294,750 and \$2,850,219, respectively, was declared to Class A voting unitholders. For each of the years ended December 31, 2022 and 2021, dividends declared were recorded of \$1,441,598 and \$2,997,069, respectively. The membership agreement includes certain liquidation preferences by which Class C unitholders shall first receive all accrued but unpaid dividends, with remaining amounts distributed to Class A and Class C unitholders based on their proportionate units, provided that Class C unitholders shall not receive more than \$1.00 per Class C unit.

## **A GREAT AMERICAN BRAND, LLC**

Notes to the Consolidated Financial Statements, continued

### **13. Members' Equity, continued**

In accordance with the terms of the membership agreement, beginning on January 1, 2036, and on every fifth anniversary thereafter, the Company will have the right to purchase all of the issued and outstanding Class C preferred units for an aggregate purchase price equal to \$1.00 per unit, plus the amount of any accrued and unpaid Class C dividends. Additionally, beginning on January 2, 2017, and on every fifth anniversary thereafter, the holders of Class C preferred units will have the right to cause the Company to purchase all of the Class C preferred units owned by the unit holders for an aggregate purchase price equal to \$1.00 per unit.

Per the membership agreement, no member will have personal liability for the Company's obligations or liabilities by virtue of membership status. Members are required to make additional capital contributions at such times and amounts as may be called for by the Board of Directors and agreed to by the Class A and Class C unitholders.

### **14. Consulting Agreement**

In accordance with an agreement with a member of the Company, the Company will pay \$125,000 annually for consulting services rendered. The agreement expires annually on December 31, with automatic one-year renewals, unless either party provides 90-day written notice of the intent to terminate. If the contract is terminated by the Company due to a material breach by the consultant, the compensation for consulting will be limited to services rendered. However, if the contract is terminated due to a material breach by the Company, the Company will pay the consultant the remainder of the annual contract compensation. The Company expenses the consulting payments as services are rendered. During 2023, the agreement was terminated with the final billing occurring in February 2023.

### **15. Related Party Transactions**

Among related party transactions described in Note 2 and Note 17, the Company has a management services agreement with AGABI to provide administration and consulting services to support the international operations of the brand. The initial term of the agreement was for one year and has been completed. The agreement continues on a year to year basis until either party gives written notice to cancel. The agreement allows for an initial annual fee of \$180,000 and subsequent annual fees adjusted yearly by a factor equal to the percentage increase, if any, of the Consumer Price Index. The management fee is receivable in monthly installments. Total revenues earned under this agreement for the years ended December 31, 2022 and 2021 were \$185,000 and \$180,000, respectively. As of December 31, 2022 and 2021, the related receivable was \$16,667 and \$15,000, respectively.



## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 16. Retirement Plan

The Company offers a defined contribution retirement plan to provide retirement benefits to all full-time employees under the provisions of Section 401(k) of the Internal Revenue Code. The Company, at its discretion, may choose to match 50% of each employee's contributions up to 3% of wages. The plan also allows for discretionary profit sharing contributions. Contributions are based on W-2 wages. In order to become eligible, employees must be at least 21 years of age and complete three consecutive months of service. To receive matching contributions, employees must complete one year of service in addition to meeting the age requirement. Employees vest in their matching contributions 20% each year, over 5 years. The Company did not authorize a profit sharing contribution for either year ended December 31, 2022 or 2021. Total employer contributions for the years ended December 31, 2022 and 2021, were \$91,503 and \$92,547, respectively.

### 17. Commitments and Contingencies

From time to time, the Company may temporarily reduce royalty rates as a means to settle disputes and grow the number of operating units. These arrangements often require franchisee investments in exchange for lower royalty payments. Any financial impact associated with these modifications are recorded during the respective annual period.

In the normal course of business, there are various contingent liabilities such as legal claims which are not reflected in the consolidated financial statements. The Company records a liability for such matters when a loss becomes probable and the amount is reasonably estimable. The Company does not anticipate any material losses from such claims.

The Company has a market development obligation requiring an annual payment based upon a defined rate per store, for specified stores, and the number of open stores on each June 30 annual measurement date. The rate per store was fixed through 2013 at which time it adjusted for the cumulative year Consumer Price Index since inception. The annual payments continue through June 30, 2023, as long as the stores are open and operational. The Company accrues and expenses these payments throughout the year for the stores that are under this contract. As of December 31, 2022 and 2021, the balance of this liability is \$98,748.

The Company is a party to a purchasing program management agreement for the U.S. between Restaurant Supply Chain Solutions, LLC (RSCS) and A&W National Purchasing Co-op, Inc. (A&W Co-op). RSCS supplies inventories and equipment for use in A&W restaurants. The A&W Co-op receives fees from RSCS. Fees in excess of expenses are returned through participation dividends to franchise operators. The Company does not own or control A&W Co-op, however it approves suppliers as well as inventories and equipment used in the restaurants. The term of the agreement is one year, with automatic renewals for successive one year terms unless terminated by either party with six months notice. In conjunction with the purchasing program management agreement, the Company has provided a payment guarantee for purchases made by A&W Co-op in an aggregate amount not to exceed \$750,000. As of December 31, 2022 and 2021, A&W Co-op is current with all obligations under the agreement, and therefore the Company has not incurred any liabilities, or made any payments, related to this guarantee.

## A GREAT AMERICAN BRAND, LLC

Notes to the Consolidated Financial Statements, continued

### 17. Commitments and Contingencies, continued

#### Sublease Settlement Liability

As part of a settlement agreement related to termination of a real estate lease, the Company has agreed to, jointly with a third party (Party A), evenly share in any remaining lease obligation payments through termination of the lease in 2026. Party A currently occupies a portion of the leased location whereas the Company has no physical presence. The Company and Party A have agreed to sublease a portion of the leased location to another third party (Party B), through January 2026, with monthly sublease payments of \$1,650 through expiration of the lease. Under the settlement agreement, the Company will receive reimbursement from Party A, equal to 50% of the Company's portion of the monthly rent payment, for every month in which Party B remits rent. As of December 31, 2022 and 2021, the present value of minimum lease payments net of expected sublease reimbursements under this agreement was \$79,319 and \$100,128, respectively.

Minimum future lease payments under the accrued liability are as follows for the years ending December 31:

2023	\$	30,113
2024		30,113
2025		30,113
2026		<u>2,509</u>
		92,848
Amount representing interest		<u>13,529</u>
Total principal payments		79,319
Less: current portion		<u>23,045</u>
	\$	<u>56,274</u>

## GUARANTY OF PERFORMANCE

For value received, A Great American Brand, LLC, located at 1648 McGrathiana Parkway, Suite 380, Lexington, Kentucky 40511 (the "Guarantor"), absolutely and unconditionally guarantees to assume the duties of A&W Restaurants, Inc., located at 1648 McGrathiana Parkway, Suite 380, Lexington, Kentucky 40511 (the "Franchisor") under its franchise registration in each state where its franchise is registered or exempt from registration, as applicable, and under its Franchise Agreement as identified in its 2024 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended, from time to time. This guaranty continues until all such obligations of the Franchisor under the franchise registration or franchise exemption (as applicable) and Franchise Agreement are satisfied or until liability of the Franchisor under the Franchise Agreement has been completely discharged, whichever first occurs. Guarantor is not discharged from liability if a claim by the franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and on its successors and assigns.

The Guarantor signs this guarantee on the 12 day of April, 2024.

Guarantor:

A GREAT AMERICAN BRAND, LLC

  
\_\_\_\_\_

By:

Name: Kevin Bazner

Title: Director

**EXHIBIT C**  
**FRANCHISE AGREEMENT**

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STORE NO

## FRANCHISE AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between A&W RESTAURANTS, INC., a corporation organized and existing under the laws of the State of Michigan, with a place of business at 1648 McGrathiana Parkway, Suite 380, Lexington, KY 40511 (the "Company") and \_\_\_\_\_ (the "Franchisee").

### **BACKGROUND:**

A. The Company has the exclusive right to operate and grant licenses to others to operate, under the trademarks set forth in Appendix I (the "Trademarks"), a system (the "System") of restaurants that are uniform in their basic appearance and operation (the "A&W Restaurants"); and

B. The Franchisee has requested that the Company grant to it the right to operate an A&W Restaurant at a specific location.

ACCORDINGLY, the parties agree as follows:

### **SECTION 1: GRANT OF LICENSE**

1.0 The Company hereby grants to the Franchisee, subject to the terms, conditions and limitations hereof, a limited license to use the Trademarks.

1.1 The right hereby granted to the Franchisee to use the Trademarks is limited exclusively to their use in connection with the sale of Company-approved menu and/or other items, programs and services from the single A&W Restaurant to be established pursuant to this Agreement (the "Restaurant"). The Franchisee may not engage in any delivery or catering activities away from the Restaurant unless and until the Company notifies the Franchisee in writing that the Franchisee may do so (although the Company has no obligation to allow such activities by a certain date or at all). If the Company allows the Franchisee to engage in any or all of these activities, the Franchisee must comply with all procedures, policies and standards for such activities. Under no circumstance may the Franchisee offer or sell Company-approved menu and/or other items, programs or services anywhere, through any means or manner other than the Franchisee's Restaurant (and, if the Company consents, through delivery and/or catering to offsite locations), including alternative channels of distribution, such as the internet/worldwide web and other forms of electronic commerce; "800" or similar toll-free telephone numbers; supermarkets or grocery stores; mail order; catalogs; or, any other distribution channel whatsoever except from the Franchisee's Restaurant.

The Franchisee may only engage in the retail sale of Company-approved menu and/or other items, programs and services. The Franchisee is prohibited from engaging in the wholesale sale or distribution of any Company-approved menu and/or other items, programs and services, or the menu and/or other items, programs and services which the Restaurant is required or permitted to use or sell under this Agreement, or any component or ingredient of any of the foregoing which now or in the future is approved by the Company. "Retail sale" means any sale by the Company directly to an ultimate consumer. "Wholesale sale or distribution" means any sale or distribution by the Franchisee to a third party for resale, retail sale, or further distribution. "Component" means any constituent part, ingredient, element, segment or derivative.

1.2 So long as the Franchisee is in compliance with this Agreement, the Company shall not, during the Term of this Agreement, own, operate or grant (nor grant others the right to

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own, operate or grant) a franchise for an A&W Restaurant within the trading area consisting of the smaller of (a) a 1.5 mile radius around the Franchisee's Restaurant and (b) whatever radius around the Franchisee's Restaurant includes a combined number of 30,000 residing and working people. Notwithstanding the foregoing, the Company shall retain in the trading area those rights described in Section 1.3 of this Agreement.

### 1.3 The Company may:

(1) own or operate, or grant franchises or licenses for others to operate A&W Restaurants within the trading area described in Section 1.2 of this Agreement at the following locations: on right-of-ways of any limited access highways or toll roads, airports, campus, educational, industrial or health care institutions, office or business complexes or buildings (excluding exterior in-line units in shopping or strip malls), military installations, theatres, resorts, guest lodging facilities, day care facilities, government facilities, railroads, athletic arenas, expositions, convention centers, fairs, zoos, theme parks, interior mall locations or similar facilities or events, or any other location or venue to which access to the general public is restricted ("Captive Locations");

(2) own or operate, or grant franchises or licenses for others to operate anywhere within or outside of the trading area described in Section 1.2 of this Agreement any business offering and selling any type of program, product or service except as restricted by Section 1.2 above. By way of example, the Company may own or operate, or grant franchises or licenses for others to operate, any type of business at any location whatsoever, including within the trading area described in Section 1.2 of this Agreement, so long as such other business does not sell under the Trademarks the type of menu and/or other items, programs and services which the Restaurant offers and sells (except as permitted below);

(3) own or operate, or grant franchises or licenses for others to operate A&W Restaurants anywhere outside the trading area described in Section 1.2 of this Agreement (regardless whether such location is proximate to the Restaurant) on such terms and conditions as the Company deems appropriate; and

(4) alone offer and sell within and outside the trading area described in Section 1.2 of this Agreement, and under the Trademarks, any and all menu and/or other items, programs, or services and/or their components or ingredients (including those used or sold by the Restaurant), through any alternative method of distribution including, without limitation, such alternative channels of distribution as the internet/worldwide web; any other form of electronic commerce; "800" or similar toll-free telephone numbers; within supermarkets and grocery stores; mail order; catalogs; television sales (including "infomercials"); or, any other channel of distribution whatsoever except for an A&W Restaurant in the trading area described in Section 1.2 of this Agreement.

1.4 The license hereby granted prohibits and excludes any right to use the Trademarks in connection with the production, distribution or sale of beverages or other food products in cans or bottles; or to dispense such beverages or approved menu items from vending machines; or any other right whatsoever to use the Trademarks on any goods of any kind or in any way or for any purpose, except as expressly set forth in this Agreement, or as otherwise expressly authorized in writing by an officer of the Company; or any right, title or interest whatsoever in or to the Trademarks, except the right to use them in accordance with the express provisions of this Agreement.

**SECTION 2: TERM AND RENEWAL**

2.0 This Agreement shall continue for a term of \_\_\_\_\_ years (the “Initial Term”), commencing on \_\_\_\_\_, unless earlier terminated in accordance with the provisions hereof.

2.1 The Franchisee will have the right to enter into two (2) consecutive Renewal Franchise Agreements, each featuring a term of five (5) years (a “Renewal Term” and together with the Initial Term, the “Term”) if the Franchisee has complied with the conditions and procedures for renewal specified in Section 2.2 below. The first Renewal Term will begin on the date that the Initial Term expires and the second Renewal Term will begin on the date that the first Renewal Term expires. The first Renewal Franchise Agreement will supersede this Agreement and the second Renewal Franchise Agreement will supersede the first Renewal Franchise Agreement. Renewal Franchise Agreements will not take the form of an extension of this Agreement; but, instead, will each take the form of the Company’s then-current franchise agreement and may materially vary from this Agreement in all respects, except that no “initial franchise fee” will apply to the Franchisee; the boundaries of the Franchisee’s trading area will remain the same; the limited renewal rights identified in this Agreement will be incorporated (as applicable); and, the royalty fees on renewal will not be greater than the royalty fees that the Company then imposes on similarly situated renewing franchisees.

2.2 In order to exercise its renewal options, Franchisee must satisfy all of the conditions set forth below in Sections 2.2(a) through 2.2(i):

(a) Franchisee must give the Company written notice of its election to renew no less than six (6) months, or more than nine (9) months, prior to the end of the then current term. Within thirty (30) days after the Company’s receipt of the Franchisee’s notice, the Company will deliver to the Franchisee a copy of the Company’s then-current franchise disclosure document (if the Company is then legally required to do so) and a copy of the Franchisee’s Renewal Franchise Agreement in a form ready to be executed by the Franchisee (together, the “Renewal Package”). Franchisee must acknowledge receipt of the Renewal Package in any fashion that the Company reasonably specifies. No sooner than fifteen (15) days, but no later than twenty-five (25) days, after the Franchisee receives the Company’s Renewal Package, the Franchisee must execute the Renewal Agreement and return it to the Company.

(b) At the time when notice is given and at the end of the then current term, Franchisee must not be in default of any provision of this Agreement, or any other agreement between Franchisee or any of its affiliates and the Company or any of the Company’s affiliates, and Franchisee and all of its affiliates shall have substantially complied with the terms and conditions of all such agreements during the Initial Term and any prior Renewal Term(s) of the Agreement.

(c) Franchisee and all of its affiliates shall have satisfied all monetary obligations owed by them to the Company, its subsidiaries and affiliates prior to renewal, and shall have timely met all such obligations throughout the Initial Term and all prior Renewal Terms of the Agreement.

(d) Franchisee (and each party owning an equity interest in the Franchisee, if Franchisee is a corporation or other entity) shall execute a General Release, in the form of Appendix IV, of any and all claims Franchisee may have as of the date of execution of the Renewal Franchise Agreement, or arising from an event or events which occurred prior to such date, against the Company and its officers, directors, shareholders and employees, in their



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corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, unless such claims are pending and not finally resolved as of the date Franchisee's notice of renewal is due.

(e) Franchisee shall present evidence satisfactory to the Company that Franchisee has the right to remain in possession of the Restaurant premises for the duration of the Renewal Term;

(f) Franchisee shall complete, or provide for, such renovation and modernization of the Restaurant as the Company may reasonably require, including, without limitation, such remodeling (including structural modifications), redecoration, repair and replacement of fixtures, furniture, vehicles (if the Company allows the Franchisee to provide delivery and catering services), signs and equipment, as may be necessary both to comply with the Company's then-current image standards and to ensure the presentation of the Trademarks consistent with such image;

(g) To impart to the Franchisee's management and employees the latest procedures, techniques, policies and standards of the System, Franchisee's Restaurant Manager and any other management and staff the Company designates must attend and complete any training that the Company may reasonably require to the Company's reasonable satisfaction, at the Franchisee's expense;

(h) Franchisee must pay the Company a renewal fee of \$2,500; and

(i) Franchisee shall provide the Company with such financial and other information regarding the Franchisee, any guarantors of this Agreement, the Restaurant operations as the Company shall request.

### **SECTION 3: RESTAURANT SYSTEMS AND PROCEDURES**

3.0 The Company shall furnish the Franchisee with such advice and assistance regarding managing and operating the Restaurant as is necessary in order to protect the Company's interests in the System and the Trademarks. In connection therewith, the Company shall provide Franchisee with online access through the website, [www.teamaw.com](http://www.teamaw.com), to the A&W Restaurants, Inc. Operations Manual ("Operations Manual") which consists of various volumes and other communications to franchisees, including without limitation, video tapes, computer disks, on-line and other electronic communications (all such communications and any supplements or additions thereto being hereinafter collectively referred to as the "Operations Manual"), and shall have all amendments or supplements transmitted promptly to the Franchisee on an ongoing basis throughout the Term of this Agreement. The Franchisee acknowledges that the Operations Manual and any updates thereto, as well any training materials provided by the Company, may be provided in the form of electronic and on-line communications.

3.1 The Franchisee shall cause the Restaurant to be continuously operated and open for business during normal restaurant business hours, but in no event fewer than ten (10) hours per day, for at least three hundred and sixty (360) days of each calendar year during the Term of this Agreement, subsequent to the calendar year in which the Restaurant is first opened for business. Franchisee acknowledges and agrees that its temporary or permanent abandonment of the Restaurant operations or failure to cause the Restaurant to be continuously operated is a material breach of this Agreement. Notwithstanding the foregoing, Restaurants located within enclosed regional shopping malls shall be open for business as specified in the Restaurant lease.

3.2 The Franchisee will receive a copy of A&W Restaurants, Inc. Operations Manual and agrees to faithfully and completely follow and observe the Operations Manual (including amendments and supplements thereto). By reference, the current Operations Manual and all amendments and supplements made thereto from time to time are incorporated in and made a part of this Agreement. Notwithstanding the provisions of this Section 3.2, the Company will NOT require changes in the operating and menu standards contained in the Operations Manual without first having received approval for such changes from the Board of Directors (“Board”) of the National A&W Franchisees Association (“NAWFA”). All required standards in the Operations Manual and otherwise exist to protect A&W’s interests in the System and the Trademarks and not for the purpose of exercising day-to-day control over the Franchisee’s Restaurant.

3.3 Subject to the provisions of Section 3.2, the Company expressly reserves the right at any time and from time to time, to revise, amend, delete from and add to the material contained in the Operations Manual. Any such revisions, amendments, deletions and additions will be communicated to Franchisee through monthly newsletters, other written communications and posted on the franchise website. The Franchisee agrees to comply with all such revisions, amendments and supplements. Failure by the Franchisee to comply with the above referenced revisions, amendments and supplements shall constitute a material breach of this Agreement.

3.4 The Franchisee understands, acknowledges and agrees that the uniform standards, specifications, requirements, instructions and procedures contained in this Agreement and in the Operations Manual are vitally important to the success of not only the Company, but to the collective success of all Franchisees. Any failure to adhere to the standards, specifications, requirements, instructions and procedures contained in this Agreement or in the Operations Manual shall constitute a material breach of this Agreement. Without limiting the generality of the foregoing, Franchisee shall not implement any new or revised food handling or preparation procedure without receiving the Company’s prior written approval in each instance.

3.5 The Franchisee agrees to use and permit the use of the Company’s Confidential Information solely in connection with the operation of the Franchisee’s Restaurant. The Franchisee further agrees that it will never—during the Initial Term or any Renewal Term of this Agreement, or any time after this or any Renewal Agreement expires or terminates, or the Franchisee’s rights under this Agreement or any Renewal Agreement are assigned or terminated – divulge or use any of the Company’s Confidential Information for the benefit of the Franchisee or any third party, nor will the Franchisee directly or indirectly aid any such third party to imitate, duplicate or “reverse engineer” any of the Company’s Confidential Information.

“Confidential Information” means all information, knowledge, trade secrets or know-how utilized or embraced by A&W Restaurants or which otherwise concerns the Franchisee’s or the Company’s systems of operation, programs, services, products, product formulae, customers, practices, materials, books, records, manuals, computer files, databases or software. Confidential Information includes (without limitation): all programs, products, product formulae, services, equipment, technologies, recipes, food and beverage preparation techniques, policies, standards, requirements, criteria and procedures that now or in the future are a part of the System; the Company’s Operations Manual; all specifications, procedures, systems, techniques and activities employed by the Company or by the Franchisee in the offer and sale of menu and/or other items, programs and/or services at or from the Franchisee’s Restaurant and through catering and delivery services (to the extent the Company allows the Franchisee to engage in these activities); all pricing paradigms established by the Company or by the Franchisee; all of the Company’s and/or the Franchisee’s sources (or prospective sources) of supply and all information pertaining to same (including wholesale pricing structures, the contents of sourcing agreements and the identity of suppliers); the Company’s specifications, and the Franchisee’s

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final plans, for the construction, buildout, design, renovation, décor, equipment, signage, furniture, fixtures, vehicles (if the Company allows the Franchisee to provide delivery and catering services) and trade dress elements of the Franchisee's Restaurant; the identity of, and all information relating to, the computer and POS hardware and software utilized by the Company and the Franchisee; all information pertaining to the Company's and the Franchisee's advertising, marketing, promotion and merchandising campaigns, activities, materials, specifications and procedures; all customer lists and records generated and/or otherwise maintained by the Franchisee's franchised business; the Company's internet/web protocols, procedures and content; the Company's training and other instructional programs and materials; all elements of the Company's recommended staffing, staff training and staff certification policies and procedures; all communications between the Company and the Franchisee (including the financial and other reports the Franchisee is required to submit to the Company under this Agreement); additions to, deletions from and modifications and variations of the components of the System and the other systems and methods of operations which the Company employs now or in the future; and, all other information, knowledge and know-how which either the Company or its affiliates, now or in the future, designate as confidential.

The Franchisee understands, acknowledges and agrees that the Company is the owner of all of the rights in and to the product formulae (excluding the formulae with respect to the A&W Draft Root Beer Concentrate which is owned by A&W Concentrate Company, the entity which owns the A&W Trademarks, or an affiliate) and business systems and methods described in the Operations Manual.

Confidential Information will not, however, include information which the Franchisee can demonstrate came to its attention before the Company disclosed it to the Franchisee (unless illegally or improperly procured by the Franchisee before the Company's disclosure) or which, at or after the time of disclosure, has become a part of the public domain through publication or communication by others, but not through any act of the Franchisee.

Except as authorized in this Agreement or otherwise authorized by us in writing, the Franchisee agrees never to copy, duplicate, record or otherwise reproduce any of the Confidential Information, in whole or in part; otherwise share it with any other third party individual or entity; store it in a computer or other electronic format; or, otherwise make it available to any third party by any other means whatsoever. Upon the expiration or termination of this Agreement, the Franchisee agrees to return to the Company such Confidential Information as the Company requests (including customer lists and records; all training materials and other instructional content; financial and non-financial books and records; the Operations Manual; and, computer databases, software and manuals) which is then in the Franchisee's possession or, upon the Company's request, destroy all or certain such Confidential Information and certify such destruction to the Company. It is specifically understood that all customer lists or information adduced by the Franchisee is the Company's property, not Franchisee's, and the Franchisee shall never contend otherwise.

The Franchisee must only divulge such Confidential Information to its operational personnel as is necessary for each to perform his/her functions and then only on a "need to know" basis. The Franchisee agrees to take all necessary precautions to ensure that these individuals maintain the Confidential Information in confidence and comply with the confidentiality provisions of this Agreement. In accordance therewith, the Franchisee agrees to require and obtain the execution of the Company's (a) Confidentiality Agreement substantially in the form of Appendix V-A from the Franchisee's Restaurant Manager, all other managerial personnel, and other employees of Franchisee's who will receive training from the Company and (b) Confidentiality/Non-Competition Agreement substantially in the form of Appendix V-B from all of

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the following persons: if the Franchisee is a business entity, and as applicable, all of its owners, equity holders, control persons, shareholders, members, partners and general partner(s) of at least a 10% interest in the Franchisee; all of its officers, directors and managers; and, all persons possessing equivalent positions in any business entity which directly or indirectly owns and/or controls the Franchisee (the "Confidentiality/Non-Competition Agreement Signatories").

The Franchisee shall procure all such Confidentiality Agreements before employment or any promotion with respect to managerial personnel, and before attending training with respect to other employees of Franchisee's who will receive training from the Company, and such Confidentiality/Non-Competition Agreements no later than ten days following the date this Agreement is executed (or, if any individual or entity attains any status identified above after the date this Agreement is executed, within ten days following such individual or entity's attaining such status). The Franchisee shall furnish to the Company copies of all Confidentiality Agreements executed by the Restaurant's initial managerial personnel and other employees of Franchisee's who will receive training from the Company, and copies of all Confidentiality/Non-Competition Agreements executed by the Franchisee's initial Confidentiality/Non-Competition Agreement Signatories, within ten days following their execution. All executed Confidentiality Agreements and Confidentiality/Non-Competition Agreements signed by subsequent and replacement managerial personnel and Confidentiality/Non-Competition Signatories must be furnished to the Company promptly upon the Company's request.

3.6 The Operations Manual and all such other materials furnished to the Franchisee hereunder are and shall remain the property of the Company and are required to be returned to the Company immediately upon the transfer, expiration, or earlier termination of this Agreement for any reason, or upon written request from the Company.

3.7 Unless the franchisee has received the Company's prior written approval, the Franchisee shall offer for sale all of the menu items and only the menu items described in the Operations Manual, or as expressly agreed to by the parties in writing. The Company may from time to time designate as optional certain menu and other items, programs and services. Franchisee may, in its discretion, sell at the Restaurant any such optional menu and other items, programs and services. All menu items shall be prepared from ingredients meeting the Company's specifications and purchased from authorized sources. Franchisee must receive the Company's written approval prior to any use of products or ingredients in the Restaurant that were not purchased from an approved source. Any sales of unauthorized items by the Franchisee shall constitute a material breach of this Agreement.

3.8 The Franchisee shall cause to be offered for sale at all times when the Restaurant is open for business A&W® Root Beer prepared from concentrates, syrups or bases purchased from a Company authorized source and prepared in accordance with Company-developed and published procedures and standards. Franchisee shall not sell or deliver any A&W ®Root Beer concentrate, syrup or base to any person, firm or entity. The Franchisee acknowledges that it will be a material breach of this Agreement if it purchases concentrates, syrups and/or bases from a source that has not been approved by the Company and/or if it sells, or offers for sale, any root beer from the facility in which the A&W Restaurant is located that is not A&W® Root Beer prepared in accordance with Company-developed and published procedures and standards.

3.9 Franchisee shall at its sole cost and expense comply with all applicable laws, rules regulations, ordinances, policies and procedures of any federal, state, county, municipal or local governmental or quasi-governmental agency, commission and/or authority which govern the construction or any element of the operation of the Franchisee's Restaurant. Franchisee also agrees to obtain and keep in good standing all licenses, permits and other governmental consents and approval which are now or hereafter required to operate the Restaurant now or in the future.

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Franchisee represents and warrants to the Company that, as of the date of this Agreement and at all times during the Term hereof, and to the Franchisee's actual or constructive knowledge, neither the Franchisee, any of the Franchisee's affiliates, any individual or entity having a direct or indirect ownership interest in the Franchisee or any such affiliate (including any shareholder, general partner, limited partner, member or any type of owner), any officer, director or management employee of any of the foregoing, nor any funding source the Franchisee utilizes is or will be identified on the list of the U.S. Treasury's Office of Foreign Assets Control (OFAC); is directly or indirectly owned or controlled by the government of any country that is subject to an embargo imposed by the United States government or by any individual that is subject to an embargo imposed by the United States government; is acting on behalf of any country or individual that is subject to such an embargo; or, is involved in business arrangements or other transactions with any country or individual that is subject to an embargo. Franchisee agrees that it will immediately notify the Company in writing immediately upon the occurrence of any event which would render the foregoing representations and warranties incorrect. Notwithstanding anything to the contrary in this Agreement, the Franchisee may not allow, effect or sustain any transfer, assignment or other disposition of this Agreement to a "Specially Designated National or Blocked Person" (as defined below) or to an entity in which a Specially Designated National or Blocked Person has an interest. For the purposes of this Agreement, "Specially Designated National or Blocked Person" means: (i) a person or entity designated by OFAC (or any successor officer agency of the U.S. government) from time to time as a "specially designated national or blocked person" or similar status; (ii) a person or entity described in Section 1 of U.S. Executive Order 13224, issued on September 23, 2001; or, (iii) a person or entity otherwise identified by any government or legal authority as a person with whom the Franchisee (or any of its owners or affiliates) or the Company (or any of its owners or affiliates) are prohibited from transacting business.

Franchisee agrees that it will not hire, retain, employ or otherwise engage the services of any individual or entity in contravention of the Patriot Act; any law, rule or regulation pertaining to immigration or terrorism; or, any other legally prohibited individual or entity.

Franchisee further agrees to at all times comply with all applicable laws, rules and regulations in connection with its operation and occupancy of the Restaurant premises, including specifically but without limitation all codes, rules and regulations in effect from time to time and promulgated by state, federal, municipal or other local authorities with jurisdiction over matters of health and safety ("Health and Safety Regulations"). Franchisee shall from time to time upon the Company's request provide to the Company such inspection reports, certificates or other evidence regarding the Restaurant's and Franchisee's operation thereof and its compliance with all Health and Safety Regulations.

3.10 Franchisee agrees that (i) at any geographic location whatsoever during the Initial Term and any Renewal Term of this Agreement and (ii) within the Franchisee's trading area, within ten miles of the perimeter of the Franchisee's trading area or within ten miles of the perimeter, or within, the trading area of any other franchised or company-owned A&W Restaurant (regardless of how established or operated) for a period of two years immediately following the termination or expiration of this Agreement or any Renewal Agreement for any reason, the Franchisee will not, without advance approval from the Company, which approval may be withheld for any reason or no reason, directly or indirectly engage in, aid, assist, serve or participate in any other quick serve or fast casual restaurant (a "Competitive Business") which offers or sells any of the menu and/or other items, programs or services which now or hereafter are authorized for sale under the System (including hamburgers, hot dogs, chicken tenders or soft serve ice cream) or component thereof in any manner; which offers or sells similar or related menu and/or other items, programs or services; which engages in any of the activities which this Agreement contemplates

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that the Franchisee will engage in; or, which offers or sells any other menu and/or other items, program, service or component which now or in the future is part of the System, or any confusingly similar menu and/or other items, program or service. The foregoing shall not apply to any food service enterprise in which the Franchisee participates prior to the date of this Agreement, so long as the Franchisee shall have disclosed such participation to the Company.

Franchisee is prohibited from directly or indirectly engaging in any Competitive Business as a proprietor, partner, investor, shareholder, member, director, manager, officer, employee, principal, agent, advisor, consultant, lessor, sublessor or any similar capacity. In addition, the Franchisee agrees not to divert any business that should be handled by the Restaurant to any other person or entity. It is the intention of these provisions to preclude not only direct competition but also all forms of indirect competition, such as consultation for Competitive Businesses, service as an independent contractor for Competitive Businesses, or any assistance or transmission of information of any kind which would be of any material assistance to a competitor. Nothing in this Agreement will prevent the Franchisee from owning for investment purposes only up to an aggregate of 5% of the capital stock of any Competitive Business the Franchisee does not control, so long as the Competitive Business is a publicly held corporation whose stock is listed and traded on a national or regional stock exchange.

Further, during the Initial or any Renewal Term of this Agreement, and for two years following the termination or expiration of same for any reason, the Franchisee agrees not to sell, assign, lease, sublease or otherwise grant possession of the Restaurant to any individual or entity which intends to utilize same to conduct a Competitive Business thereat (and it shall be the Franchisee's affirmative duty in connection with any such sale, assignment or other disposition of the Restaurant to secure a written memorialization from the purchaser, assignee, lessee, sublessee or permittee that it has no intent to conduct a Competitive Business, as herein defined, following the subject transaction).

It is the intention of these provisions that any person or entity with a legal or beneficial interest in or traceable to, down or through the Franchisee be bound by the provisions of this covenant, including (without limitation) the Franchisee's spouse, brother, brother-in-law, sister, sister-in-law, parents, parents-in-law, child, son-in-law or daughter-in-law; any direct or indirect beneficiary of the Franchisee; and, any other related person or entity, regardless of how many levels or tiers there may be between the Franchisee and the person or entity.

If the Franchisee is a business entity, the Franchisee agrees to cause its (as applicable) owners, members, shareholders, directors, officers, partners, general partner, proprietor and or any other beneficial owner to refrain from any of the competitive activities described above in any manner which the Company reasonably requests. Franchisee's agreement to procure the execution of the Company's Confidentiality/Non-Competition Agreement from certain such individuals is set forth in Section 3.5 above.

If all or any portion of the covenants not to compete set forth above are held unreasonable, void, vague or illegal by any court or agency with competent jurisdiction over the parties and subject matter, the court or agency is hereby empowered to revise and/or construe the covenants to fall within permissible legal limits, and should not by necessity invalidate the entire covenants. Franchisee expressly agrees to be bound by any lesser covenants subsumed within the terms of this Section 3.10 as if the resulting covenants were separately stated in and made a part of this Agreement.

3.11 In order to protect the Company's interests in the System and the Trademarks, the Franchisee agrees that it must, prior to commencing operations and throughout the Term of this

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Agreement, maintain a trained staff in sufficient numbers as the Company requires so that the Franchisee may promptly, efficiently and effectively service customers according to the System's standards. The Franchisee shall take such steps as are necessary to ensure that its employees preserve good customer relations and comply with the System's standards that the Company establishes in the Operations Manual or otherwise.

The Franchisee must designate a "Restaurant General Manager" for the effective operation of the Restaurant. The Restaurant General Manager must be devoted to the full-time, day-to-day operation of the Restaurant. Before designating and engaging the services of the Restaurant General Manager, the Franchisee must identify such individual to, and obtain approval for such individual from, the Company. The Restaurant General Manager must attend and complete the initial Management Training Course to the Company's reasonable satisfaction. The proposed Restaurant General Manager must demonstrate to the Company's satisfaction (at the time of approval) that he/she satisfies the Company's educational and business standards (including, without limitation, the requisite prior restaurant management and/or team leadership experience). The Restaurant General Manager must, in addition to the initial Management Training Course, attend and complete such reasonable training to the Company's reasonable satisfaction at such times as the Company may specify, all at the Franchisee's expense. The Franchisee shall take such steps as are necessary to ensure that the Restaurant General Manager at all time complies with the System's standards that the Company establishes in the Operations Manual or otherwise.

Upon the death, disability or termination of employment of the Franchisee's Restaurant General Manager, for any cause or reason, the Franchisee must immediately notify the Company. The Franchisee must designate a successor or acting Restaurant General Manager promptly and, in any event, no later than ten days following the death, disability or termination of the predecessor Restaurant General Manager. Any successor Restaurant General Manager must attend and complete the Company's next scheduled initial Management Training Course to the Company's reasonable satisfaction, and must attend and complete such other reasonable training to the Company's reasonable satisfaction at such times as the Company may specify, all at the Franchisee's expense. The failure to employ and train a successor Restaurant General Manager will constitute a material breach of this Agreement.

To impart to the Franchisee's management and employees the latest procedures, techniques, policies and standards of the System, the Franchisee agrees to conduct the in-house meetings, training sessions, electronic training programs or other programs that the Company specifies in the Operations Manual or otherwise or as the Franchisee – using its reasonable business judgment – determines are necessary, appropriate or desirable, using any material and programs the Company may provide for this purpose.

3.12 The Franchisee will: (i) comply with all applicable international, national, federal, provincial, state, or local laws, codes or regulations that regulate the processing of information that can be used (alone or when used in combination with other information within the Franchisee's control) to identify, locate or contact an individual or pertains in any way to an identified or identifiable individual ("Personal Information") in any way, including, but not limited to, national data protection laws, laws regulating marketing communications and/or electronic communications, information security regulations and security breach notification rules ("Privacy Laws"); (ii) comply with all standards, specifications, requirements, criteria, and policies that have been and are in the future developed and compiled by the Company that relate to Privacy Laws and the privacy and security of Personal Information; (iii) refrain from any action or inaction that could cause the Company to breach any Privacy Laws; (iv) do and execute, or arrange to be done and executed, each act, document and thing the Company deems necessary in its business

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judgment to keep the Company in compliance with the Privacy Laws; and (v) immediately report to the Company the theft or loss of Personal Information (other than the Personal Information of the Franchisee's own officers, directors, shareholders, employees or service providers). The Franchisee must also comply with payment card industry ("PCI") standards, norms, requirements and protocols, including PCI Data Security Standards.

3.13 If the Company approves the Franchisee to offer delivery and/or catering services in connection with the Franchisee's Restaurant, the Franchisee must make accommodations for delivery and/or catering services in compliance with the Company's procedures, policies and standards set forth in the Operations Manual or otherwise in writing by the Company, including without limitation, utilizing only the specified designated delivery and/or catering service providers the Company identifies, making available the menu items identified as appropriate for delivery and/or catering (and only those designated menu items), and limiting the delivery and/or catering services to any delivery and/or catering area the Company specifies to the Franchisee in writing. The Franchisee acknowledges and agrees that any delivery and/or catering area the Company specifies may not be exclusive, in which case the Company may engage, and/or allow other franchisees and third parties to engage, in any activities the Company desires within the delivery and/or catering area without any restrictions (including allowing other A&W Restaurant franchisees and delivery and/or catering service providers to provide delivery and/or catering services in the delivery and/or catering area). The Franchisee further acknowledges and agrees that any delivery and/or catering area the Company specifies is nothing more than the geographic boundaries in which the Franchisee may deliver and/or cater those menu items approved for delivery and/or catering from the Franchisee's Restaurant, and no other rights are granted to the Franchisee whatsoever.

#### **SECTION 4: PURCHASING AND DISTRIBUTION**

4.0 The Company strives for the maintenance of quality and uniformity throughout the System by prescribing detailed product specifications in the Operations Manual and through field visits to both Franchisees and suppliers. In order to uphold the high standards of its quality assurance program and to ensure compliance with the specifications contained in the Operations Manual, the Franchisee must purchase certain required programs, products, supplies, equipment, materials and services from suppliers the Company designates in writing; from suppliers the Franchisee proposes and the Company approves; and/or, in accordance with the Company's written specifications. All such designated sources must demonstrate, to the Company's continuing reasonable satisfaction, the ability to meet its then-current standards and specifications for such items; that they possess adequate quality controls and capacities to supply the Restaurant's (and other A&W Restaurants') needs promptly and reliably; and, must be approved in writing by the Company (and have not thereafter been disapproved) prior to any purchases by the Franchisee from any such supplier. All such designated sources and specifications are subject to addition, modification, revocation and/or deletion by the Company from time to time upon notice to the Franchisee. If the Company revokes or deletes any menu and/or other item, product, supply, equipment, component or any approved supplier, then the Franchisee must cease using any such disapproved item (or any items purchased from a revoked source of supply) which are inventoried by the Restaurant within ten days following the Franchisee's receipt of written or electronic notice from the Company, unless the item or source of supply poses a threat to the health or safety of the public, in which case the Franchisee must cease using such item or source of supply immediately upon notice from the Company orally, electronically, or in writing.

4.1 The Franchisee shall use only Company-approved sources for the purpose of ordering and purchasing products, goods and supplies (or such other items as are agreed to by the Company and the NAWFA Board) to be used and sold in the course of operating the



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Restaurant. If the Franchisee wishes to propose an alternative source of supply, the Franchisee may petition the Company for approval of a new source through written request. The petition shall include samples of the product(s) to be approved, detailed specifications of all such products, and the supplier's current pricing schedule.

The Company shall apply the following general criteria in determining whether to designate the source as an approved source:

- (a) Ability to consistently make the product or products to the Company's specifications. This ability must be demonstrated by laboratory testing, quality assurance reports, facility inspections and such other certifications as may be deemed necessary at the reasonable discretion of the Company. All testing and certification will be at the expense of the Franchisee and/or source;
- (b) Willingness to protect any confidential information associated with the Company's products from dissemination to others, through production of private brand name products for the Company and execution of such supply, confidentiality and other agreements as the Company shall require;
- (c) Production and delivery capability to meet supply commitment;
- (d) Integrity of ownership (to assure that its association with the Company would not bring ill will upon the Company or be inconsistent with the Company's image);
- (e) Financially sound condition; and
- (f) Compliance with the then-current standards and criteria for approval of suppliers being applied generally by the Company or its affiliates and parent corporation.

At such time as the source receives the approval of the Company, that source shall be provided with detailed product specifications as they may be amended from time to time. Standards must be maintained by approved sources in accordance with written specifications or modifications thereto prescribed by the Company. Failure to correct a deviation from the specifications shall result in a termination of status as an approved source.

4.2 So long as this Agreement is in effect, Franchisee shall become and remain a member of the A&W National Purchasing Cooperative, Inc. or its successors (the "Purchasing Co-op"), and abide by its Certificate of Incorporation and Bylaws as in effect from time to time, including without limitation the provisions of the Bylaws concerning purchasing commitments. Franchisee's obligation to become and remain a member of the Purchasing Co-op shall terminate upon dissolution of the Purchasing Co-op, or if an agreement is reached between the Company and NAWFA (defined in Section 3.2) to delete from this Agreement the requirement that Franchisee become and remain a member of the Purchasing Co-op.

4.3 The Company may, in the exercise of its business judgment, enter into supply contracts either for all A&W Restaurants or a subset of A&W Restaurants situated within one or more geographic regions (each, a "systemwide supply contract"). The Company may enter in such systemwide supply contracts with one or more vendors for menu and/or other items, programs, supplies, equipment, materials and services that all company-owned and franchised A&W Restaurants in the United States, or company-owned and franchised A&W Restaurants in a designated geographic area, will be required to purchase, use and sell. If the Company does so, then immediately upon notification, the Franchisee, the Company and all other A&W

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Restaurants (or, as applicable, those in the designated geographic area) must purchase the specified menu and/or other item, program, supply, equipment, material or service only from the designated supplier. However, if at the time of the Company's notification the Franchisee is already a party to a non-terminable supply contract with another vendor or supplier for the item in question, then the Franchisee's obligation to purchase from the Company's designated supplier under the systemwide supply contract will not begin until the scheduled expiration (or earlier termination) of the Franchisee's pre-existing supply contract.

The Company makes no representation that it will enter into any systemwide supply contracts or other exclusive supply arrangements or, if it does so, that the Franchisee would not otherwise be able to purchase the same menu and/or other items, programs and/or services at a lower price from another supplier. The Company may add to, modify, substitute or discontinue systemwide supply contracts or exclusive supply arrangements in the exercise of its business judgment.

### **SECTION 5: TRAINING**

5.0 Within one (1) to two (2) months of the Restaurant opening for business, Franchisee's Restaurant General Manager and such of Franchisee's other employees as designated by the Company in the Operations Manual or otherwise from time to time shall attend and complete the Company's initial restaurant management training course (the "Management Training Course") to the Company's reasonable satisfaction. Prior to attending the Management Training Course, each attendee must become certified, or hold current certification, as a Food Safety Manager. They may either complete their State's accredited program, the ServSafe program, or other ANSI (American National Standards Institute) rated Food Manager level certification program. No Restaurant General Manager shall assume charge of the Restaurant without having first completed the Management Training Course to the Company's reasonable satisfaction. If the Restaurant General Manager or such of Franchisee's other employees as designated by the Company in the Operations Manual or otherwise from time to time fails to complete the Management Training Course to the Company's reasonable satisfaction, then, at the option of the Company, the Restaurant may be prohibited from opening until such training is complete or this Agreement may be terminated upon written notice as provided in Section 17. The Franchisee must at all times employ a Restaurant General Manager and such other employees as designated by the Company in the Operations Manual or otherwise from time to time who have completed the Management Training Course to the Company's reasonable satisfaction.

5.1 The Franchisee shall pay, without limitation all travel, lodging, meals and other related and incidental expenses associated with the Management Training Course and any refresher course, as well as any tuition, fees or associated labor or other related costs or materials charges requested by the Company.

5.2 The Franchisee shall be responsible for the compliance of all Restaurant operations with the standards, methods and techniques taught at the Management Training Course and any additional ongoing in-person or online refresher training courses, and shall cause all its Restaurant employees to be trained in such standards, methods and techniques as are relevant to the performance of their respective duties.

5.3 In addition to the Management Training Course, the Company requires all of the Franchisee's Team Members (i.e., all of the Franchisee's staff) to complete certain digital training modules. After completing the digital training modules, the Company requires all of the Franchisee's Team Members to attend on-site training at the Franchisee's Restaurant during the

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week prior to the Restaurant's opening. All Team Members are required to attend all of the training sessions during the Team Member on-site training. The Franchisee must pay all of its costs associated with this on-site training, including, among other things, training supplies or materials, uniforms, salaries and the cost of food and labor associated with any social events during the on-site training period. If any of Franchisee's Team Members fail to complete required on-site training to the Company's reasonable satisfaction, then, at the option of the Company, the Restaurant may be prohibited from opening until such training is complete or this Agreement may be terminated upon written notice as provided in Section 17.

5.4 The Company will not be obligated to provide additional on-site training or assistance, but if it elects to do so, the Company may impose a fee for each day of on-site training or assistance it agrees to provide. The timing of all advice, consultation and training provided for in this Agreement will be subject to the availability of the Company's personnel.

5.5 If the Restaurant is Franchisee's second or subsequent A&W Restaurant franchise, the Company may require Franchisee and/or certain members of Franchisee's personnel to attend and complete a multi-unit training program before opening the Restaurant for business. The Company may charge its then current training fee for each trainee. The Company will require Franchisee to pay the cost of training materials and labor costs and other related costs associated with providing the multi-unit training. Franchisee will be responsible for all compensation, insurance, travel and living expense that Franchisee or its trainee(s) incurs in connection with the multi-unit training.

## **SECTION 6: RESTAURANT CONSTRUCTION EQUIPMENT AND MAINTENANCE**

6.0 To the extent that Franchisee executes this Agreement prior to identification of the exact location of the Restaurant site or address, the Company shall accept or reject any proposed Restaurant site selected by the Franchisee in accordance with its then current procedures. After a proposed Restaurant site has been selected by the Franchisee, the Franchisee shall submit to the Company all requested site information. The Franchisee must submit and obtain the Company's acceptance of a Restaurant Site ("Site Registration") no later than twelve (12) months after the date of this Agreement. The Franchisee hereby expressly acknowledges and agrees that the Company's acceptance of a Restaurant site shall not be construed as a recommendation, representation or warranty concerning prospective sales, profits or other performance characteristics of the Restaurant proposed for any such site.

After selection of a Restaurant site by the Franchisee and acceptance by the Company and in express recognition of the acknowledgment above, the address of the selected and approved site shall be set forth on Appendix II annexed to this Agreement.

6.1 The Franchisee shall comply with the following requirements when constructing the Restaurant at the Restaurant site:

(a) The Company shall provide the Franchisee with the Company's then current concept design drawings for use in connection with the layout, exterior elevation and floor plan of the Restaurant. The Company shall also provide the Franchisee with written specifications for the Restaurant equipment, fixtures, vehicles (if the Company allows the Franchisee to provide delivery and catering services) and signage.

(b) Franchisee shall hire a locally licensed architect or structural engineer to use the Company's concept design drawings and specifications to prepare site plans and shall

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bear the expense of the preparation and stamping of such site plans. Site plans shall take into account such things as: state and local mandates, signs, driveways, parking areas, drainage and sewer systems, other physical and local code conditions, etc. The plans prepared by such architect shall comply with the Company's standards, specifications and requirements then in effect for the System, and shall be submitted to the Company for its written approval prior to proceeding with construction. Franchisee's architect shall certify that such plans comply with ADA requirements. Any plans the Franchisee prepares and submits to the Company will be irrevocably licensed to the Company in perpetuity and the Company, its affiliates and any other franchisees to whom the Company gives these plans may use them without owing the Franchisee any compensation or being liable to the Franchisee in any way. All outstanding architectural fees shall be paid to the Franchisee's architect by the Franchisee prior to the Franchisee proceeding with any construction or other improvement.

(c) At the Franchisee's expense and prior to commencing construction of the Restaurant, the Franchisee must obtain all necessary permits, licenses, variances and approvals pertaining to the building, occupancy, signs, utilities, zoning, use, and any other permits, approvals or variances which are necessary to permit the construction and use of the Restaurant as may be required by federal, state and local laws, rules, regulations or ordinances. The Franchisee shall certify to the Company in writing that all such permits, licenses, variances and approvals have been obtained.

(d) The Franchisee must engage a qualified, licensed and bonded general contractor to construct the Restaurant and to complete all improvements. Franchisee must obtain and maintain in force during the entire period of construction the insurance required under Section 12 of this Agreement. The Franchisee's indemnification of the Company, its affiliates and all others specified in Section 11 below applies to each and every activity arising from or related to the construction of the Restaurant.

(e) The Franchisee shall, at its sole cost and expense, construct, fully equip, and complete the Restaurant in conformance with the Company-approved drawings (the "Plans and Specifications"). The Company shall have the right, but not the obligation, to inspect construction to determine if such construction is in conformance with the Plans and Specifications. Franchisee expressly acknowledges that no representation of any kind whatsoever has been made by the Company as to the completeness or suitability of the Plans and Specifications for any specific Restaurant site. The Franchisee must provide the Company with comprehensive information regarding all phases of the development process of the Restaurant as the Company may require, such as weekly progress reports during conversion, in the format the Company designates. This information will include (without limitation and as applicable) the names, addresses and telephone numbers of the Franchisee's architect, civil engineer, surveyor, general contractor, subcontractors, principal vendors and environmental consultant, and the primary contact for each; copies of all permits, licenses, contractor's liability insurance certificates and other similar items required for the conversion of the Restaurant; and, copies of all construction or remodeling contracts and documents, along with originals of all lien waivers and copies of all invoices.

(f) The Company will conduct a final inspection of the completed Restaurant before it opens. The Company may require any corrections and modifications it considers reasonable and necessary to bring the Restaurant into compliance with the Plans and Specifications. The Restaurant will not be allowed to open if the Restaurant does not conform to the Plans and Specifications, including changes thereto that the Company may approve.

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6.2 The Franchisee must, no later than six (6) months after receiving Site Registration, obtain written notice from A&W's Design and Construction Team that it has granted its approval for the construction of the Restaurant at the site ("Construction Approval"). The Franchisee shall commence substantial construction of the Restaurant improvements as soon as practicable, and shall have such improvements completed and the Restaurant opened for business in accordance with this Section 6.2 within eight (8) months (with respect to Restaurants that are being converted from already existing structures) and within ten (10) months (with respect to Restaurants that are being built from the ground up) after the Franchisee receives the Construction Approval. The license hereby granted is conditional upon the Franchisee completing, equipping and commencing operation of the Restaurant within the time limits set forth in this Paragraph, provided, however, that if performance is delayed solely by reason of events beyond the control of the Franchisee, the Company may, in its sole discretion and upon Franchisee's written request (which request shall specify the reasons for delay) extend the time for performance for a period which is reasonable in light of such delay. It shall be a material breach of this Agreement if the Franchisee fails to commence substantial construction of the Restaurant improvements or fails to open the Restaurant by the respective dates specified in this Section 6.2 and this Agreement may be terminated by the Company upon written notice to the Franchisee.

6.3 The Company shall provide one or more Company representatives on-site for at least five (5) days prior to and five (5) days following the date that the Restaurant first opens for business to assist the Franchisee with equipment checkout, inventory and supply procurement, inventory control, advertising and promotional plans and scheduling and training, as well as service time improvement and general problem solving.

6.4 The Franchisee shall make no material alteration or improvement, or change in design, equipment or decor in, on, or about the Restaurant or Restaurant premises without the prior written approval of the Company in each instance.

6.5 The Franchisee acknowledges that the Company shall have no obligation or responsibility of any kind whatsoever in connection with the financing of the acquisition, construction, development or operation of the Restaurant.

6.6 In order to assure the continued success of the Restaurant, the Franchisee shall at all times maintain at its sole expense the interior and exterior of the Restaurant in first class condition and repair, and in compliance with all applicable laws, rules, regulations and the Operations Manual, except to the extent that the Company may otherwise expressly agree in writing. The Company has the right to require Franchisee once every five (5) years, at Franchisee's sole expense, to update, remodel, refurbish, renovate, modify or redesign the Restaurant so that it reflects the Company's then-current standards. Franchisee will have 90 days following its receipt of the Company's notice to comply with the Company's direction. The Franchisee's obligations under this Section 6.6 are in addition to, and do not relieve the Franchisee from any of its other obligations under this Agreement.

6.7 If the Franchisee is or becomes a lessee of the Restaurant premises or any part thereof:

(a) The Company shall have the right to approve such lease, a complete copy of which shall be delivered to the Company at least thirty (30) days prior to the execution thereof, and the Company expressly reserves the right to disapprove any lease that does not contain the provisions set forth in Section 6.7(d) below;

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(b) Following signing of the lease, the Company shall be provided with an executed copy of the lease for its records;

(c) Franchisee shall neither create nor purport to create any obligation on behalf of the Company, nor grant or purport to grant to the landlord thereunder any rights against the Company, nor agree to any other term, condition, or covenant which is inconsistent with any provision of this Agreement, including, without limitation, and "radius" or like restriction on the Company's or its affiliates development of any restaurant facility in proximity to the Restaurant premises; and

(d) Franchisee shall use its best efforts to have included in said lease with respect to the Restaurant premises provisions acceptable to the Company providing the following:

(i) After the expiration or termination of this Agreement for any reason, the Company will have the option for thirty (30) days to cure any defaults within a reasonable period of time; at the Company's election, either to assume the obligations of and replace the Franchisee as the lessee under the lease, or to have another franchisee, licensee, joint venture partner or other designee of the Company's assume the obligations of and replace the Franchisee as the lessee under the lease; and, if the Company has assumed the obligations of and replaced the Franchisee as the lessee under the lease, to reassign the lease to another franchisee, licensee, joint venture partner or other designee of the Company's.

(ii) The lessor or sublessor (the "Landlord") will furnish to the Company written notice specifying any default and the method of curing the default; allow the Company thirty (30) days after receipt of the notice to cure the defaults (except that if the default is the non-payment of rent, the Company will have only fifteen (15) days from receipt of notice to cure the default); and, allow the Company to exercise its option for the Company or another franchisee, licensee, joint venture partner or other designee of the Company's to succeed to the Franchisee's interest in the lease.

(iii) The Landlord will accept the Company or another franchisee designated by the Company as a substitute tenant under the lease upon notice from the Company that the Company is exercising its option for the Company or another franchisee, licensee, joint venture partner or other designee of the Company's to succeed to the Franchisee's interest in the lease and/or to reassign the lease to another franchisee following the Company's assumption of obligations under the lease.

(iv) The required provisions in (i)., (ii). and (iii). above are rights but not obligations for the Company to assume the Franchisee's rights and responsibilities under the lease.

(v) The Landlord acknowledges that the Franchisee alone is responsible for all debts, payments and performances under the lease before the Company or another franchisee, licensee, joint venture partner or other designee of the Company's takes actual possession of the premises.

(vi) The lease may not be modified or amended without the Company's advance written consent, which the Company may not unreasonably withhold. The Landlord will promptly provide the Company with copies of all proposed modifications or amendments and true and correct copies of the executed modifications and amendments.

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(vii) The Landlord agrees to furnish the Company with copies of all letters and notices sent to the Franchisee pertaining to the lease and the premises, at the same time that these letters and notices are sent to the Franchisee.

6.8 The Franchisee may not relocate the Restaurant to another location without first obtaining the Company's written approval for the new location and reimbursing the Company for any reasonable costs it incurs in considering the Franchisee's request. All leases or subleases that the Franchisee enters into, all plans and specifications for the relocated Restaurant that the Franchisee adduces and all construction, remodeling, renovation or other such activity that the Franchisee performs at and for the relocated Restaurant must be in accordance with all of the provisions of this Section 6 and the Company's then-current standards, specifications and requirements. The Franchisee must relocate the Restaurant to the new location within twelve (12) months of ceasing operations at the Restaurant's original location.

### **SECTION 7: FEES**

7.0 As partial consideration for the rights granted hereunder, the Franchisee shall pay to the Company or the NAC Advertising Fund, as applicable:

(a) An initial franchise fee of \_\_\_\_\_ (\$\_\_\_\_\_), which shall be paid in full on the date Franchisee signs this Agreement. The Franchisee hereby acknowledges that the granting of this Franchise Agreement is the sole and only consideration for the payment of this initial franchise fee. Franchisee may be eligible to receive a refund of up to fifty percent (50%) (less any costs or expenses incurred by the Company for administration or training of Franchisee and Franchisee's employees/managers) of Franchisee's initial franchise fee if, after submitting at least two (2) potential sites to the Company for consideration, Franchisee does not obtain Site Registration within twelve (12) months after the date of this Agreement, the Company terminates this Agreement (at its option), and Franchisee signs and submits to the Company a release of claims in a form A&W prescribes. Franchisee may be eligible to receive a refund of up to twenty percent (20%) (less any costs or expenses incurred by the Company for administration or training of Franchisee and Franchisee's employees/managers) of Franchisee's initial franchise fee if the Company and Franchisee have agreed upon a location for the Restaurant within twelve (12) months after the date of this Agreement but Franchisee has not obtained Construction Approval within eighteen (18) months after the date of this Agreement, the Company terminates this Agreement (at its option), and Franchisee signs and submits to the Company a release of claims in a form the Company prescribes. The initial franchise fee is otherwise not refundable.

(b) A Grand Opening Promotional Deposit in the amount of Five Thousand Dollars (\$5,000.00) payable to the NAC Advertising Fund, concurrently with the execution of this Agreement. Such amount is reimbursable to the Franchisee as set forth in Section 8.4 below.

(c) A continuing royalty fee equal to five percent (5.0%) of net sales. The Franchisee hereby acknowledges that the payment of this royalty fee is consideration for the limited license to use the Trademarks pursuant to Section 1 of this Agreement.

(d) A continuing advertising fee equal to five percent (5.0%) of net sales payable to the NAC Advertising Fund. The Company shall have the right to require Franchisee to pay the advertising fee directly to its designee and the Franchisee shall so direct its payment as required by the Company. The franchisee acknowledges and agrees that advertising fees received under this Agreement may be expended in support of advertising and marketing programs in accordance with the then current applicable terms of any agreement between the Company and NAWFA or their respective affiliates, including, but not limited to, the NAWFA

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Marketing Committee Policies and Procedures; the NAWFA Marketing Committee One Store Account Policies and Procedures; the NAWFA Co-Op Policies and Procedures; and any other policies adopted jointly by such parties.

7.1 The term “net sales” as used in this Agreement shall be defined as and shall include the total of all sales of food, beverages and other tangible property of every kind sold from the Restaurant; all amounts which shall be received as compensation for any services rendered from or business conducted at the Restaurant; and all amounts, or the reasonable value of other consideration, received from any and all sales from the Restaurant or elsewhere, minus all sales discounts or other price incentives reducing consideration received and all sums collected and paid out for any local or state sales tax.

7.2 (a) The fees referred to in the preceding Sections 7.0(c) and (d) shall be paid on or before the twentieth (20th) day of each month based upon the preceding month’s net sales. Fees which are not paid when due shall bear interest from and after the respective due dates at the rate of eighteen percent (18%) per annum or the highest legal rate then allowable by the State in which the Franchisee pays its taxes, whichever is less. Failure by the Franchisee to pay to the Company any fees or other amounts due hereunder when due shall constitute a material breach of this Agreement.

(b) The Company shall have the right, in its sole discretion, to require Franchisee to establish an electronic payment arrangement including, but not limited to, a direct debit conversion of check payments into electronic payments through the Automated Clearing House (ACH) for payment of royalties, advertising and/or other fees as described in this Section 7.2. Depending on the type of payment arrangement, Franchisee may need to work with a bank or other third-party vendor to initiate such payment services. Franchisee agrees to work and fully cooperate with Company, banking institutions and/or third-party vendor(s) to establish such payment arrangements. If and when the Company exercises its rights established in this Section 7.2, Franchisee shall establish an electronic funds transfer or ACH debit arrangement with Franchisee’s bank(s) for all payments to be made to the Company or any of its affiliates. Such electronic payment arrangement shall be entered into between Franchisee and its bank(s) and shall provide for the electronic transfer or pre-arranged draft or sweep of funds from Franchisee’s bank(s) to the Company’s bank accounts. If required by the Company, Franchisee shall permit direct debit payments from Franchisee’s bank(s) on receipt of instructions from the Company, whether transmitted by electronic mail, webmail or other agreed upon form of communication. Such instructions may be for multiple future transfers. Franchisee shall maintain sufficient funds in its account at all times to ensure that all amounts due to the Company and its affiliates are promptly and fully paid.

## **SECTION 8: ADVERTISING**

8.0 The Company shall develop advertising and promotional programs designed to promote and enhance the collective success of all A&W Restaurants. Such advertising and promotional programs shall be submitted to the A&W Marketing Committee for approval prior to use. The A&W Marketing Committee is composed of an equal number of representatives of the Company and the National A&W Franchisees Association (“NAWFA”). NAWFA administers the NAC Advertising Trust Fund and approves all expenditures from the NAC Advertising Trust Fund in accordance with the then current A&W / NAWFA Marketing Committee Agreement.

It is expressly understood, acknowledged and agreed that in all phases of such programs, including, without limitation, type, quantity, timing, placement and choice of media, research and development, production costs, market areas and advertising agencies, the decisions of the A&W



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Marketing Committee shall be final and binding. The Franchisee must participate actively in all such programs, in full and complete accordance with such terms and conditions as may be established by the A&W Marketing Committee. The Franchisee shall be required to submit detailed results of each program in accordance with the A&W Marketing Committee Agreement and policies adopted jointly by the Company and NAWFA.

8.1 To the extent required or allowed by the A&W Marketing Committee (or as required or allowed by applicable agreements between the Company and NAWFA), the Company shall direct the Franchisee to spend a portion of the advertising fee that the Franchisee already paid in accordance with Section 7.0(d) on Approved Local Advertising and promotions. If the Franchisee is current with its obligations under this Agreement and fulfills the Company's other then-current requirements, the Company will reimburse the Franchisee the portion of the already-paid advertising fee the Company directed the Franchisee to spend on Approved Local Advertising and promotions. If the Franchisee's Restaurant is, or will be located in a market that is ever serviced by an advertising cooperative, Franchisee shall become a member of that advertising cooperative to the extent membership is required pursuant to the A&W Marketing Committee and policies adopted jointly by the Company and NAWFA. The Franchisee shall keep accurate, detailed accounts of its authorized local advertising expenditures throughout the Term of this Agreement, and shall submit proof of all such advertising expenditures in accordance with the Marketing Committee Agreement, One Store Account Policies and Procedures and policies adopted jointly by the Company and NAWFA.

8.2 "Approved Local Advertising" means advertising copy and other materials prepared and implemented in strict accordance and conformity with the standards, formats and specimens approved by the A&W Marketing Committee. In the event the Franchisee wishes to depart from the approved materials, the Franchisee shall submit, in each instance, the proposed advertising copy and materials for approval in advance of publication, and shall use only such advertising copy and materials as have been approved in writing.

8.3 Franchisee shall participate in all advertising, marketing, promotional and other programs (including market tests, new product tests and other test promotion) which from time to time are required by the A&W Marketing Committee or supported by a majority of Franchisees in the market in which Franchisee's Restaurant is located with respect to local and regional programs, and in the continental United States with respect to national programs. The Company and the A&W Marketing Committee undertake no obligation to ensure that any individual Franchisee benefits directly, or on a pro rata basis, from the placement, if any, of such advertising in its local market.

8.4 The Franchisee shall have a "Grand Opening" promotion within six (6) months after the Restaurant has opened for business to the public. Said promotion shall be conducted in accordance with the Company's then-current marketing policies and guidelines and shall be in the form and format approved by the Company. Within thirty (30) days following receipt of substantiation of Franchisee's expenditures in connection with such approved Grand Opening promotional activities, the Company shall reimburse Franchisee's approved Grand Opening expenditures in the amount actually expended, not to exceed Five Thousand Dollars (\$5,000.00), in accordance with the Grand Opening Promotion Deposit referenced in Section 7.0(b). If the Franchisee fails to conduct the required Grand Opening promotional activities in accordance with this Section 8.4 the Company may (but is not obligated to), in addition to seeking the other remedies available to the Company, elect to use the Grand Opening Promotion Deposit to conduct Grand Opening promotional activities on the Franchisee's behalf.

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8.5 The NAWFA Board shall separately account for all advertising fees as specified in Section 7.0(d) received from Franchisees and all such fees shall be expended solely upon advertising and promoting A&W Restaurants and related expenses, including but not limited to talent fees, creative, development and production costs, media purchases, agency fees, etc. Neither the costs of staffing and maintaining the Company's marketing department nor franchise sales costs shall be assessed against such fees.

8.6 The Franchisee shall follow sound business and advertising practice. Nothing therein shall be derogatory of canned and bottled soft drink beverages sold under the A&W brand name or knowingly derogatory of the Company, any other business of the Company, any affiliate of the Company, A&W Concentrate Company, the owner of the A&W Trademarks, or any affiliates of A&W Concentrate Company or any Franchisee of the A&W Trademarks. The Franchisee shall upon the Company's direction immediately cease any advertising or promotional activity that the Company determines is or reasonably has the potential to generate adverse attention toward the Company.

### **SECTION 9: RECORD KEEPING**

9.0 Franchisee shall be required to implement a system complying with generally accepted accounting procedures, in connection with the business of the Restaurant.

9.1 Not later than sixty (60) days following the date that the Restaurant first opens for business, the Franchisee shall provide the Company with a detailed listing of all expenses incurred by Franchisee in connection with completing the Company's Management Training Course, purchasing or leasing the Restaurant real property, building/converting or remodeling and equipping the Restaurant prior to opening for business, opening inventory and pre-opening on-site training costs for Franchisee's staff, including wages, food, paper, etc., as well as such other information regarding Franchisee's start-up costs as the Company may request from time to time.

9.2 The Franchisee shall submit to the Company on a regular basis concurrently with the payment of the royalty fees provided for in Section 7.0(c) hereof, those forms designated in the Operations Manual.

9.3 Without limiting the generality of the foregoing, Franchisee shall submit to the Company (a) no later than thirty (30) days following the end of each calendar quarter during the Term of this Agreement, in a form the Company approves, a statement of the Restaurant's profit and loss for the quarter and a balance sheet as of the end of the quarter; (b) no later than ninety (90) days following the end of each of the Franchisee's fiscal years during the Term of this Agreement, in a form the Company approves, a statement of the Restaurant's profit and loss for the fiscal year and a balance sheet as of the end of the fiscal year, prepared on a compilation basis; and (c) no later than thirty (30) days following the Franchisee's filing of the annual tax returns of the franchised business, exact copies of the tax returns, including federal, state and any local income tax returns, together with a certificate from an independent certified public accountant that all Social Security payments, taxes and fees required to be paid by the Franchisee to any governmental agency or entity have been paid, and that if the Franchisee is a business entity, there is no reason to believe that the Franchisee's entity's status has been impaired.

The profit and loss statements required to be submitted by this Section 9.3 shall be prepared in accordance with generally accepted accounting principles applied on a consistent basis and shall either be accompanied by the report of an independent locally licensed public accountant and audited in accordance with generally accepted auditing standards, or certified by

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an appropriate representative of the Franchisee. In addition to the other remedies available to the Company, if the Franchisee fails to provide the Company with such profit and loss statement, the Company may cause an independent audit to be made of the Franchisee's books and records, and the Franchisee shall promptly reimburse the Company for all costs incurred in connection therewith.

9.4 When the Company directs, the Franchisee agrees to procure and install, at its expense, the computer hardware, software, systems (e.g., restaurant management system), digital platforms (e.g., digital learning platform), wired and/or wireless internet connections and service, required dedicated telephone and power lines and other computer-related accessories, peripherals and equipment that the Company specifies in the Operations Manual or otherwise. The Franchisee agrees to use and purchase any proprietary software and software support services that, in the future, either the Company develops and provides or which are provided on the Company's behalf by a third-party supplier the Company designates, and the Franchisee will execute any standard form software license agreement reasonably necessary to do so. The Franchisee agrees to obtain and maintain high-speed communications access, such as broadband, DSL or other high-speed capacity that the Company requires. The Franchisee also agrees to maintain at all times a functioning e-mail address for its franchised business.

The Franchisee shall equip the Restaurant with a computer-based point of sale system into which it must input and maintain all data and information which the Company prescribes in its Operations Manual, in its proprietary software (if any) and its manuals, and otherwise. The point of sale system must have the capability of being remotely polled by the Company. Within thirty (30) days following the Company's written request, Franchisee shall establish and maintain an internet connection or equivalent technology to enable the Company's remote polling of Franchisee's sales data. Franchisee shall execute such access and polling agreements as the Company deems necessary to evidence Franchisee's agreement to allow the Company's remote polling of its data. The Company hereby agrees that it shall not require that Franchisee replace such point of sale system more often than every seven (7) years during the Term of this Agreement, providing that such system continues to function properly. The Company hereby reserves the right and the Franchisee hereby grants to the Company the authority to poll said point of sale system at any time and from time to time during the Term hereof. All records prepared by the point of sale system shall be retained by the Franchisee for a period of not less than five (5) years at the Franchisee's address designated in Section 19.0.

### **SECTION 10: INSPECTION AND EMERGENCY ENTRY**

10.0 The Company shall have the right at any time and from time to time, with or without written notice, during normal business hours to have its representatives (which may be employees of the Company or unaffiliated third parties designated by the Company) enter the Franchisee's premises for the purpose of determining compliance with the standards, specifications, requirements, instructions and procedures contained in this Agreement or the Operations Manual, and for any other reasonable purpose connected with the business or operation of the Restaurant. The Franchisee acknowledges that any inspection that the Company conducts is conducted in order to protect its interests in the System and Trademarks and is not intended to exercise, and does not constitute, in whole or in part, control over the day-to-day operation of the Franchisee's Restaurant and the Franchisee agrees to never contend otherwise. Following any inspection, the Franchisee agrees to take such steps as are necessary to incorporate into its Restaurant any reasonable corrections and modifications the Company requires to maintain the standards of quality and uniformity the Company prescribes.

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10.1 Without limiting the generality of Section 10.0, representatives (which may be employees of the Company or unaffiliated third parties designed by the Company) shall have the right at all times during normal business hours, with or without written notice, to inspect the Franchisee's books and records including but not limited to sales slips, sales checks, bank deposit records and receipts, cash register tapes, sales journals, general ledgers and all purchase orders, journals, records, invoices and (but solely in connection with an on-site audit by the Company) tax returns, or such portions thereof as pertain to the operation of the Restaurant. All such books and records shall be retained by the Franchisee for a period of not less than five (5) years at the Franchisee's address designated in Section 19.0 and shall be filed in an orderly fashion for ease of retrieval and audit by the Company and/or its authorized representatives. If the Company's representative determines that sufficient documentation is not maintained, retained, recorded or available to verify Franchisee's actual net sales in accordance with generally accepted auditing standards, Franchisee shall pay the cost of such inspection and, in addition, should the Company deem it necessary, Franchisee shall pay any such other additional fees for reconstruction of records to determine actual net sales for such periods as the Company may deem necessary. If any such inspection reveals that the net sales reported in any accounting period or annual report or statement are less than the actual net sales ascertained by such inspection, then the Franchisee shall immediately pay to the Company the additional amount of royalty and advertising fees as specified in Section 7.0(d) owing by reason of the understatement previously reported by the Franchisee, together with interest at the rate of eighteen percent (18%) per annum, or the highest legal rate then available, from the date payment of such amounts was due. In the event that any accounting period or annual report or statement understates net sales from the Restaurant by two percent (2%) or more of the actual net sales ascertained by the Company's inspection, then in addition to paying the additional amounts due and interest, the Franchisee shall be liable to the Company for any and all expenses incurred in connection with its inspection, including, but not limited to, reasonable travel, lodging, accounting and legal costs and fees, without prejudice to any other rights or remedies the Company may have under this Agreement or otherwise. In the event that any accounting period or annual report or statement understates net sales from the Restaurant by eight percent (8%) or more of the actual net sales ascertained by the Company's inspection, then in addition to paying the additional amounts due, interest and the full cost of the audit, the Franchisee's understatement will be a material and incurable breach of this Agreement which, unless the Company waives the breach, will entitle the Company to terminate this Agreement immediately upon notice to the Franchisee, with no opportunity to cure. Notwithstanding the foregoing, Franchisee shall have 30 days following its receipt of the Company's audit report to contest same, and Company shall consider such response in good faith prior to assessing any charges under this Section.

10.2 The Company and A&W Concentrate Company, the owner of certain of the A&W Trademarks, shall have the right at any time and from time to time, with or without written notice, to have their respective representatives enter the Franchisee's premises wherein A&W Draft Root Beer and/or A&W fountain Root Beer is being made and/or sold for the purpose of inspection, and the Franchisee shall, upon request, furnish free of charge a reasonable number of samples of such A&W® Root Beer for analysis and testing. In the event that the Company notifies the Franchisee that any such A&W® Root Beer does not comply with the standards of A&W Concentrate Company, the Franchisee shall forthwith, suspend the sale thereof until further notice from the Company.

10.3 The Company and/or its authorized representatives shall have the right at any time and from time to time, with or without written notice, to enter the Restaurant premises for the purpose of inspection of all products offered for sale on the premises, and all condiments and ingredients used therein, to ensure that the products, ingredients and preparation comply with the food safety and other standards specified in the Operations Manual. The Franchisee shall, upon

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request, furnish free of charge a reasonable number of samples for analysis and testing. The Company and/or its authorized representative may charge Franchisee its then-current fee for conducting an initial or subsequent food standards and safety review audit.

10.4 (a) The Company and/or its authorized representatives shall have the right at any time and from time to time, with or without written notice, to enter the Restaurant premises for the purpose of inspecting the equipment, furnishings, fixtures, vehicles (if the Company allows the Franchisee to provide delivery and catering services) and Restaurant premises (including the parking lot) to ensure that the Company's Quality Assurance Standards of cleanliness, proper maintenance and satisfactory conditions are maintained as specified in the Operations Manual.

(b) If the Company reasonably determines that: Franchisee's operation of the A&W Restaurant is posing a health or safety risk to employees or consumers; is being operated in violation of any Health and Safety Regulations or any other laws, regulations, or ordinances; or is being operated in such a manner as to pose an imminent threat of media or public relations attention that could be materially adverse to the A&W brand, the Company shall have the right, upon using its best efforts to provide notice to Franchisee, to enter the Restaurant premises, with or without written notice, and cause the immediate cessation of operations until such time as the Company reasonably determines that the restaurant business can be reopened to the public.

10.5 Failure or refusal on the part of the Franchisee or its representatives to allow the inspections referenced in the immediately preceding Sections 10.0, 10.1, 10.2, 10.3 and 10.4(a) and (b) shall be considered a material breach of this Agreement. The Company reserves the right to charge the Franchisee a sum to be established by the Company from time to time for any subsequent inspection required by the Company as a result of a failed initial inspection or the Franchisee's failure to allow an initial inspection.

10.6 If the Franchisee is a corporation, the Franchisee shall maintain an accurate stock register. In the event that the beneficial ownership of the Franchisee's stock differs in any respect from record ownership, the Franchisee shall also maintain a list of the names, addresses and interests of all beneficial owners of its stock. The Franchisee shall provide the Company with a copy of its stock register and any list of beneficial owners, certified by the corporation's secretary (or other appropriate officer) to be correct, at any reasonable time and from time to time after ten days prior written request by the Company. Company representatives shall have the right to examine the stock register and any list of beneficial owners and to reproduce all or any part thereof. In addition, all record and/or beneficial stockholders of at least a 10% interest in the Franchisee (or, if the Franchisee is not a corporation, all owners of at least a 10% interest in the Franchisee) shall agree in writing to jointly and severally personally guarantee the full and faithful performance of all agreements, duties and obligations required to be performed, fulfilled or observed by the Franchisee under this Agreement, unless otherwise expressly agreed by the Company in writing, substantially in the form of Appendix III to this Agreement. In certain states, A&W may require the spouse of any individual franchisee or any 10% or more interest holder to sign a personal guaranty.

10.7 The Franchisee shall immediately advise the Company, in writing, of any change in the record or beneficial ownership of the stock and shall provide the Company with a certified copy of its stock register reflecting such changes.

## **SECTION 11: RELATIONSHIP OF PARTIES AND INDEMNIFICATION**

11.0 The Franchisee understands and agrees that it is and will be the Company's independent contractor under this Agreement. Nothing in this Agreement may be construed to

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create a partnership, joint venture, agency, employment or fiduciary relationship of any kind. None of the Franchisee's employees will be considered to be the Company's employees. Neither the Franchisee nor any of its employees whose compensation the Franchisee pays may in any way, directly or indirectly, expressly or by implication, be construed to be the Company's employee for any purpose, most particularly with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state or federal governmental agency. Franchisee is solely responsible for its employees, all acts of its employees and all employment related decisions, including but not limited to, those decisions concerning wages, benefits, hours of work, scheduling, hiring, firing, discipline, training, supervision, recordkeeping and all other terms and conditions of employment. The Company will not have the power to hire or fire the Franchisee's employees. The Franchisee expressly agrees, and will never contend otherwise, that the Company's authority under this Agreement to certify certain of the Franchisee's employees for qualification to perform certain functions for the Restaurant does not directly or indirectly vest in the Company the power to hire, fire or control any such employee.

The Franchisee acknowledges and agrees, and will never contend otherwise, that it alone will exercise day-to-day control over all operations, activities and elements of the Restaurant and that under no circumstance shall the Company do so or be deemed to do so. The Franchisee further acknowledges and agrees, and will never contend otherwise, that the various requirements, restrictions, prohibitions, specifications and procedures of the System which the Franchisee is required to comply with under this Agreement, whether set forth in the Operations Manual or otherwise, do not directly or indirectly constitute, suggest, infer or imply that the Company controls any aspect or element of the day-to-day operations of the Restaurant, which the Franchisee alone controls, but only constitutes standards the Franchisee must adhere to when exercising its control of the day-to-day operations of the Restaurant.

The Franchisee may not, without the Company's prior written approval, have any power to obligate the Company for any expenses, liabilities or other obligations, other than as specifically provided in this Agreement. Except as expressly provided in this Agreement, the Company may not control or have access to the Franchisee's funds or the expenditure of the Franchisee's funds or in any other way exercise dominion or control over the Restaurant. Except as otherwise expressly authorized by this Agreement, neither party will make any express or implied agreements, warranties, guarantees or representations or incur any debt in the name of or on behalf of the other party, or represent that the relationship between the Company and the Franchisee is other than that of franchisor and franchisee. The Company does not assume any liability, and will not be considered liable, for any agreements, representations, or warranties made by the Franchisee which are not expressly authorized under this Agreement. The Company will not be obligated for any damages to any person or property which directly or indirectly arise from or relate to the Franchisee's operation of the Restaurant.

11.1 The Franchisee shall exonerate and indemnify the Company and A&W Concentrate Company and any of their officers, directors, employees, agents, corporate parents, subsidiaries, affiliates, shareholders, successors and assigns (the "Indemnified Parties") from and against (a) any and all claims, losses, liabilities and costs incurred in connection with any action, suit, proceeding, claim, demand, investigation, or formal or informal inquiry (regardless of whether any of the foregoing is reduced to judgment) or any settlement of the foregoing, which actually or allegedly, directly or indirectly, arises out of, is based upon, arises out of, or is in any way related to the construction, operation or condition of any part of the Restaurant or Restaurant premises, the conduct of business at the Restaurant premises including, but not limited to, the food and beverages sold therefrom, the ownership or possession of real or personal property, any negligent act, omission, misfeasance or nonfeasance by the Franchisee or any of its agents, contractors,

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servants, or employees, and including, without limitation, any and all conduct by Franchisee's employees, all obligations of the Franchisee incurred pursuant to any provision of this Agreement, and (b) any and all fees (including actual attorneys fees), costs and other expenses incurred by or on behalf of the Company in the investigation of or defense against any and all such claims.

As used above, the phrase "claims, losses, liabilities and costs" includes all claims; causes of action; fines; penalties; liabilities; losses; compensatory, exemplary, statutory or punitive damages or liabilities; costs of investigation; lost profits; court costs and expenses; reasonable attorneys' and experts' fees and disbursements; settlement amounts; judgments; compensation for damage to Company's reputation and goodwill; costs of or resulting from delays; travel, food, lodging and other living expenses necessitated by the need or desire to appear before (or witness the proceedings of) courts or tribunals (including arbitration tribunals), or government or quasi-governmental entities (including those incurred by the Indemnified Parties' attorneys and/or experts); all expenses of recall, refunds, compensation and public notices; and, other such amounts incurred in connection with the matters described. All such losses and expenses incurred under this indemnification provision will be chargeable to and paid by the Franchisee pursuant hereto, regardless of any actions, activity or defense undertaken by the Company or the subsequent success or failure of the actions, activity or defense.

The Franchisee agrees to give the Company written notice of any such action, suit, proceeding, claim, demand, inquiry or investigation that could be the basis for a claim for indemnification by any Indemnified Party within three days of the Franchisee's actual or constructive knowledge of it. At the Franchisee's expense and risk, the Company may elect to assume (but under no circumstance will Company be obligated to undertake) the defense and/or settlement of the action, suit, proceeding, claim, demand, inquiry or investigation. However, the Company will seek the Franchisee's advice and counsel and keep the Franchisee informed with regard to the defense or contemplated settlements. The Company's undertaking of defense and/or settlement will in no way diminish the Franchisee's obligation to indemnify the Company and the other Indemnified Parties and to hold them harmless.

The Company will have the right, at any time it considers appropriate, to offer, order, consent or agree to settlements or take any other remedial or corrective actions it considers expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in the Company's sole judgment, there are reasonable grounds to do so. Under no circumstance will the Company or the other Indemnified Parties be required to seek recovery from third parties or otherwise mitigate their losses to maintain a claim against the Franchisee. The Franchisee agrees that any failure to pursue recovery from third parties or mitigate loss will in no way reduce the amounts recoverable by the Company or the other Indemnified Parties from the Franchisee. The indemnification obligations of this Section 11.1 will survive the expiration or sooner termination of this Agreement.

## **SECTION 12: INSURANCE**

12.0 The Franchisee shall procure, before the commencement of Restaurant construction or other improvement, and maintain in full force and effect during the entire Term of this Agreement, at its sole cost and expense, an insurance policy or policies protecting the Franchisee, the Company, as well as the Company's affiliates, officers, directors, and employees, and A&W Concentrate Company and their respective officers, directors and employees against any and all loss, liability or expenses whatsoever, from fire, personal injury, theft, death, property damage or other damaging or injurious occurrence, arising out of or in connection with the condition, operation, use or occupancy of the Restaurant or Restaurant premises. The Company, its parent and affiliated entities and A&W Concentrate Company shall be named as additional

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insureds in all such policies, worker's compensation excepted. Such policy or policies shall be written by a responsible insurance company acceptable to the Company which possess a Best's Insurance Guide rating of no less than "A+13", and shall be in such form and contain such limits of liability as shall be satisfactory to the Company from time to time. In any event, such policy or policies shall include, at least the following:

<b><u>TYPE OF INSURANCE</u></b>	<b><u>MINIMUM LIMITS OF LIABILITY</u></b>
Worker's Compensation	Statutory, if any
Commercial General Liability	\$1,000,000 per occurrence for Bodily Injury and Property Damage combined
Boiler and Machinery/Energy Equipment (including Business Income/Extra Expense)	\$50,000

The insurance afforded by the policy or policies respecting public liability shall not be limited in any way by reason of any insurance which may be maintained by the Company or A&W Concentrate Company. In addition, the insurance coverage that the Franchisee acquires and maintains must extend to and provide indemnity for all obligations assumed by the Franchisee under this Agreement and all other items for which the Franchisee is required to indemnify the Company under this Agreement. Furthermore, the insurance coverage that the Franchisee acquires and maintains must contain a waiver of subrogation rights against the Company, the other Indemnified Parties identified in Section 11.1 and any of the Company's successors and/or assigns.

12.1 Not less than seven (7) days before construction or other improvement of the Restaurant shall commence and each policy renewal date thereafter, certificates of insurance showing compliance with the requirements of Section 12.0 shall be furnished by the Franchisee to the Company for approval. Such certificates shall state that the policy or policies shall not be cancelled, not renewed or altered without at least sixty (60) days prior written notice to the Company. Maintenance of such insurance and the performance by the Franchisee of its obligations under this Section 12 shall not relieve the Franchisee of liability under the indemnity provisions of this Agreement or limit such liability.

12.2 The Franchisee shall purchase insurance coverage on the Restaurant building and other improvements, equipment, furnishings, other fixtures and vehicles (if the Company allows the Franchisee to provide delivery and catering services) and any additions thereto in accordance with all risk fire and extended coverage insurance policies then in effect for similar businesses and in an amount not less than replacement cost. The Franchisee shall continually exhibit evidence of such insurance to the Company during the Term of this Agreement.

12.3 Should the Franchisee, for any reason, not procure and maintain the insurance coverage required by this Agreement, then the Company shall have the right and authority, but not the obligation, to immediately procure such insurance coverage and to charge the cost thereof to the Franchisee, which charges shall be paid immediately upon notice.

12.4 If the Franchisee fails to purchase or maintain any insurance required by this Agreement or Franchisee fails to reimburse the Company for its purchase of any required insurance on the Franchisee's behalf, the Franchisee's failure will be a material and incurable breach of this Agreement which, unless the Company waives the breach, will entitle the Company



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to terminate this Agreement immediately upon notice to the Franchisee, with no opportunity to cure.

### **SECTION 13: DEBTS AND TAXES**

13.0 The Franchisee shall pay or cause to be paid promptly when due all obligations incurred directly or indirectly in connection with the Restaurant and its operation; including, without limitation, all taxes and assessments that may be assessed against Restaurant land, building and/or other improvements, equipment, fixtures, signs, furnishings, vehicles (if the Company allows the Franchisee to provide delivery and catering services) and other property, and all liens, judgments, and encumbrances of every kind and character created or placed upon or against any of said property, and all accounts and other indebtedness of every kind and character incurred by or on behalf of the Franchisee in the conduct of the Restaurant business. Any amounts due the Company which are not paid when due shall bear interest from and after the respective dates due at the rate of eighteen percent (18%) per annum or the highest legal rate then allowable by the State in which the Franchisee pays its taxes, whichever is less. Failure by the Franchisee to pay to the Company any amounts due when due shall constitute a material breach of this Agreement.

### **SECTION 14: SALE AND ASSIGNMENT**

14.0 This Agreement and the Restaurant and Restaurant premises and the Franchisee's rights and interest thereunder shall not be subject to sale, assignment, lease or sublease, transfer or encumbrance, conveyance, consolidation, merger, (all of which are included within the meaning of the term "transfer") in whole or in part in any manner whatsoever, without the prior written consent of the Company. The Company shall not, however, unreasonably withhold its consent. In granting or withholding such consent, the Company may consider the following when evaluating prospective transferees: (i) work experience and aptitude, (ii) financial background and qualifications, (iii) character and credit reputation, (iv) ability to personally devote adequate time and best efforts to managing the Restaurant, (v) residence in the locality of the Restaurant, (vi) equity interest in the Restaurant, (vii) conflicting interests, and (viii) such other criteria and conditions as the Company shall then apply in the case of an application for a new franchise agreement to operate an A&W Restaurant. In addition, the Company may require as conditions precedent to the granting of its consent that:

(a) There shall be no existing default or breach in the performance or observance of any of Franchisee's obligations under this Agreement or any other agreement with the Company, or its affiliates unless arrangements satisfactory to the Company have been made for curing any such default;

(b) Franchisee shall have settled all outstanding accounts with the Company, as well as with all approved suppliers servicing the Restaurant;

(c) The Franchisee shall have paid to the Company a transfer fee of Five Thousand Dollars (\$5,000.00). Payment of the transfer fee shall be waived by the Company in the event of a transfer to immediate family members, as hereinafter defined;

(d) The Company shall have the right and authority to decline its consent to any transfer(s) in the event that the Company, in its reasonable judgment, deems that a prospective transferee will be unable or unlikely to operate the Restaurant in accordance with this Agreement or the Operations Manual;

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(e) The proposed transferee be interviewed at the Company's headquarters office and shall be responsible for paying all related and incidental expenses of attending such interview;

(f) The transferee's Restaurant General Manager and such of the transferee's other employees as designated by the Company in the Operations Manual or otherwise from time to time shall have personally attended and completed the Company's initial Management Training Course to the Company's reasonable satisfaction. Each individual undergoing such training must first execute the Confidentiality Agreement or Confidentiality/Non-Competition Agreement, as applicable, substantially in the form of Appendix V-A and Appendix V-B. Prior to attending the Management Training Course, each attendee must become certified, or hold current certification, as a Food Safety Manager. They may either complete their State's accredited program, the ServSafe program, or other ANSI (American National Standards Institute) rated Food Manager level certification program. The transferee or transferee's attendees are responsible for paying all related and incidental expenses of attending the Management Training Course including, but not limited to, the cost of travel, meals, and lodging, and any tuition or materials charges;

(g) That the transferee execute a new Franchise Agreement with the Company, and all other agreements required of new franchisees, in the form and on the terms and conditions the Company then offers to new franchisees, which terms and conditions may vary significantly from this Agreement. The transferee will not be obligated to pay another initial franchise fee under the new Agreement but will be required to pay the Company's then-current fees for Management Training Course any services the Company is required to furnish under the new Agreement. The term of the new Franchise Agreement will be the balance of the Term of this Agreement. The execution of the new Franchise Agreement will terminate this Agreement, except for the Franchisee's guarantees; any of the Franchisee's obligations to the Company or its affiliates which remain outstanding and/or unsatisfied; and, the post-termination and post-expiration provisions of this Agreement which, by their nature, will survive;

(h) Neither this Agreement nor any of the rights conferred on the Franchisee hereunder shall be retained by the Franchisee as security for the payment of any obligation that may arise by reason of any such transfer or in any way be pledged or collateralized.

(i) That, if required, the lessor or sublessor of the Restaurant site consents in writing to the assignment to the proposed transferee.

(j) That the Total Sales Price of the Franchisee's sale, assignment or transfer is not so excessive, in the Company's sole determination, that it jeopardizes the continued economic viability and future operations of the Restaurant and/or the transferee. "Total Sales Price" means all consideration of every kind paid or payable to the Franchisee or any other person in connection with, arising out of or relating to the assignment or transfer of the franchise, the Franchise Agreement or the Restaurant, whether money, property or other thing or service of value including consideration received for the Restaurant; the Franchisee's rights under this Agreement; contracts; goodwill; restrictive covenants; consulting arrangements; the Franchisee's furniture, fixtures, vehicles (if the Company allows the Franchisee to provide delivery and catering services), equipment and trade dress elements; accounts receivable; any consulting salary; or, any other fees or arrangements or other form of consideration, whether the consideration is received in the present or promised to be given to the transferor or any other person in the future (including the highest possible value of any contingent future consideration).

(k) That the Franchisee and, if Franchisee is a business entity, each of the Franchisee's owners and guarantors, and the transferee (and if the transferee is a business entity,

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each of its owners and guarantors) execute a general release substantially in the form of Appendix VI of any and all claims, demands and causes of action which the Franchisee, such owners or the transferee and its owners may or might have against the Company and/or any of the Indemnified Parties through the date of execution of the transferee's new Franchise Agreement.

(l) That upon the Company's request, either the Franchisee and/or the proposed transferee, at its own expense, modify the Restaurant to conform to the Company's then-current standards and specifications for A&W Restaurants in the United States and complete such modifications, at the Company's election, either prior to the contemplated assignment or such later time reasonably specified by the Company.

(m) Notwithstanding the foregoing, the Franchisee understands and agrees that it will remain fully liable and responsible for all of its obligations to the Company and its affiliates under this Agreement which arose in connection with the franchised business prior to the effective date of the transferee's new Franchise Agreement (specifically including the Franchisee's obligation to indemnify the Company and the other Indemnified Parties identified in Section 11.1) and Franchisee agree to execute any and all documents the Company reasonably requests to further evidence such liability.

14.1 It is acknowledged and agreed that a material part of the consideration for the Company entering into this Agreement is its personal confidence in the Franchisee, and no person shall succeed to any of the rights of the Franchisee under this Agreement by virtue of any voluntary or involuntary proceeding in bankruptcy, receivership, attachment, execution, assignment for the benefit of creditors or other legal process.

14.2 Any attempt by the Franchisee to transfer any of its rights or interest under this Agreement without the Company's express prior written consent shall constitute a material breach of this Agreement and the Company shall have the right to terminate this Agreement upon written notice to the Franchisee. The Company shall not be bound by any attempted sale, assignment, transfer, lease or sublease, conveyance or encumbrance in any manner whatsoever, by law or otherwise, of any of the Franchisee's rights or interest under this Agreement, unless its express written consent has first been obtained.

14.3 If the Franchisee is a corporation, any transfer of the Franchisee's capital stock which results or may result in the present stockholders as a group owning beneficially and of record less than fifty-one percent (51%) of its capital stock shall be deemed a transfer of the Franchisee's rights under this Agreement.

14.4 Notwithstanding anything contained herein to the contrary, in the event of the death or legal incapacity of the Franchisee or of a stockholder of the Franchisee, the rights and obligations of the Franchisee or of such stockholder hereunder shall inure to the benefit of such of the executors, administrators, heirs, conservators or legatees of the Franchisee or such stockholder (collectively the "Legatee") as shall (i) elect, in a written notice received by the Company within one hundred twenty (120) days after the date of death or incompetency, to perform all of the duties and obligations required to be performed, fulfilled and observed by the Franchisee under this Agreement and (ii) be determined by the Company, in its sole reasonable discretion, to be able to perform such duties and obligations. In the event the Company determines that the Legatee is not capable of performing all of the duties and obligations required to be performed by the Franchisee under this Agreement, the Legatee shall have twelve (12) months from the date notice of such determination is given to transfer this Agreement to a bona fide purchaser in accordance with and subject to all of the provisions of this Section 14. If the Company determines that the proposed transferee is not capable of performing all of the duties

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and obligations required to be performed, fulfilled and observed by the Franchisee under this Agreement or if no transfer is made by the Legatee in accordance with the terms, including the time requirements, of this Section 14, then this Agreement shall terminate without further notice at the expiration of such twelve-month period.

14.5 In the event Franchisee receives an acceptable bona fide offer from a third party to purchase Franchisee's right and interest in or to this Agreement or the Restaurant or Restaurant premises, in whole or in part, Franchisee shall give the Company written notice setting forth the name and address of the prospective purchaser, the price and terms of the offer together with a franchisee application completed by the prospective purchaser, a copy of the sales contract, copies of all materials provided to the prospective purchaser, and such other information that the Company may request in order to evaluate the offer. Upon receipt of said offer the Company shall have the option to purchase the Franchisee's interest covered by such offer at the price and upon the terms of such offer. If the consideration is not money, the purchase price shall be cash equal to the fair market value of the consideration. The Company shall have thirty (30) calendar days (excluding weekends and holidays) after receipt of Franchisee's notice of offer and the furnishing of all requested information within which to notify Franchisee of its intent to accept or reject the offer. Silence on the part of the Company shall constitute rejection. If the proposed sale includes assets of Franchisee not related to the operation of the franchised A&W Restaurant, the Company may purchase only the assets related to the operation of the franchised A&W Restaurant or may also purchase the other assets, and an equitable purchase price shall be allocated to each asset included in the proposed sale. This right of first refusal shall apply to any transfer, conveyance, assignment, consolidation, merger or any other transaction in which legal or beneficial ownership of either the franchise granted by this Agreement or the Restaurant or Restaurant premises is vested in other than Franchisee. The election by the Company not to exercise its right of first refusal as to any offer shall not affect its right of first refusal as to any subsequent offer. Any sale or attempted sale effected without first giving the Company the right of first refusal described above shall be void and of no force and effect. If the Company does not accept the offer to purchase, the Franchisee may conclude the sale to the purchaser who made the offer, provided that the Company has first consented to the assignment utilizing the criterion set forth in Section 14.0 of this Agreement. Notwithstanding the foregoing, the Company's right of first refusal and the aforementioned transfer fee shall not apply to any transfer (as such term is herein defined) to or between immediate family members or a corporation controlled by immediate family members. For the purposes hereof, "immediate family members" shall be limited to and defined as father, mother, sons, daughters, brothers, sisters, husband or wife of the Franchisee.

14.6 This Agreement and the Company's rights, interests and obligations hereunder may be sold, assigned or transferred by the Company in whole or in part in any manner whatsoever, without the consent of or advance notice to the Franchisee.

## **SECTION 15: TRADEMARKS**

15.0 The Franchisee acknowledges the sole and exclusive right of the Company and its affiliates and/or A&W Concentrate Company (the entity who owns certain of the A&W Trademarks and that exclusively licensed the Company to use and sublicense others to use certain of the A&W Trademarks in connection with restaurants, stands, walkups and kiosks), except for certain rights granted under existing and future license agreements, to use the A&W Trademarks in connection with the products and services to which they are or may be applied by the Company or its affiliates and/or A&W Concentrate Company or its affiliates. Franchisee represents, warrants and agrees that neither during the Term of this Agreement nor after the expiration or other termination hereof shall the Franchisee directly or indirectly take or suffer to be taken any action which would place in jeopardy any of the Trademarks, or otherwise raise any

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question concerning the scope, registrability, validity, enforceability, or the exclusive use and/or ownership thereof by either the Company or its successors or assigns, or A&W Concentrate Company or its successors or assigns.

15.1 The license granted to the Franchisee under this Agreement to use the Trademarks is non-exclusive and the Company and A&W Concentrate Company, in their sole and absolute discretion, have the right, except as otherwise expressly set forth in this Agreement, to grant other licenses in, to and under the Trademarks in addition to those licenses already granted, and to develop and license other names and marks (i.e., names and marks other than the Trademarks) on any such terms and conditions as they deem appropriate.

15.2 The Franchisee expressly acknowledges and agrees that A&W Concentrate Company and its affiliates, or if permitted under its agreements with A&W Concentrate Company, the Company and its affiliates, have the exclusive, unrestricted right (except as otherwise expressly set forth in this Agreement and except to the extent that A&W draft root beer may be sold only through A&W licensed restaurants) to engage directly and indirectly, through their employees, representatives, Franchisees, assigns, agents and others in wholesale, retail and otherwise, both within and outside of Franchisee's trading area, in (a) the production, distribution and sale of A&W Trademarked beverages and other food products, and (b) the use, in connection with such production, distribution and sale, of any and all trademarks, trade names, service marks, logos, insignias, slogans, emblems, symbols, designs and other identifying characteristics as may be developed or used from time to time by the Company or its affiliates or A&W Concentrate Company or its affiliates, whether or not included in Appendix I.

15.3 Except as may be expressly permitted by the Operations Manual, the license granted under this Agreement does not include any right or authority of any kind whatsoever to bottle, can or otherwise package (or to sell in bottles, cans or other packages) any beverage or other food product under the A&W Trademarks. Furthermore, Franchisee agrees not to in any way, either directly or indirectly, associate any A&W Trademark with any root beer product other than A&W Brand Root Beer acquired from a duly authorized source.

15.4 Nothing contained in this Agreement shall be construed to vest in the Franchisee any right, title or interest in or to the Trademarks, the goodwill now or hereafter associated therewith, or any right in the design of any restaurant building, other than the rights and license expressly granted herein. Any and all goodwill associated with or identified by the A&W Trademarks shall inure directly and exclusively to the benefit of A&W Concentrate Company, or the Company as the case may be, and its or their respective affiliates and assigns.

15.5 The Franchisee shall not use the A&W Trademarks in connection with any statement or material which may, in the judgment of the Company, be in bad taste or inconsistent with the Company's public image, or tend to bring disparagement, ridicule or scorn upon the Company, any other business or Franchisee of the Company, A&W Concentrate Company or affiliates, canned and bottled soft drink beverages sold under the A&W brand name, the A&W Trademarks or the goodwill associated therewith. The Franchisee shall not adopt, use or register (by filing a certificate or articles of incorporation, a fictitious business name statement, or otherwise) any trade or business name, or any trademark, service mark or other commercial symbol, which includes, or is similar to, A&W or any of the A&W Trademarks, service marks, trade names, logos, insignias, slogans, emblems, symbols, designs, or other identifying characteristics. In the event that Franchisee is required by law to file or register such a certificate or statement, Franchisee shall request the Company's prior written consent, which shall not unreasonably be withheld.

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15.6 The Franchisee shall adopt and use the Trademarks only in the form, style and color as are expressly approved by the Company.

15.7 The Franchisee shall immediately advise the Company in writing of any use of, or claim of rights to, any Trademark identical or confusingly similar to a Trademark licensed hereunder by any unauthorized third party. The Company retains the exclusive right to control administrative proceedings or litigation with respect to any such unauthorized use.

15.8 The Company reserves the right to adopt one or more restaurant systems and/or trademarks that are unrelated to the Trademarks. Franchisee shall have no rights thereto unless and until the Company, at its sole option, enters into a written agreement with Franchisee specifically granting Franchisee rights with respect thereto.

15.9 The Franchisee hereby permanently and irrevocably assigns to the Company any and all rights and interests (including intellectual property rights and interests) to any and all of the following which is developed by the Franchisee, or on the Franchisee's behalf, if developed in whole or in part in connection with the Restaurant: all menu and other items, programs, products or services; all variations, modifications and/or improvements on menu and other items, programs, products or services; the Franchisee's means, manner and style of offering and selling menu and other items, programs, products and services; management techniques or protocols the Franchisee may develop (or have developed on its behalf); all sales, marketing, advertising and promotional programs, campaigns or materials developed by the Franchisee or on the Franchisee's behalf; and, all other intellectual property developed by the Franchisee or on behalf of the Restaurant. The Company may authorize itself, its affiliates and/or other A&W Restaurant franchisees to use and exploit any such rights which are assigned to the Company hereunder. The sole consideration for the Franchisee's assignment to the Company of all of the foregoing rights shall be the Company's grant of the franchise conferred upon the Franchisee by this Agreement.

15.10 The Franchisee must conspicuously identify itself, its franchised business and the Restaurant as an independently owned and operated franchised business in all dealings with customers, contractors, suppliers, public officials and members of the public, and in all advertising, promotion and marketing related to the Restaurant. The Franchisee agrees to place this notice of independent ownership in the Restaurant and any other facilities of the Franchisee's franchised business and on printed materials, business cards, stationery, marketing and advertising materials, signs and other written or electronic modes in the form, size and manner the Company specifies in the Operations Manual or otherwise and in such fashion as the Company requires from time to time.

15.11 If now or hereafter one or more of the Trademarks can no longer be used, or if the Company in its sole business judgment determines to adopt and use one or more additional or substitute Trademarks, then the Franchisee agrees to promptly comply with any of the Company's directions or instructions to modify or discontinue use of any Trademark and/or adopt and use one or more additional substitute Trademarks. The Company shall have no obligation to reimburse the Franchisee for any expenditures the Franchisee makes to comply with such instructions or directions. Nor will the Company be liable to the Franchisee for any other expenses, losses or damages sustained by the Franchisee as a result of any Trademark addition, modification, substitution or discontinuation. The Franchisee waives any claim or any such expenses, losses or damages and covenants not to commence or join in any litigation or other proceeding against the Company or any of its affiliates for any of these expenses, losses or damages.

**SECTION 16: NO WAIVER OF DEFAULT; FORCE MAJEURE**

16.0 The waiver by either party of any breach or default, or series of breaches or defaults, of any term, covenant or condition herein contained shall not be deemed a waiver of any subsequent or continuing breach or default of the same or any other term, covenant or condition contained in this Agreement.

16.1 Neither party shall be liable or be deemed in default because of any delay or failure for any cause beyond its reasonable control, including, without limitation, fire, floods, national disasters, Acts of God, war, civil commotion, terrorist acts, any governmental act or regulation, any delays or defaults in deliveries by common carriers and/or postal services and/or overnight couriers, computer network outages, late deliveries or non-deliveries of goods or non-furnishing of services by third party vendors, strikes, lockouts, labor troubles, rationing of materials any any other similar event beyond such party's control. Provided, however, that the foregoing shall not operate to relieve Franchisee from the timely performance of its payment and other monetary obligations under this Agreement.

**SECTION 17: TERMINATION**

17.0 The Franchisee will be in default of this Agreement, and all rights granted in this Agreement will immediately and automatically terminate and revert to the Company without notice to the Franchisee, if: the Franchisee, the franchised business, or any affiliate or guarantor thereof is adjudicated as bankrupt or insolvent; all or a substantial portion of the assets of the franchised business are assigned to or for the benefit of any creditor; a petition in bankruptcy is filed by or against the Franchisee, the franchised business and/or any affiliate or guarantor thereof and is not immediately contested and thereafter dismissed or vacated within sixty (60) days from filing; the Franchisee, the franchised business and any affiliate or guarantor thereof causes, permits or acquiesces in an order for relief under the U.S. Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization, receivership or other similar law now or hereafter in effect, or consents to the entry for an order for relief in an involuntary proceeding or to the conversion of an involuntary proceeding to a voluntary proceeding, under any such law; a bill in equity or other proceeding for the appointment of a receiver or other custodian of the Franchisee, the franchised business, or any affiliate or guarantor of the franchised business, or the assets of any of them, is filed and consented to by the Franchisee; a receiver or other custodian (permanent or temporary) of all or part of the assets or property of the Franchisee, the franchised business and any affiliate or guarantor of the franchised business is appointed by any court of competent jurisdiction; proceedings for a composition with creditors under any federal or state law are instituted by or against the Franchisee, the franchised business or any affiliate or guarantor thereof; the Franchisee, any affiliate or the Franchisee's and any guarantor are dissolved; execution is levied against the Franchisee, the franchised business, any affiliate or guarantor thereof and/or the property of any of the foregoing; the property of the franchised business or the Restaurant is sold after levy thereon by any governmental body or agency, sheriff, marshal or other person authorized under federal, state and/or local law; or, if the Franchisee is a business entity, the Franchisee's governing body adopts any resolution or otherwise authorizes action to approve any of the foregoing activities.

17.1 The following are examples of events that shall constitute material breaches of and events of default under this Agreement:

(a) In the event that Franchisee uses an A&W Trademark in such a manner that on the basis of recognized legal principles, provides or if continued would provide, substantial grounds for a finding by a court of law or the equivalent that A&W Concentrate Company, or the

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Company, as the case may be, or their respective successors or assigns, rights in the A&W component of any A&W Trademark are abandoned, significantly diminished or rendered invalid or unenforceable.

(b) In the event that Franchisee commits any act or default which materially impairs the goodwill associated with an A&W Trademark and which, by its nature, is incurable, or, if the default is curable, Franchisee fails to cure the default following delivery of written notice to cure at least seventy-two hours in advance.

(c) In the event that the Franchisee abandons operations at the Restaurant, loses the right to occupy or possess the Restaurant premises or fails to operate the Restaurant as provided in Section 3.1 above for three consecutive days during which you are required to operate it under this Agreement.

(d) In the event that the Franchisee fails to comply with Section 3.7 and/or Section 3.8 above.

(e) In the event that Franchisee fails to pay to the Company or to the NAC Advertising Fund any royalty, initial franchise fee, advertising contribution or other amount owed to the Company or the NAC Advertising Fund under this Agreement or in the event Franchisee or its affiliates fails to pay the Company or its affiliates any amount owed under any agreement with the company or its affiliates on or prior to the due date.

(f) The Franchisee's failure to perform or observe any of its other monetary or nonmonetary obligations or duties under this Agreement.

(g) The Franchisee's failure to adhere to standards, specifications or operating procedures set forth in the Operations Manual.

(h) The Franchisee's breach or default under any other agreement between the Company or its affiliates and the franchisee or its affiliates.

(i) Franchisee violates any health, safety, or sanitation law, ordinance, or regulation, or operates the Restaurant in an unsafe manner.

The Franchisee shall have the following time periods after the Company furnishes the Franchisee with a written notice of default transmitted in accordance with the terms of Section 19.0 of this Agreement to cure the events of default listed above and to provide the Company with evidence that the Franchisee has done so: seventy-two (72) hours following written notice from the Company or any other party for the event of default in Section 17.1(i); ten (10) days (or, if the default cannot reasonably be cured within ten (10) days, to initiate action to cure the default within ten (10) days and complete cure within the shortest reasonable time thereafter) following written notice from the Company for the events of default in Sections 17.1 (d) and (e); and, unless otherwise specified in this Agreement, thirty (30) days (or, if the default cannot reasonably be cured within thirty (30) days, to initiate action to cure the default within thirty (30) days and complete cure within the shortest reasonable time thereafter) following written notice from the Company for the events of default in Sections 17.1 (f), (g) and (h). Otherwise, subject to applicable law, Franchisee shall not have the right to cure any defaults of this Agreement (including defaults under Sections 17.1(a), (b) and (c)) and this Agreement shall terminate immediately upon the Franchisee's receipt of a written notice of default from the Company. Notwithstanding anything to the contrary set forth above, the Company may terminate this Agreement, effective upon delivery of written notice of termination to the Franchisee, if the



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Franchisee (or any of its owners) (a) fails on three (3) or more separate occasions within any twelve (12) consecutive month period to comply with this Agreement, whether or not the Company notifies the Franchisee of the failures, and, if the Company does notify the Franchisee of the failures, whether or not the Franchisee corrects the failures after the Company's delivery of notice to the Franchisee; or (b) fails on two (2) or more separate occasions within any six (6) consecutive month period to comply with the same obligation under this Agreement, whether or not the Company notifies the Franchisee of the failures, and, if the Company does notify the Franchisee of the failures, whether or not the Franchisee corrects the failures after the Company's delivery of notice to the Franchisee. Upon the occurrence of an event of default that extends beyond any applicable cure period, the Company shall have the right to terminate this Agreement and Franchisee's rights hereunder upon notice to Franchisee.

17.2 Upon the expiration or earlier termination of this Agreement for any reason, the Franchisee shall:

(a) cease operation of the Restaurant, cease selling A&W products and cease holding itself out as an A&W franchisee;

(b) discontinue the use of the Trademarks and not thereafter adopt, use or register any Trademark or any variation or colorable imitation or mark that is similar to any Trademark;

(c) cause the removal of all Trademarks from all buildings, signs, fixtures, furnishings, vehicles (if the Company allowed the Franchisee to provide delivery and catering services) and paint all buildings and other improvements maintained pursuant to this Agreement a color and design which is basically different from the Company's authorized painting schedule. If the Franchisee shall fail to make or cause to be made any such removal or changes within thirty (30) days after written notice, then the Company shall have the right to enter upon the Restaurant premises, without being deemed guilty of trespass or any other tort, and make or cause to be made such removal and repainting at the expense of the Franchisee, which expense the Franchisee agrees to immediately pay the Company upon demand;

(d) take all steps necessary to terminate any existing recording or registration of this Agreement in any department, agency, bureau or tribunal;

(e) take all steps necessary in order to terminate any existing filing or registration of an assumed, fictitious, business or trade name that includes "A&W" or any of the Trademarks in the name;

(f) not thereafter use any trademark, trade name, service mark, logo, insignia, slogan, emblem, symbol, design or other identifying characteristic that is in any way associated with the Company or similar to those associated with the Company, or operate or do business under any name or in any manner that might tend to give the public the impression that it is or was a Franchisee of or otherwise associated with the Company;

(g) consent to the entry of a permanent injunction and/or restraining order against Franchisee prohibiting further use or display of any and all Trademarks, service marks and proprietary systems and products of any kind;

(h) immediately pay all sums due and owing to the Company or its affiliates, plus interest, and all sums due and owing to any landlord, suppliers, employees, taxing authorities, advertising agencies, lenders and all other third parties;

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(i) cease using any of the Company's Confidential Information, trade secrets, procedures, forms, techniques, know-how or materials acquired by the Franchisee by virtue of the relationship established by this Agreement;

(j) allow the Company to immediately enter and take possession of the Restaurant to maintain continuous operation of the previously franchised business, provide for orderly change of management and disposition of personal property, and otherwise protect the Company's interests;

(k) pay the Company, if the Company terminates this Agreement because of the Franchisee's default or the Franchisee terminates same through failure to make payment following notice and opportunity to cure, all losses and expenses the Company incurs as a result of the default or termination, including all damages, costs, expenses, and reasonable attorneys' and experts' fees directly or indirectly related thereto, such as (without limitation) consequential damages (to include, without limitation, lost royalty fees, lost continuing advertising fees and lost profits), lost opportunities, damage inuring to the Trademarks and reputation, travel and personnel costs and the cost of securing a successor franchised business at the Restaurant site. This obligation will give rise to and remain, until paid in full, a lien in the Company's favor against any and all of assets, property, furnishings, equipment, signs, fixtures, vehicles (if the Company allowed the Franchisee to provide delivery and catering services) and inventory owned by the Franchisee or the franchised business at the time of termination and against any of the Franchisee's money which the Company is holding or which is otherwise in the Company's possession;

(l) immediately deliver to the Company all training or other manuals furnished to the Franchisee (including the Operations Manual), computer software and database material, customer lists, records and files, documents, instructions, display items, advertising and promotional material, any and all materials, signs and related items which bear the Trademarks or slogans or insignias or designs, advertising contracts, forms and other materials or property of the Company's, and any copies of them in the Franchisee's possession which relate to the operation of the franchised business. The Franchisee may retain no copy or record of any of these items, except for its copy of this Agreement, any correspondence between the parties and any other documents which the Franchisee reasonably needs for compliance with any provision of law. The Franchisee agrees that the foregoing items, materials, lists, files, software and other similar items will be considered to be the Company's property for all purposes;

(m) at the Company's option, either change the telephone numbers utilized by the franchised business or, upon the Company's written demand, direct the telephone company to transfer the telephone numbers listed for the franchised business to the Company or to any other person or location that the Company directs. If the Franchisee does not promptly direct the telephone company to do so, the Franchisee irrevocably appoints Company as its attorney-in-fact to direct the telephone company to do so; and

(n) strictly comply with the post-termination/post-expiration covenants not to compete set forth in Section 3.10 of this Agreement (including those restricting the Franchisee's ability to sell, assign, lease or otherwise grant possessory rights to the Franchisee's Restaurant and/or site to a party intending to conduct a Competitive Business thereat).

17.3 (a) Upon termination of this Franchise Agreement prior to the expiration of the then current term Franchisee shall offer the Company the right and option to purchase the Restaurant property along with any and all assets associated with the Restaurant business including, but not limited to, land, building, furnishings, fixtures, vehicles (if the Company allowed

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the Franchisee to provide delivery and catering services), inventory and equipment (the "Property") at fair market value. In the event that all or any portion of the Property is leased, the Company shall have the right, but not the obligation, to assume said lease(s), or any of them, and Franchisee hereby so consents, and the purchase price of the remaining Property shall be adjusted to reflect the differential, if any, between the unpaid lease balance and the fair market value of the Property under lease.

(b) In order to determine the "fair market value" of the Property, within fifteen (15) days following the date of early termination of the Franchise Agreement, the Franchisee and the Company shall each commission, at their respective expenses, an appraiser who will be a person or firm experienced in appraising restaurant property. The two appraisers the Franchisee and the Company select will be instructed to meet within thirty days following their selection for the purpose of selecting a third appraiser to serve with them. The cost of the third appraisal shall be born equally by the Franchisee and the Company. If the two appraisers the Franchisee and the Company select cannot agree on the selection of the third appraiser within fifteen (15) days after the selection of the last of them, then the Franchisee shall select the third appraiser from a list of three appraisers the Company proposes in writing. The appraisers' determination of the fair market value of any item(s) the Company intends to purchase from the Franchisee will be binding on both parties. In calculating fair market value, the appraisers shall appraise the Property as an independent restaurant and not as a franchised A&W Restaurant. The Company shall have thirty (30) business days following receipt of the appraisal to exercise its option to purchase the Property by so notifying the Franchisee in writing. Thereafter, the Company shall have a reasonable period of time to conclude the purchase, or otherwise acquire, the Property. Franchisee hereby agrees to fully cooperate with the Company in securing the appraisal of the Property, as well as in taking all actions necessary to conclude the sale of the Property to the Company, if the Company so elects.

(c) In the event that the Company elects in its sole discretion to purchase or otherwise acquire the Property, Franchisee shall pay all costs of closing the sale normally borne by seller and the Company shall pay all costs of closing normally borne by buyer. Franchisee hereby expressly grants the Company the right to reduce the fair market value purchase price of the Property by any and all amounts owing to the Company by Franchisee including, but not limited to, Franchisee's portion of the closing costs. In the event that the Company in its sole discretion elects not to purchase or otherwise acquire the Property, silence on the part of the Company constituting rejection, the Franchisee shall comply with all post-termination provisions of this Franchise Agreement.

17.4 All rights and remedies of the parties shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies provided for herein or which may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement. The rights and remedies of the parties shall be continuing and not exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or changed at any time and from time to time. The expiration or earlier termination of this Agreement shall not discharge or release either party from any liability or obligation then accrued or any liability or obligation continuing beyond or arising out of the expiration or earlier termination of this Agreement.

17.5 In the event that the Company terminates this Agreement or brings an action against Franchisee by reason of Franchisee's breach of this Agreement, then, in addition to any other rights, remedies or damages that the Company may have or claim (but in lieu of any consequential damages that the Company may claim for lost royalty income or lost profits), the

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Franchisee shall pay to the Company in a lump sum as liquidated damages an amount equal to the Restaurant's average monthly net sales for the twelve (12) month period immediately preceding the termination multiplied by twenty-four (24) or if, at the time of termination or breach, there are less than two (2) years remaining in the Term of this Agreement, the liquidated damages amount shall be the Restaurant's average monthly net sales for the twelve (12) month period immediately preceding the termination multiplied by the number of months remaining in the term of this Agreement. In the event that the Franchisee has not reported net sales for any portion of that twelve (12) month period, the Franchisee agrees that the Company may estimate such net sales based upon such data as is reasonably available to it at the time. Franchisee and the Company acknowledge and agree that the precise amount of the Company's actual damages arising from lost royalty income as a result of the termination or breach of this Agreement would be difficult to ascertain and that the foregoing sum represents a reasonable estimate of such damages, based upon Franchisee's historical level of net sales and the approximate time it would take the Company to solicit and grant a franchise for a replacement A&W Restaurant in the vicinity.

17.6 The prevailing party in any legal proceeding initiated by either the Company or the Franchisee to construe or enforce the terms, conditions or provisions of this Agreement, including its termination provisions, or to obtain damages or other relief to which either may be entitled by virtue of this Agreement, shall receive from the non-prevailing party its attorney's fees and costs, as well as its other related costs, including but not limited to the costs of travel, meals and lodging associated with the legal proceeding.

17.7 The Franchisee explicitly affirms and recognizes the unique value and secondary meaning associated with the System and the Trademarks. Accordingly, the Franchisee agrees that any noncompliance by the Franchisee with the terms of this Agreement, or any unauthorized or improper use of the System or the Trademarks by the Franchisee, will cause irreparable damage to the Company and other System franchisees. The Franchisee therefore agrees that if the Franchisee engages in such noncompliance, or unauthorized and/or improper use of the System or Trademarks, during or after the Term of this Agreement, the Company and its affiliates will be entitled to both temporary and permanent injunctive relief against the Franchisee from any court of competent jurisdiction, in addition to all other remedies which the Company may have at law. The Franchisee consents to the entry of these temporary and permanent injunctions without the requirement that the Company post a bond of any type or nature, or any other form of security. The Franchisee will be responsible for payment of all costs and expenses, including reasonable attorneys' and expert fees, which the Company and/or its affiliates may incur in connection with the Franchisee's non-compliance with this covenant.

17.8 Any default or breach by the Franchisee, its affiliates and/or any guarantor of the Franchisee's of the lease or sublease for the Restaurant site or any other agreement between the Company or its affiliates and the Franchisee and/or such other parties will be deemed a default under this Agreement, and any default or breach of this Agreement by the Franchisee and/or such other parties will be deemed a default or breach under any and all such other agreements between the Company or its affiliates and the Franchisee, its affiliates and/or any guarantor of the Franchisee. If the nature of the default under any other agreement would have permitted the Company (or its affiliate) to terminate this Agreement if the default had occurred under this Agreement, then the Company will have the right to terminate all such other agreements in the same manner provided for in this Agreement for termination hereof. The Franchisee's "affiliates" means any persons or entities controlling, controlled by or under common control with the Franchisee.

**SECTION 18: CONSTRUCTION AND SEVERABILITY**

18.0 If any part of this Agreement shall for any reason be declared invalid or unenforceable, the validity of the remaining portions shall not be affected thereby and such remaining portions shall remain in full force and effect as if this Agreement had been executed with such invalid portion eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including therein any such portions which might be declared invalid; provided, however, that in the event any part hereof relating to the payment of fees to the Company, or the preservation of the trademarks, trade secrets or secret formulae licensed or disclosed hereunder is for any reason declared invalid or unenforceable, then the Company shall have the option of terminating this Agreement upon written notice to the Franchisee.

18.1 This Agreement and the validity and performance hereof shall be governed by the laws of the Commonwealth of Kentucky without recourse to Kentucky (or any other) choice of law or conflicts of law principles and this Agreement shall be construed under those laws as if the Restaurant operated hereunder is located in the Commonwealth of Kentucky. If the Company moves its principal headquarters to another state, the Company reserves the right to designate that state's law as governing, again without recourse to that successor state's (or any other) choice of law or conflicts of law principles, upon written notice to the Franchisee. If, however, any provision of this Agreement is not enforceable under the laws of Kentucky (or a successor state the Company designates as provided above), and if the Restaurant is located outside of Kentucky (or such hereafter designated state) and the provision would be enforceable under the laws of the state in which the Restaurant is located, then that provision (and only that provision) will be interpreted and construed under the laws of that state. This Section 18.1 is not intended to invoke, and shall not be deemed to invoke, the application of any franchise, business opportunity, antitrust, unfair competition, fiduciary or any other doctrine of law of the State of Kentucky, or any successor state the Company designates as provided above, which would not otherwise apply by its terms jurisdictionally or otherwise but for the within designation of governing law.

The parties agree that any action brought by either party against the other arising out of or related to this Agreement or any related agreement shall be brought exclusively in a state or federal district court of competent jurisdiction situated in the state, county and judicial district in which the Company's principal place of business is then located., and the parties do hereby waive all questions of personal jurisdiction or venue for the purposes of carrying out this provision. The parties agree this forum is the most convenient forum for both jurisdiction and venue. The parties agree that this is a mutually convenient forum for any trial concerning disputes under this Agreement. It is mandatory that this forum be exclusively used for all disputes and no other forum may be used. Notwithstanding the foregoing, however, with respect to any action for monies owed, injunctive or other extraordinary or equitable relief, or involving possession or disposition of, or other relief relating to, the Restaurant site, the Company may bring such an action in any state or federal district court which has jurisdiction.

18.2 The parties to this Agreement explicitly waive their respective rights to a jury trial in any litigation between them which is authorized or contemplated by this Agreement, and hereby stipulate that any such trial shall occur without a jury.

18.3 The Franchisee and its guarantors hereby irrevocably waive, to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special, consequential or other similar damages in any action or proceeding whatsoever between such parties and/or any of their affiliates and the Company and/or any of its affiliates, and the Franchisee and such others covenant never to advance or pursue any such claim for punitive damages. The Franchisee and such others agree that in the event of a dispute, the Franchisee

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and such others shall be limited to the recovery from the Indemnified Parties of any actual damages sustained by the Franchisee or them.

18.4 The Franchisee may only pursue any claim it has against the Company or the other Indemnified Parties in an individual legal action or proceeding. The Franchisee shall not join or combine its legal action or proceeding in any manner with any action or claim of any other A&W franchisee, franchise owner or franchisee guarantor, nor will the Franchisee maintain any action or proceeding against the Company and the other Indemnified Parties in a class action, whether as a representative or as a member of a class or purported class, nor will the Franchisee seek to consolidate, or consent to the consolidation of, all or part of any action or proceeding by any of them against the Company or the other Indemnified Parties with any other litigation against the Company or such other Indemnified Parties.

18.5 Any and all legal actions or proceedings brought by the Franchisee against the Company or the other Indemnified Parties arising out of or related to this Agreement or any related agreement; any breach of this Agreement or any related agreement; the relations between such parties; and, any and all disputes between such parties, whether sounding in law or equity, must be commenced within two years from the occurrence of the acts, errors and/or omissions giving rise to such legal action or proceeding. If not, then the Franchisee irrevocably covenants and agrees that such action or proceeding shall be barred.

### **SECTION 19: MISCELLANEOUS**

19.0 **Notices:** All notices and other communications shall be written and be deemed delivered (a) at the time delivered by hand; (b) at the time delivered via computer transmission; (c) one (1) business day after transmission by facsimile or other electronic system if the sender has confirmation of successful transmission; (d) one (1) business day after being placed in the hands of a nationally recognized commercial courier service for next business day delivery; or (e) three (3) business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid, addressed to the recipient at the address set forth below, unless that party shall have given such written notice of change of address to the sending party, in which event the new address so specified shall be used.

#### **THE FRANCHISEE**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTN:

Email:

#### **THE COMPANY**

A&W RESTAURANTS, INC.  
1648 McGrathiana Parkway, Suite 380  
Lexington, KY 40511  
ATTN: Legal Affairs

19.1 **Headings:** The headings inserted in this Agreement are for reference purposes only and shall in no way affect the construction of this Agreement or limit the generality of any of its provisions.

19.2 **Compliance with Laws:** Franchisee represents that it intends to and shall at its own cost and expense, promptly and continuously comply with all laws, ordinances, orders, rules, regulations, and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards, and offices thereof. Without limiting the generality of the foregoing, the Franchisee represents that it shall abide by all applicable rules and regulations of any public health department. No provision of this Franchise Agreement or any other requirement by the Company shall be construed as (a) requiring Franchisee to take any action that is

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inconsistent with applicable state or federal law or (b) preventing Franchisee from complying with applicable law.

19.3 Entire Agreement: This Agreement and the documents referred to herein constitute the entire agreement between the parties and supersedes and cancels any and all prior and contemporaneous agreements, understandings, representations, inducements and statements, oral or written, of the parties in connection with the subject matter hereof. Notwithstanding the foregoing, however, this Agreement shall preserve, and not supersede, subordinate, enlarge or extend, any presently existing rights or obligations of NAWFA (hereinafter defined), its members or the Company which are granted in or imposed by prior agreements between NAWFA and the Company. Nothing in this or in any related agreement, however, is intended to disclaim the representations the Company made in the Franchise Disclosure Document that the Company furnished to the Franchisee.

19.4 Amendment or Modification: No amendment or modification of this Agreement shall be binding unless executed in writing by both the Company and the Franchisee.

19.5 National A&W Franchisee Association: The National A&W Franchisee Association ("NAWFA") is a voluntary organization comprised of all Franchisees of the Company. The Company meets regularly with NAWFA to discuss matters that are vital to both the Company and its Franchisees. The NAWFA Board of Directors has the right, among other rights, to approve or disapprove changes to the operating and menu Standards and also administers the NAC Advertising Trust Fund in accordance with the A&W / NAWFA Marketing Committee Agreement.

19.6 Survival: Any provision of this Agreement which imposes in any fashion, directly or indirectly, an obligation following the termination or expiration of this Agreement will survive the termination or expiration and will continue to be binding upon the parties to this Agreement. This Agreement will be binding upon and inure to the benefit of the parties, their heirs, successors and assigns.

19.7 Restaurant Security: Franchisee is solely responsible for implementing and maintaining security measures at the Restaurant and Restaurant premises adequate to protect the Franchisee, its employees, customers, invitees and all others who may be at the Restaurant or Restaurant premises at any time or for any purpose and the Company shall have no obligation or liability in connection therewith.

19.8 Signing Authority: If the Franchisee is a corporation, limited liability company, general or limited partnership, or other form of business entity, the Franchisee and the individual signing this Agreement on behalf of the Franchisee agree and represent that such individual has the actual and legal authority to act on behalf of, and legally bind, the Franchisee.

19.9 Business Judgment: Whenever this Agreement or any related agreement grants, confers or reserves to A&W the right to take action, refrain from taking action, grant or withhold its consent or grant or withhold its approval, unless the provision specifically states otherwise, A&W will have the right to engage in such activity at its sole option and in its sole judgment taking into consideration its assessment of the long term interests of the System overall.

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IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate as of the day and year first above written duly authorized by their respective representatives.

**A&W RESTAURANTS, INC.**

\_\_\_\_\_  
Secretary

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

**FRANCHISEE:  
ENTITY**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_



**APPENDIX I**

**TRADEMARKS AND SERVICE MARKS**

The Franchise Agreement grants to Franchisees a limited License to use the following Trademarks and service marks in connection with the sale of approved menu items from their respective Restaurants. Franchisee is also authorized to use such other Trademarks and Service Marks designated by A&W in the Operations Manual and in the Franchise Agreement. A&W may in the future adopt additional trademarks, service marks or trade names, and A&W may modify or delete any of the Trademarks.

The principal Trademarks are:

1. The Trademark and Service Mark "A&W" enclosed in an oval, registered in the United States Patent and Trademark Office, Principal Register (Registration No. 2,766,831) on September 23, 2003, for certain food products and restaurants services. This Trademark is an updated version of a prior similar A&W logo registered with the United States Patent and Trademark Office, Principal Register, for certain food products and restaurants services on March 9, 1971;
2. The Service Mark "A&W", registered in the United States Patent and Trademark Office, Principal Register (Registration No. 1,436,058) on April 7, 1987, for restaurant services;
3. The Trademark "ALL AMERICAN FOOD" registered in the United States Patent and Trademark Office, Principal Register (Registration Nos. 2,673,617 and 2,542,264) on January 14, 2003 and February 26, 2002, respectively, for restaurant services and prepared food items.

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**APPENDIX II**

**SITE**

Pursuant to the provisions of Section 6.0 of the Franchise Agreement to which this Site Appendix is attached (the "Agreement"), the site for the Restaurant shall be located at the following address:

Street Address:

City:

County:

State:

Zip Code:

Franchisee Initials: \_\_\_\_\_

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**APPENDIX III**

**GUARANTY**

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF FAYETTE )

For value received, the receipt and sufficiency of which is hereby acknowledged, and in order to induce A&W Restaurants, Inc. ("A&W"), a Michigan corporation and/or NAC Advertising Trust Fund, a Trust Fund (hereinafter referred to as "Obligees," whether one or both) to enter into certain Franchise Agreements, Advertising Agreements, Leases, Subleases, Promissory Notes, Mortgages, Deeds of Trust, Security Agreements, or Contracts and to do certain business with [NAME OF FRANCHISEE] (the "Obligor"), of [CITY, STATE OF FRANCHISEE'S OFFICE LOCATION], the undersigned individual or entity (hereinafter referred to as the "Guarantor") guarantees unconditionally and absolutely to Obligees that the Obligor will fully, promptly and faithfully perform, pay and discharge all of the Obligor's present and future indebtedness or obligations to Obligees, whether direct or indirect, absolute or contingent, primary or secondary, joint or several, and all renewals and extensions thereof, including, but not limited to, any indebtedness or obligations arising by any terms, covenants or conditions of any Franchise Agreements, Advertising Agreements, Leases, Subleases, Promissory Notes, Mortgages, Deeds of Trust, Security Agreements, or Contracts between Obligees and the Obligor, including, without limitation, any representations, warranties and indemnities contained in such Franchise Agreements, Advertising Agreements, Leases, Subleases, Promissory Notes, Mortgages, Deeds of Trust, Security Agreements, or Contracts (collectively the "Guaranteed Obligations"), relating to or arising out of the operation of an A&W Restaurant (hereinafter referred to as the "Restaurant") located at [STREET ADDRESS, CITY, COUNTY, STATE, ZIP CODE].

Guarantor acknowledges that other individuals or entities may execute or may have executed instruments guaranteeing Obligor's performance of all or part of the Guaranteed Obligations (collectively, "Other Guarantors"). Guarantor acknowledges and agrees that Guarantor's liability under this Guaranty shall be joint and several with such Other Guarantors. Guarantor further agrees that Obligees: (1) shall not be required first to endeavor to secure performance or discharge of or collect or make demand from any Other Guarantor any Guaranteed Obligations before requiring Guarantor to perform, pay or discharge the full liability hereby created; (2) may file suit against the Guarantor, at the election of Obligees, without joinder of any Other Guarantor as party thereto; and (3) may freely deal with such Other Guarantors, including settling any claim against them or releasing them from liability, without affecting Guarantor's liability hereunder.

In the event of default by the Obligor in performance, payment, or discharge of all or part of the Guaranteed Obligations, the Guarantor shall, on demand and without further notice of dishonor or other notice which may be required to be given by any statute or rule of law, perform, pay or discharge such Guaranteed Obligations and pay all losses, costs, and expenses which Obligees may suffer by reason of the default. Unless otherwise required pursuant to the Guaranteed Obligations or otherwise directed by A&W, such performance, payment or discharge shall be made at Obligees' main office in Lexington, Kentucky. Guarantor hereby waives notice of acceptance of this Guaranty and all other notices in connection herewith or in connection with the Guaranteed Obligations and waives diligence, presentment, demand protest and notice of non-payment, protest and suit on the part of Obligees in the enforcement or collection of any of the Guaranteed Obligations and agrees that Obligees shall not be required first to endeavor to secure performance or discharge of or collect from the Obligor or any Other Guarantor any

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Guaranteed Obligations or to foreclose, proceed against or exhaust any collateral or security for any Guaranteed Obligations, before requiring Guarantor to perform, pay or discharge the full liability hereby created. Suit may be brought and maintained against the Guarantor, at the election of Obligees, without joinder of the Obligor or any Other Guarantor as parties thereto. If Obligees institute and prevail in any action at law or in equity against Guarantor based entirely or in part on the terms of this Agreement, Obligees shall be entitled to recover, in addition to any judgment entered in their favor, reasonable attorney's fees, court costs and all of Obligees' expenses in connection with the litigation. If Guarantor prevails in any such action instituted by Obligees, Guarantor will be entitled to such fees, costs and expenses. If neither side prevails, each will bear his, her, or its own costs. Demand hereunder shall be deemed to have been made when made in person or mailed postage prepaid to the Guarantor's most recent address on file with Obligees.

This Guaranty is continuing and shall continue to apply without regard to the form or amount of Guaranteed Obligations which the Obligor may create, renew, extend or alter, in whole or in part, without notice to the Guarantor.

Obligees may from time to time, at their discretion and with or without valuable consideration, surrender, release, subordinate, exchange or alter any Guaranteed Obligation without affecting the liability of the Guarantor under this Guaranty and this Guaranty shall continue effective notwithstanding any legal disability of the Obligor to incur any Guaranteed Obligations. Any action or inaction by Obligees with regard to the Guaranteed Obligations or this Guaranty shall not impair or diminish the obligations of the Guarantor hereunder. Obligees shall not be liable for their failure to use diligence in the enforcement of collection of the Guaranteed Obligations or in preserving the liability of any person liable thereon.

Obligees are relying and are entitled to rely upon each and all of the provisions of this Guaranty; and accordingly if any provision or provisions of this Guaranty should be held to be invalid or ineffective, then all other provisions shall continue in full force and effect notwithstanding. This Guaranty is not intended and does not replace, cancel or otherwise modify or affect any other guaranty of the Guarantor, or any Other Guarantor, held by Obligees now or hereafter, relating to the Obligor or other persons or entities.

Guarantor hereby unconditionally and absolutely guarantees the payment of all of said Guaranteed Obligations, regardless of any act or omission of Obligees or any party with reference to any of said indebtedness or any security or rights existing or to exist in connection therewith; and Guarantor agrees that Obligees shall in no way be obligated to bring or prosecute any action against Obligor or any Other Guarantor of said Guaranteed Obligations or make any demand on Obligor or any Other Guarantor or give any notice of any kind to any party. Obligees shall not be liable or accountable in any respect, nor shall Guarantor have a right of recourse against Obligees by reason of, any act or omission on the part of Obligees in connection with any of the matters herein mentioned.

Guarantor acknowledges that Guarantor has had continuing and substantial contact with Obligees in the Commonwealth of Kentucky in connection with the transactions referenced in and embraced by this Guaranty and that Guarantor's performance under this Guaranty is to be made in the Commonwealth of Kentucky to the extent provided hereinabove. This Guaranty shall be governed by and interpreted in accordance with the substantive laws of Kentucky, without regard to its choice of law principles. Any action brought by Guarantor or Obligees to enforce the terms of this Agreement shall be filed in the United States District Court for the Eastern District of Kentucky, and Guarantor and Franchisor hereby consent and submit to the jurisdiction of said court for resolving any claims or actions arising from, under, or in connection with this Guaranty

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or its interpretation. Any judgment entered by the United States District Court for the Eastern District of Kentucky may be enforced in any court of appropriate jurisdiction.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

GUARANTOR:

Signature: \_\_\_\_\_

Printed Name:

APPENDIX IV

**GENERAL RELEASE – RENEWAL**

To all to whom these Presents shall come or may Concern, Know That \_\_\_\_\_ [a corporation organized under the laws of the State of \_\_\_\_\_][an individual domiciled in the State of \_\_\_\_\_] as RELEASOR, in consideration of the execution by A&W Restaurants, Inc. of a Renewal Agreement renewing the franchise between RELEASOR and A&W Restaurants, Inc. (the "Franchise Agreement"), and other good and valuable consideration, hereby releases and discharges A&W Restaurants, Inc. as RELEASEE; RELEASEE'S corporate parents, subsidiaries or affiliates; and, the respective officers, directors, shareholders, agents, attorneys, contractors and employees of each of the foregoing (in their corporate and individual capacities), along with RELEASEE'S heirs, executors, administrators, successors and assigns, from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law, admiralty or equity, which against the RELEASEE, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may have, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE arising out of or related to the Franchise Agreement, including, without limitation, claims arising under federal, state and local laws, rules and ordinances; provided, however, that nothing contained in this release is intended to disclaim or require RELEASOR to waive reliance on any representation that RELEASEE made in the Franchise Disclosure Document that RELEASEE provided to RELEASOR; and provided further that all liabilities arising under Indiana Code Sec. 23-2-2.7 and/or the Maryland Franchise Registration and Disclosure Law are excluded from this release, and that all rights enjoyed by RELEASOR under said Franchise Agreement and any causes of action arising in his, her or its 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, Section 687.4 and 687.5 be satisfied. If RELEASOR is domiciled or has his or her principal place of business in the State of California, then RELEASOR hereby expressly waives and relinquishes all rights and benefits under Section 1542 of the California Civil Code, which provides: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

This RELEASE may not be changed orally.

**IN WITNESS WHEREOF**, the RELEASOR (if an individual) *has executed this RELEASE*, and (if a corporation) *has caused this RELEASE to be executed by a duly authorized officer and its corporate seal to be hereunto affixed on \_\_\_\_\_, \_\_\_\_\_.*

RELEASOR

[SEAL]

By \_\_\_\_\_

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*ACKNOWLEDGMENT FOR CORPORATE RELEASOR*

STATE OF \_\_\_\_\_

ss.:

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_ before me \_\_\_\_\_, personally came \_\_\_\_\_, to me known, who, by me duly sworn, did depose and say that deponent resides at \_\_\_\_\_, that deponent is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in the foregoing RELEASE, and which executed said RELEASE, that deponent knows the seal of the corporation, that the seal affixed to the RELEASE is the corporate seal, that it was affixed by order of the board of directors of the corporation; and that deponent signed deponent's name by like order.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

(NOTARIAL SEAL)

*ACKNOWLEDGMENT FOR INDIVIDUAL RELEASOR*

STATE OF \_\_\_\_\_

ss.:

COUNTY OF \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, to me personally known, and known to me to be the same person whose name is signed to the foregoing RELEASE, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

(NOTARIAL SEAL)

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**APPENDIX V-A**

CONFIDENTIALITY AGREEMENT

**NAME:** \_\_\_\_\_

**FRANCHISEE:** \_\_\_\_\_

**HOME ADDRESS:** \_\_\_\_\_

**HOME TELEPHONE:** \_\_\_\_\_

**CLASSIFICATION:** \_\_\_\_\_

**(Restaurant Manager, managerial personnel, other employee who will receive training)**

\_\_\_\_\_ ("Franchisee") is a franchisee of A&W Restaurants, Inc. ("Company") pursuant to a Franchise Agreement entered into by Franchisee and Company dated \_\_\_\_\_ (the "Franchise Agreement"). I agree that, unless otherwise specified, all terms in this Agreement have those meanings ascribed to them in the Franchise Agreement.

I agree that during the term of my employment by, association with or service to Franchisee, or at any time thereafter, I will not communicate, divulge or use for the benefit of any other person, persons, partnership, proprietorship, association, corporation or entity any information, knowledge, trade secrets or know-how utilized or embraced by A&W Restaurants or which otherwise concerns the Franchisee's or the Company's systems of operation, programs, services, products, customers, practices, materials, books, records, manuals, computer files, databases or software ("Confidential Information").

Any and all information, knowledge, trade secrets or know-how which the entities mentioned above or their officers designate as confidential will be Confidential Information for the purposes of this Agreement, except information which I can demonstrate came to my attention before disclosure or which had become or becomes a part of the public domain through publication or communication by others (unless the publication or communication is in violation of a similar confidentiality agreement), but in no event through any act of mine.

I specifically understand that, without limitation, the following constitute Confidential Information of Company: all programs, products, services, equipment, technologies, recipes, food and beverage preparation techniques, policies, standards, requirements, criteria and procedures that now or in the future are a part of the System; the Company's Operations Manual; all specifications, procedures, systems, techniques and activities employed by the Company or by the Franchisee in the offer and sale of menu and/or other items, programs and/or services at or from the Franchisee's Restaurant; all pricing paradigms established by the Company or by the Franchisee; all of the Company's and/or the Franchisee's sources (or prospective sources) of supply and all information pertaining to same (including wholesale pricing structures, the contents of sourcing agreements and the identity of suppliers); the Company's specifications, and the Franchisee's final plans, for the construction, buildout, design, renovation, décor, equipment, signage, furniture, fixtures, vehicles (if the Company allows the Franchisee to provide delivery and catering services) and trade dress elements of the Franchisee's Restaurant; the identity of, and all information relating to, the computer and POS hardware and software utilized by the



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Company and the Franchisee; all information pertaining to the Company's and the Franchisee's advertising, marketing, promotion and merchandising campaigns, activities, materials, specifications and procedures; all customer lists and records generated and/or otherwise maintained by the Franchisee's franchised business; the Company's internet/web protocols, procedures and content; the Company's training and other instructional programs and materials; all elements of the Company's recommended staffing, staff training and staff certification policies and procedures; all communications between the Company and the Franchisee (including the financial and other reports the Franchisee is required to submit to the Company under this Agreement); additions to, deletions from and modifications and variations of the components of the System and the other systems and methods of operations which the Company employs now or in the future; and, all other information, knowledge and know-how which either the Company or its affiliates, now or in the future, designate as confidential.

I will at no time copy, duplicate, record or otherwise reproduce any of the Confidential Information or material containing it, in whole or in part, store them in a computer retrieval or data base, nor otherwise make them available to any unauthorized person. Upon the expiration or other termination for any reason of my employment, association, service or ownership participation, I agree to return to Company or Franchisee, as the case may be, all Confidential Information or material containing it (in whole or in part) in my possession utilized during my employment, association, service or ownership participation.

**I acknowledge that violation of this Agreement would result in immediate and irreparable injury to Company and Franchisee for which no adequate remedy at law will be available. Accordingly, I hereby consent to the entry of an injunction procured by Company or Franchisee (or both) prohibiting any conduct by me in violation of the restrictions on the use of confidential information set forth in this Agreement. I expressly agree that it may conclusively be presumed in any legal action that any violation of the terms of this Agreement was accomplished by and through my unlawful utilization of Company's Confidential Information. Further, I expressly agree that any claims I may have against Company will not constitute a defense to Company's enforcement of this Agreement. I further agree to pay all costs and expenses (including reasonable attorneys' and experts' fees) incurred by Company in connection with the enforcement of this Agreement.**

If all or any portion of this covenant not to use confidential information is held unreasonable, void, vague or illegal by any court or agency having valid jurisdiction in an unappealed final decision to which Franchisee and/or Company is a party, the court or agency will be empowered to revise and/or construe the covenant to fall within permissible legal limits, and should not invalidate the entire covenant. I expressly agree to be bound by any lesser covenant subsumed within the terms of this Agreement as if the resulting covenant were separately stated in and made a part of this Agreement.

I agree that this Agreement and all relations and disputes between myself on the one hand, and Franchisee or Company on the other hand, whether sounding in contract, tort, or otherwise, are to be exclusively construed in accordance with and/or governed by (as applicable) the law of the State of Kentucky without recourse to Kentucky (or any other) choice of law or conflicts of law principles. If, however, any provision of this Agreement would not be enforceable under the laws of Kentucky, and if the franchised Restaurant is located outside of Kentucky and the provision would be enforceable under the laws of the state in which the franchised Restaurant is located, then the provision (and only that provision) will be interpreted and construed under the laws of that state. Nothing in this Agreement is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant", unfair competition, fiduciary or any other doctrine of law of the State of Kentucky or any other state, which would not otherwise apply.

STORE NO

I further agree that any litigation arising out of or related to this Agreement; any breach of this Agreement; and, all relations and any and all disputes between myself on the one hand, and Franchisee or Company on the other hand, whether sounding in contract, tort, or otherwise, will be instituted exclusively in a court of competent jurisdiction situated in the state, county and judicial district in which the Company's principal place of business in then located. I agree that any dispute as to the venue for this litigation will be submitted to and resolved exclusively by a court of competent jurisdiction situated in the state, county and judicial district in which the Company's principal place of business in then located.

I hereby waive and covenant never to assert or claim that said venue is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of forum non conveniens).

Witnessed By:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Witness/Date

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

STORE NO

**APPENDIX V-B**

**CONFIDENTIALITY/NON-COMPETITION AGREEMENT**

**NAME:** \_\_\_\_\_

**FRANCHISEE:** \_\_\_\_\_

**HOME ADDRESS:** \_\_\_\_\_

**HOME TELEPHONE:** \_\_\_\_\_

**CLASSIFICATION:** \_\_\_\_\_

**(Owner, Shareholder, Officer, Director,  
Attorney, Employee, Etc.)**

\_\_\_\_\_ ("Franchisee") is a franchisee of A&W Restaurants, Inc. ("Company") pursuant to a Franchise Agreement entered into by Franchisee and Company dated \_\_\_\_\_ (the "Franchise Agreement"). I agree that, unless otherwise specified, all terms in this Agreement have those meanings ascribed to them in the Franchise Agreement.

I agree that during the term of my employment by, ownership participation in, association with or service to Franchisee, or at any time thereafter, I will not communicate, divulge or use for the benefit of any other person, persons, partnership, proprietorship, association, corporation or entity any information, knowledge, trade secrets or know-how utilized or embraced by A&W Restaurants or which otherwise concerns the Franchisee's or the Company's systems of operation, programs, services, products, customers, practices, materials, books, records, manuals, computer files, databases or software ("Confidential Information"), and I will not divert any business to competitors of Franchisee and/or Company.

Any and all information, knowledge, trade secrets or know-how which the entities mentioned above or their officers designate as confidential will be Confidential Information for the purposes of this Agreement, except information which I can demonstrate came to my attention before disclosure or which had become or becomes a part of the public domain through publication or communication by others (unless the publication or communication is in violation of a similar confidentiality agreement), but in no event through any act of mine.

I specifically understand that, without limitation, the following constitute Confidential Information of Company: all programs, products, services, equipment, technologies, recipes, food and beverage preparation techniques, policies, standards, requirements, criteria and procedures that now or in the future are a part of the System; the Company's Operations Manual; all specifications, procedures, systems, techniques and activities employed by the Company or by the Franchisee in the offer and sale of menu and/or other items, programs and/or services at or from the Franchisee's Restaurant; all pricing paradigms established by the Company or by the Franchisee; all of the Company's and/or the Franchisee's sources (or prospective sources) of supply and all information pertaining to same (including wholesale pricing structures, the contents of sourcing agreements and the identity of suppliers); the Company's specifications, and the Franchisee's final plans, for the construction, buildout, design, renovation, décor, equipment, signage, furniture, fixtures, vehicles (if the Company allows the Franchisee to provide delivery and catering services) and trade dress elements of the Franchisee's Restaurant; the identity of, and all information relating to, the computer and POS hardware and software utilized by the

## STORE NO

Company and the Franchisee; all information pertaining to the Company's and the Franchisee's advertising, marketing, promotion and merchandising campaigns, activities, materials, specifications and procedures; all customer lists and records generated and/or otherwise maintained by the Franchisee's franchised business; the Company's internet/web protocols, procedures and content; the Company's training and other instructional programs and materials; all elements of the Company's recommended staffing, staff training and staff certification policies and procedures; all communications between the Company and the Franchisee (including the financial and other reports the Franchisee is required to submit to the Company under this Agreement); additions to, deletions from and modifications and variations of the components of the System and the other systems and methods of operations which the Company employs now or in the future; and, all other information, knowledge and know-how which either the Company or its affiliates, now or in the future, designate as confidential.

I will at no time copy, duplicate, record or otherwise reproduce any of the Confidential Information or material containing it, in whole or in part, store them in a computer retrieval or data base, nor otherwise make them available to any unauthorized person. Upon the expiration or other termination for any reason of my employment, association, service or ownership participation, I agree to return to Company or Franchisee, as the case may be, all Confidential Information or material containing it (in whole or in part) in my possession utilized during my employment, association, service or ownership participation.

I further agree that during the term of my employment/service/association/ownership participation, and under the circumstances set forth in the following paragraph, for a period of two years immediately following its expiration or termination for any reason, I will not, directly or indirectly, engage in, aid, assist, serve or participate in any other quick serve or fast casual restaurant (a "Competitive Business") which offers or sells any of the menu and/or other items, programs or services which now or hereafter are authorized for sale under the System (including hamburgers, hot dogs, chicken tenders or soft serve ice cream) or component thereof in any manner; which offers or sells similar or related menu and/or other items, programs or services; which engages in any of the activities which the Franchise Agreement contemplates that the Franchisee will engage in; or, which offers or sells any other menu and/or other items, program, service or component which now or in the future is part of the System, or any confusingly similar menu and/or other items, program or service. I agree that I am prohibited from engaging in any competitive business as a proprietor, partner, investor, shareholder, director, officer, employee, principal, agent, advisor, or consultant.

For a period of two years immediately following the expiration or termination of my employment/service/association/ownership participation, I am prohibited from engaging in any Competitive Business, if the other business is located within Franchisee's trade area, within ten miles of the boundaries of Franchisee's trade area, or within ten miles of (or within) any other trading area (whether Company-owned, franchised or otherwise established and operated).

It is the intention of these provisions to preclude not only direct competition but also all forms of indirect competition, such as consultation for competitive businesses, service as an independent contractor for competitive businesses, or any assistance or transmission of information of any kind which would be of any material assistance to a competitor. Nothing herein will prevent me from owning for investment purposes up to an aggregate of 5% of the capital stock of any competitive business, so long as the competitive business is a publicly held corporation whose stock is listed and traded on a national or regional stock exchange, or through the National Association of Securities Dealers Automated Quotation System (NASDAQ), and so long as I or Franchisee do not control the company in question.

It is the intention of these provisions that any person or entity having any legal or beneficial interest in or traceable to, down or through me to be bound by the provisions of this covenant,

STORE NO

including (without limitation) my spouse, brother, brother-in-law, sister, sister-in-law, parent, parent-in-law, child, son-in-law or daughter-in-law; any direct or indirect beneficiary; any partner (general or limited) or proprietor of mine; and, any other such related person or entity, regardless of how many levels or tiers there may be between any such described person or entity and me. I further agree that upon the expiration or termination of my term of employment/service/association, I will immediately refrain from any and all contacts with customers, for any purpose whatsoever.

**I acknowledge that violation of the covenants not to compete contained in this Agreement would result in immediate and irreparable injury to Company and Franchisee for which no adequate remedy at law will be available. Accordingly, I hereby consent to the entry of an injunction procured by Company or Franchisee (or both) prohibiting any conduct by me in violation of the terms of those covenants not to compete and/or restrictions on the use of confidential information set forth in this agreement. I expressly agree that it may conclusively be presumed in any legal action that any violation of the terms of these covenants not to compete was accomplished by and through my unlawful utilization of Company's Confidential Information. Further, I expressly agree that any claims I may have against Company will not constitute a defense to Company's enforcement of the covenants not to compete set forth in this Agreement. I further agree to pay all costs and expenses (including reasonable attorneys' and experts' fees) incurred by Company in connection with the enforcement of those covenants not to compete set forth in this Agreement.**

If all or any portion of this covenant not to use confidential information and not to compete is held unreasonable, void, vague or illegal by any court or agency having valid jurisdiction in an unappealed final decision to which Franchisee and/or Company is a party, the court or agency will be empowered to revise and/or construe the covenant to fall within permissible legal limits, and should not invalidate the entire covenant. I expressly agree to be bound by any lesser covenant subsumed within the terms of this Agreement as if the resulting covenant were separately stated in and made a part of this Agreement.

I agree that this Agreement and all relations and disputes between myself on the one hand, and Franchisee or Company on the other hand, whether sounding in contract, tort, or otherwise, are to be exclusively construed in accordance with and/or governed by (as applicable) the law of the State of Kentucky without recourse to Kentucky (or any other) choice of law or conflicts of law principles. If, however, any provision of this Agreement would not be enforceable under the laws of Kentucky, and if the franchised Restaurant is located outside of Kentucky and the provision would be enforceable under the laws of the state in which the franchised Restaurant is located, then the provision (and only that provision) will be interpreted and construed under the laws of that state. Nothing in this Agreement is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant", unfair competition, fiduciary or any other doctrine of law of the State of Kentucky or any other state, which would not otherwise apply.

I further agree that any litigation arising out of or related to this Agreement; any breach of this Agreement; and, all relations and any and all disputes between myself on the one hand, and Franchisee or Company on the other hand, whether sounding in contract, tort, or otherwise, will be instituted exclusively in a court of competent jurisdiction situated in the state, county and judicial district in which the Company's principal place of business in then located. I agree that any dispute as to the venue for this litigation will be submitted to and resolved exclusively by a court of competent jurisdiction situated in the state, county and judicial district in which the Company's principal place of business in then located.

STORE NO

I hereby waive and covenant never to assert or claim that said venue is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of forum non conveniens).

Witnessed By:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Witness/Date

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

APPENDIX VI

**GENERAL RELEASE – ASSIGNMENT**

To all to whom these Presents shall come or may Concern, Know That \_\_\_\_\_ [a corporation organized under the laws of the State of \_\_\_\_\_][an individual domiciled in the State of \_\_\_\_\_] as RELEASOR, in consideration of the consent of A&W Restaurants, Inc. to the Assignment of the Franchise Agreement between RELEASOR and A&W Restaurants, Inc. (the "Franchise Agreement") to \_\_\_\_\_, and other good and valuable consideration, hereby releases and discharges A&W Restaurants, Inc. as RELEASEE, RELEASEE'S corporate parents, subsidiaries or affiliates and the respective officers, directors, shareholders, agents, attorneys, contractors and employees of each of the foregoing entities (in their corporate and individual capacities), and RELEASEE'S heirs, executors, administrators, successors and assigns, from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law, admiralty or equity, which against the RELEASEE, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may have, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE, including, without limitation, claims arising under federal, state and local laws, rules and ordinances; provided, however, that nothing contained in this release is intended to disclaim or require RELEASOR to waive reliance on any representation that RELEASEE made in the Franchise Disclosure Document that RELEASEE provided to RELEASOR; provided further that all liabilities arising under Indiana Code Sec. 23-2-2.7 and/or the Maryland Franchise Registration and Disclosure Law are excluded from this release, and that all rights enjoyed by RELEASOR under said Franchise Agreement and any causes of action arising in his, her or its 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, Section 687.4 and 687.5 be satisfied. If RELEASOR is domiciled or has his or her principal place of business in the State of California, then RELEASOR hereby expressly waives and relinquishes all rights and benefits under Section 1542 of the California Civil Code, which provides: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

This RELEASE may not be changed orally.

**IN WITNESS WHEREOF**, the RELEASOR (if an individual) *has executed this RELEASE*, and (if a corporation) *has caused this RELEASE to be executed by a duly authorized officer and its corporate seal to be hereunto affixed on \_\_\_\_\_, \_\_\_\_\_.*

RELEASOR

[SEAL]

By \_\_\_\_\_

STORE NO

*ACKNOWLEDGMENT FOR CORPORATE RELEASOR*

STATE OF \_\_\_\_\_

ss.:

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_ before me \_\_\_\_\_,  
personally came \_\_\_\_\_, to me known, who, by me duly sworn, did depose and say that  
deponent resides at \_\_\_\_\_, that deponent  
is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in the foregoing RELEASE, and which  
executed said RELEASE, that deponent knows the seal of the corporation, that the seal affixed to the  
RELEASE is the corporate seal, that it was affixed by order of the board of directors of the corporation; and  
that deponent signed deponent's name by like order.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_  
My Commission expires: \_\_\_\_\_

(NOTARIAL SEAL)

*ACKNOWLEDGMENT FOR INDIVIDUAL RELEASOR*

STATE OF \_\_\_\_\_

ss.:

COUNTY OF \_\_\_\_\_

On this \_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me \_\_\_\_\_, the undersigned  
(Name of Notary)  
officer, personally appeared \_\_\_\_\_, to me personally known, and known to me to be the  
same person whose name is signed to the foregoing RELEASE, and acknowledged the execution thereof  
for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_  
My Commission expires: \_\_\_\_\_

(NOTARIAL SEAL)



STORE NO

**ADDENDUM TO FRANCHISE AGREEMENT  
FOR USE IN CALIFORNIA, HAWAII, INDIANA, MICHIGAN,  
NEW YORK, RHODE ISLAND, AND SOUTH DAKOTA**

ADDENDUM ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_, BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. The following provision applies only to franchisees and franchises that are subject to the state franchise disclosure laws in California, Hawaii, Indiana, Michigan, New York, Rhode Island, and South Dakota:

No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Except set forth in this Addendum, the Franchise Agreement as executed by the parties hereto shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed and delivered this Rider effective on the Effective Date stated in the Franchise Agreement.

FRANCHISEE

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

STORE NO

**STATE OF ILLINOIS  
ADDENDUM TO FRANCHISE AGREEMENT**

RIDER ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_, BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. Illinois law governs the agreements between the parties to this franchise.
2. Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration in a venue outside of Illinois.
3. Section 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.
4. A franchisee's rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.
5. Pursuant to 814 IL 705/41, no release language set forth in Articles 2.2, 7.0, 14.0 or elsewhere in the franchise agreement shall relieve franchisor or any other person, directly or indirectly, from liability imposed by the Illinois Franchise Disclosure Act or any other law of the State of Illinois.
6. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
7. Except as set forth in this Rider, the Franchise Agreement as executed by the parties hereto shall remain in full force and effect.

FRANCHISEE

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_

STORE NO

**STATE OF MARYLAND  
ADDENDUM TO FRANCHISE AGREEMENT**

ADDENDUM ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_ BY AND BETWEEN A&W RESTAURANTS, INC., A MICHIGAN CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. Sections 2.2(d) and 14.0(k) of the Franchise Agreement are hereby supplemented by the addition of the following at the end of said Sections:

"This general release shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law."

2. Section 17.0 of the Franchise Agreement provides that the franchise may automatically terminate upon your bankruptcy. This provision may not be enforceable under Federal bankruptcy law (11 U.S.C. Section 101 et seq.)

3. Section 18.1 of the Franchise Agreement is hereby supplemented by the addition of the following at the end of said Section:

"Provided, however, that Franchisee may bring a lawsuit in the State of Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law."

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

5. All representations requiring 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. Notwithstanding any provisions in this Agreement to the contrary, the Maryland Franchise Registration and Disclosure Law shall override and supercede any inconsistent provisions in the Franchise Agreement. Without limiting the generality of the foregoing, the Company agrees that nothing in the Franchise Agreement is intended to, nor shall it, act as a release, assignment, novation, waiver or estoppel that would relieve the Company from liability under the Maryland Franchise Registration and Disclosure Law.

7. In the event that there is a conflict between the terms of the Franchise Agreement and the terms of this Addendum, the terms of this Addendum shall prevail.

8. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

9. Except set forth in this Addendum, the Franchise Agreement as executed by the parties hereto shall remain in full force and effect.

[Signatures on following page]

STORE NO

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

FRANCHISEE

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_

STORE NO

**STATE OF MINNESOTA  
ADDENDUM TO FRANCHISE AGREEMENT**

RIDER ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_\_\_\_, BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. Section 15 of the Franchise Agreement is hereby modified by the addition of the following:

The Minnesota Department of Commerce requires that franchisors indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee's use of the franchisor's trademark infringes trademark rights of the third party. Company does not indemnify against the consequences of Franchisee's use of Company's trademark except in accordance with the requirements of the franchise, and, as a condition to indemnification, Franchisee must provide notice to Company of any such claim within ten (10) days and tender the defense of the claim to Company. If Company accepts the tender of defense, Franchisor has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim.

2. Section 17 of the Franchise Agreement is hereby modified by the addition of the following:

Minnesota law provides franchisees with certain termination and nonrenewal rights. Minn. Stat. Sec. 80C.14, Subd. 3, 4 and 5 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 for nonrenewal of a franchise agreement. In addition, Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statutes 1973 Supplement, sections 80C.01 to 80C.22; provided, that this part shall not bar the voluntary settlement of disputes.

3. Section 18.1 of the Franchise Agreement is hereby modified by the addition of the following:

This Agreement and the validity and performance hereof shall be governed by the laws of the State of Kentucky. Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400(J) prohibit the Company from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the Franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce any of Franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or Franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

4. Section 17.2(g) of the Franchise Agreement is hereby deleted in its entirety and the following is substituted in the place thereof:

(g) consent to the seeking of a permanent injunction and/or restraining order against Franchisee prohibiting further use or display of any and all Trademarks, service marks and proprietary systems and products of any kind.

5. No release language set forth in Articles 2.2, 7.0, 14.0 or elsewhere in the franchise agreement shall relieve Company or any other person, directly or indirectly, from liability

STORE NO

imposed by the Minnesota Franchise Investment Law or any other law of the State of Minnesota.

6. In the event that there is any conflict between the terms of the Franchise Agreement and this Rider, the terms of this Rider shall prevail.
7. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
8. Except as set forth in this Rider, the Franchise Agreement as executed by the parties hereto shall remain in full force and effect.

FRANCHISEE

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_

STORE NO

**STATE OF NORTH DAKOTA  
ADDENDUM TO FRANCHISE AGREEMENT**

RIDER ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_\_\_\_, BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. No release language set forth in the Franchise Agreement nor any general release signed by the Franchisee will relieve the Company or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of North Dakota.
2. Any provision in the Franchise Agreement which designates jurisdiction or venue or requires the Franchisee to agree to jurisdiction or venue, in a forum outside of North Dakota, is deleted from the Franchise Agreement.
3. Section 3.5 of the Franchise Agreement is amended by adding the following at the end of that Section:  
  
"Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota."
4. The laws of the State of North Dakota supersede any provisions of the Franchise Agreement, the other agreements or Kentucky law if such provisions are in conflict with North Dakota law. The Franchise Agreement will be governed by North Dakota law, rather than Kentucky law, as stated in Section 18 of the Franchise Agreement.
5. Any provisions in the Franchise Agreement (including but not limited to Sections 18.2 and 18.3) that require the franchisee to waive the right to a jury trial or to exemplary or punitive damages are deleted from any Agreements issued in the State of North Dakota.
6. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
7. Except as set forth in this Rider, the Franchise Agreement as executed by the parties hereto and as it may have heretofore been amended shall remain in full force and effect.

FRANCHISEE

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_

STORE NO

**STATE OF VIRGINIA  
ADDENDUM TO FRANCHISE AGREEMENT**

RIDER ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_\_\_\_, BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act (the "Virginia Act"), it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement do not constitute reasonable cause, as that term is defined in the Virginia Act or the laws of Virginia, that provision may not be enforceable.
  
2. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
  
3. Except as set forth in this Rider, the Franchise Agreement as executed by the parties hereto and as it may have heretofore been amended shall remain in full force and effect.

FRANCHISEE

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_



**STATE OF WASHINGTON  
ADDENDUM TO FRANCHISE AGREEMENT**

ADDENDUM ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_\_\_\_, BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND (THE "FRANCHISEE").

1. The Franchise Agreement is hereby supplemented by the addition of the following:

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

STORE NO

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

2. In the event that there is a conflict between the terms of the Franchise Agreement and the terms of this Addendum, the terms of the Addendum shall prevail.
3. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
4. Except as set forth in this Addendum, the Franchise Agreement as executed by the parties hereto shall remain in full force and effect.

The undersigned does hereby acknowledge receipt of this addendum.

A&W RESTAURANTS, INC.

FRANCHISEE

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_

STORE NO

**STATE OF WISCONSIN  
ADDENDUM TO FRANCHISE AGREEMENT**

RIDER ATTACHED TO AND MADE A PART OF FRANCHISE AGREEMENT DATED \_\_\_\_\_, \_\_\_\_\_ BY AND BETWEEN A&W RESTAURANTS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN (THE "COMPANY"), AND \_\_\_\_\_ (THE "FRANCHISEE").

1. Notwithstanding anything herein to the contrary, ch. 135 Stats. of the Wisconsin Fair Dealership Law, supersedes any provision of this Agreement inconsistent with that Law.
2. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
3. Except as set forth in this Rider, the Franchise Agreement as executed by the parties hereto shall remain in full force and effect.

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Franchisee:

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT C-1**

**NEW RESTAURANT INCENTIVE ADDENDUM**

## ADDENDUM TO FRANCHISE AGREEMENT

(New Restaurant Incentive)

THIS ADDENDUM TO FRANCHISE AGREEMENT (this “Addendum”) is executed contemporaneously with and annexed to that certain Franchise Agreement (the “Franchise Agreement”) between A&W Restaurants, Inc. (the “Company”) and \_\_\_\_\_ (“Franchisee”). The parties agree to supplement the Franchise Agreement by adding thereto the provisions below. Capitalized terms used, but not defined, herein shall have the meanings ascribed to them in the Franchise Agreement unless the context clearly requires otherwise.

### RECITALS:

A. Pursuant to the Franchise Agreement, the Company has granted to Franchisee the right to establish and operate an A&W Restaurant (the “Restaurant”) and a license to use certain trademarks related thereto (the “Trademarks”).

B. The Company has implemented an incentive program available to qualified franchisees that open new A&W Restaurants under which the royalty fees due under the Company’s current form of franchise agreement are (i) waived during the A&W Restaurant’s first three (3) months of operations if the franchisee opens a new A&W Restaurant within ten (10) months of receiving the Company’s Design and Construction Team’s approval for construction (“Construction Approval”) and is in good standing and (ii) reduced to three percent (3%) of net sales for the remainder of the A&W Restaurant’s first year of operations, four percent (4%) of net sales in the A&W Restaurant’s second year of operations and five percent (5%) of net sales in the A&W Restaurant’s third and each subsequent year of operations if the franchisee remains in good standing (the “Incentive”).

C. Franchisee seeks to qualify for, and to receive, the benefits of the Incentive in connection with the Restaurant.

Accordingly, the parties hereto agree as follows:

1. Qualifications. Franchisee represents, and in connection with signing this Addendum has provided the Company (or agrees to provide promptly upon request) relevant supporting documentation, that: (a) the Restaurant will be a new A&W Restaurant, as the Incentive does not apply to transfers or renewals, (b) it will open the Restaurant within ten (10) months of receiving Construction Approval, and (c) it is, and will remain in, good standing, including being in full compliance with all currently effective agreements with the Company and its affiliates.

2. Reduced Royalty Fees. In consideration of Franchisee’s qualification for the Incentive identified in the Recitals above, Section 7.0(c) of the Franchise Agreement is revised to reflect that the royalty fees are (i) waived during the Restaurant’s first three (3) months of operations and (ii) reduced to three percent (3%) of net sales for the remainder of the Restaurant’s first year of operations, four percent (4%) of net sales in the Restaurant’s second year of operations and five percent (5%) of net sales in the Restaurant’s third and each subsequent year of operations.

3. Additional Condition(s). If at any point during the Term Franchisee fails to satisfy, or is later found to have violated or failed to satisfy any condition set forth herein that qualifies Franchisee for the Incentive, then in addition to any other applicable remedies available under the Franchise Agreement (including termination) or at applicable law, the royalty fee shall revert

to such amount as is set forth in Section 7.0(c) of the Franchise Agreement for the remainder of the Term.

4. Except as modified in this Addendum, the Franchise Agreement will continue in full force and effect. In the event of any conflict between the Franchise Agreement and this Addendum, the terms of this Addendum will supersede and control.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date of the Franchise Agreement.

**A&W RESTAURANTS, INC.**

**FRANCHISEE:**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

ITS: \_\_\_\_\_

**EXHIBIT C-2**

**CAPTIVE RESTAURANT ADDENDUM**

## ADDENDUM TO FRANCHISE AGREEMENT

(Captive Location)

THIS ADDENDUM TO FRANCHISE AGREEMENT (this “Addendum”) is executed contemporaneously with and annexed to that certain Franchise Agreement (the “Franchise Agreement”) between A&W Restaurants, Inc. (the “Company”) and \_\_\_\_\_ (“Franchisee”). The parties agree to supplement the Franchise Agreement by adding thereto the provisions below. Capitalized terms used, but not defined, herein shall have the meanings ascribed to them in the Franchise Agreement unless the context clearly requires otherwise.

### RECITALS:

A. Pursuant to the Franchise Agreement, the Company has granted to Franchisee the right to establish and operate one A&W Restaurant (the “Restaurant”) and a license to use certain trademarks related thereto (the “Trademarks”).

B. The Company and Franchisee have agreed that Franchisee will operate the Restaurant at a location that is contiguous to or within the approved Captive Location at the address set forth on Appendix II annexed to the Franchise Agreement.

Accordingly, the parties hereto agree as follows:

1. Approval of Captive Location. The Company has granted Franchisee the right to operate the Restaurant at the approved Captive Location at the address set forth on Appendix II annexed to the Franchise Agreement.

(a) Prior to the opening of the Restaurant, and from time to time thereafter, the Company shall have the right to inspect and assess the operations of the Captive Location and the products offered for sale therein. If the Company determines that an association with any products offered for sale by the Captive Location might be detrimental to its reputation, operations and/or the value of its trademarks (which products may include without limitation, food products that compete with A&W products, obscene or pornographic materials, or drug paraphernalia), or if the quality or character of the Captive Location changes to the extent that the Company reasonably believes that the operation of an A&W Restaurant is no longer appropriate at that location, the Company may terminate the Franchise Agreement and the Franchisee’s license to use the Trademarks.

2. Notwithstanding anything to the contrary set forth in the Franchise Agreement (including, without limitation, Section 1.2 of the Franchise Agreement), Franchisee will not receive a trading area.

3. Section 7.0(B) of the Franchise Agreement is amended to provide that the Grand Opening Promotional Deposit is Two Thousand Five Hundred Dollars (\$2,500.00).

4. Section 7.0(D) of the Franchise Agreement is amended to provide that the continuing advertising fee shall be equal to two percent (2.0%) of net sales.

5. Except as modified in this Addendum, the Franchise Agreement will continue in full force and effect. In the event of any conflict between the Franchise Agreement and this Addendum, the terms of this Addendum will supersede and control.



IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date of the Franchise Agreement.

**A&W RESTAURANTS, INC.**

**FRANCHISEE:**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

ITS: \_\_\_\_\_

**EXHIBIT C-3**

**CO-BRAND RESTAURANT ADDENDUM**

ADDENDUM TO FRANCHISE AGREEMENT  
Co-Brand Provisions  
(City, State, Store #)

THIS ADDENDUM TO FRANCHISE AGREEMENT (“Addendum”), dated for reference purposes as of \_\_\_\_\_, 20\_\_ is entered into by and between A&W RESTAURANTS, INC., a Michigan corporation (“Company”) and \_\_\_\_\_, a/an \_\_\_\_\_ corporation (“Franchisee”).

Franchisee is the transferee of an existing Co-Brand Restaurant. To effectuate the transfer of the existing Co-Brand Restaurant to Franchisee, Company and Franchisee hereby agree to amend the Franchise Agreement they have entered into as of this date for the Co-Brand Restaurant located at \_\_\_\_\_ as follows:

1. Capitalized and defined terms used in this Addendum and not otherwise defined herein shall have the same meaning attributed to them in the Franchise Agreement unless the context of this Addendum requires otherwise. In the event that the terms of this Addendum conflict with the terms of the Franchise Agreement, the terms of this Addendum shall control.
2. The Franchise Agreement is hereby amended by making Section B in the “Background” section of the Franchise Agreement Section C and adding the following as new Section B:
  - A. The Company has also developed modifications to the System to facilitate the operation of an A&W Restaurant as part of a co-brand A&W Restaurant. The Franchisee wishes to obtain a franchise to operate an A&W Restaurant within and as part of a Co-Brand Restaurant pursuant to the Company’s modified system.
3. The Franchise Agreement is hereby amended by deleting Section 1.1 thereof and substituting the following therefor:
  - 1.1 The right hereby granted to the Franchisee to use the Trademarks is limited exclusively to their use in connection and conjunction with: (a) the right to operate a single A&W Restaurant (“Restaurant”) within and as part of, and to use the A&W system at, a Co-Brand Restaurant (hereinafter defined) at the location described on Appendix II; and (b) the sale of Company-approved menu and other items from the Restaurant to be operated pursuant to this Agreement. As used in this Agreement, the phrase “Co-Brand Restaurant” shall mean a restaurant facility or building in which an A&W Restaurant is operated in conjunction with another food service business with a person or entity engaged in food service as its principal business at the location(s) of the Co-Brand Restaurant, and said business is an established and reputable foodservice brand in its trading area that has been approved by the Company in its sole discretion as a concept suitable for co-branding with A&W Restaurants (“Branded Concept”). The Company acknowledges and agrees that \_\_\_\_\_ is an approved Branded Concept.
4. Notwithstanding anything to the contrary set forth in the Franchise Agreement (including, without limitation, Section 1.2 of the Franchise Agreement), Franchisee will not receive a trading area.
5. The Franchise Agreement is hereby amended by adding thereto the following Section 1.5 and 1.6:

- 1.5 Franchisee represents and warrants to, and agrees with Company that, Franchisee shall utilize the Restaurant for the operation of the following additional Branded Concept(s): \_\_\_\_\_; and that Franchisee shall use the Restaurant and the premises upon which the Restaurant is to be located solely for the operation of the Restaurant and the Branded Concept designated herein within a Co-Brand Restaurant and for no other purpose without first obtaining the Company's prior written approval, which approval the Company may withhold in its sole discretion without liability to Franchisee or any other party.
- 1.6 Franchisee represents and warrants and agrees with Company as follows:  
(a) Franchisee shall, upon Company's request, provide Company with a true and accurate copy of the Branded Concept franchise or license agreement; and  
(b) Franchisee shall promptly provide Company with any material modification or amendment to its Branded Concept agreement.
6. Notwithstanding anything to the contrary set forth in the Franchise Agreement (including, without limitation, Sections 2.0 and 2.1 of the Franchise Agreement), the Initial Term of the Franchise Agreement shall continue for a term of \_\_\_\_\_ years, commencing on \_\_\_\_\_, and Franchisee will have the right to enter into \_\_\_\_\_ consecutive Renewal Terms, each featuring a term of \_\_\_\_\_ years, if Franchisee has complied with the conditions and procedures for renewal specified in the Franchise Agreement.
7. Because the Franchise Agreement and this Addendum relate to the transfer of an existing Co-Brand Restaurant and not to the development of a new A&W Restaurant, those pre-opening and opening obligations set forth in the Franchise Agreement that were performed prior to the transfer of the Co-Brand Restaurant to Franchisee shall not be applicable; provided, however, that Franchisee will be required to complete certain training to Company's reasonable satisfaction.
8. The Franchise Agreement is hereby amended by adding at the end of Section 6.6 the following:
- The foregoing shall apply only to the Restaurant and the A&W system and A&W elements of the Co-Brand Restaurant.
9. As described in Sections 7.0(d) and 8.1 of the Franchise Agreement, Franchisee will be required to pay the NAC Advertising Fund a continuing advertising fee equal to five percent (5.0%) of net sales. From that contribution, one percent (1.0%) of net sales will be deposited into the multi-brand advertising account and the remaining four percent (4.0%) will be spent in accordance with the then current applicable terms of any agreement between the Company and NAWFA or their respective affiliates, including, but not limited to, the NAWFA Marketing Committee Policies and Procedures; the NAWFA Marketing Committee One Store Account Policies and Procedures; the NAWFA Co-Op Policies and Procedures; and any other policies adopted jointly by such parties.
10. The Franchise Agreement is hereby amended by adding at the end of Section 7.1 the following:
- Provided, however, that for purposes of calculating the continuing advertising fee due under Section 7.0(d) above, and for the purpose of calculating the continuing royalty fee due under Section 7.0(c) above, the term "net sales" shall exclude the sales of food and other tangible property sold from the Co-Brand Restaurant under and bearing the \_\_\_\_\_ brand. All root beer beverage sales and all beverage sales

sold as part of an A&W Restaurants menu combo meal shall be allocated to the Company.

11. Except as modified in this Addendum, the Franchise Agreement will continue in full force and effect. In the event of any conflict between the Franchise Agreement and this Addendum, the terms of this Addendum will supersede and control.

IN WITNESS WHEREOF, Company and Franchisee have executed or caused the execution of this Addendum effective as of \_\_\_\_\_, 20\_\_.

A&W RESTAURANTS, INC.

By: \_\_\_\_\_

Witness: \_\_\_\_\_

Title: \_\_\_\_\_

FRANCHISEE

Witness: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT D**  
**DEVELOPMENT AGREEMENT**

## DEVELOPMENT AGREEMENT

1. **Background.** This Development Agreement (this “**Agreement**”) is made between **A&W Restaurants, Inc.**, a Michigan corporation (“**we,**” “**us,**” or “**our**”) and (“**you**” or “**your**”). We have the exclusive right to operate and grant licenses to others to operate, under our proprietary trademarks, a system of restaurants that are uniform in their basic appearance and operation (the “**A&W Restaurants**”). We and you are signing this Agreement because you want the right to develop three (3) new A&W Restaurants (collectively, the “**Restaurants**”, and individually, each a “**Restaurant**”) over a certain time period, and we are willing to grant you those development rights if you comply with this Agreement.

2. **Grant of Development Rights.** Subject to your strict compliance with this Agreement, we grant you the right to develop the Restaurants, with each Restaurant operating under a separate franchise agreement (a “**Franchise Agreement**”) that you enter into with us, according to the mandatory development schedule described in Exhibit A to this Agreement (the “**Schedule**”).

There are no restrictions that this Agreement imposes on our (and our affiliates’) activities during this Agreement’s term. You acknowledge and agree that we and our affiliates have the right to engage, and grant to others the right to engage, in any other activities of any nature whatsoever, including, without limitation, those rights we reserve in the Franchise Agreements. Except as provided in the Franchise Agreements, we may develop or grant a third party the right to develop a restaurant anywhere.

YOU ACKNOWLEDGE AND AGREE THAT TIME IS OF THE ESSENCE UNDER THIS AGREEMENT AND THAT YOUR RIGHTS UNDER THIS AGREEMENT ARE SUBJECT TO TERMINATION (WITHOUT ANY CURE OPPORTUNITY) IF YOU DO NOT COMPLY STRICTLY WITH THE DEVELOPMENT OBLIGATIONS PROVIDED IN THE SCHEDULE. WE MAY ENFORCE THIS AGREEMENT STRICTLY.

3. **Development Obligations.** To maintain your rights under this Agreement, you (and/or affiliated entities we approve) must sign Franchise Agreements for the Restaurants and have the Restaurants open and operating by the dates specified in the Schedule. You (and/or the approved affiliated entity) will operate each Restaurant under a separate Franchise Agreement (and related documents, including Guaranty) that you (and your owners) sign, each of which will be our then-current form of franchise agreement (and related documents), any and all of the terms of which may differ materially from any and all of the terms contained in any other franchise agreement (and related documents) that you may have previously entered into with us. However, despite any contrary provision contained in any newly-signed Franchise Agreement, each of your Restaurants must be open and operating by the dates specified in the Schedule. To retain your rights under this Agreement, each of your Restaurants must operate continuously throughout this Agreement’s term in full compliance with its Franchise Agreement.

4. **Subfranchising Rights.** This Agreement does not give you any right to franchise, license, subfranchise, or sublicense others to operate A&W Restaurants. Only you (and/or affiliated entities we approve) may develop, open, and operate the Restaurants pursuant to this Agreement. This Agreement also does not give you (or your affiliated entities) any independent right to use the “A&W” trademark or our other trademarks and commercial symbols. The right to use our trademarks and commercial symbols is granted only under the Franchise Agreements signed directly with us. This Agreement only grants you potential development rights if you comply with its terms.

5. **Development Fee.** As consideration for the development rights we grant you in this Agreement, you must pay us, at the same time you sign this Agreement, a total of Fifty-Two Thousand Five Hundred Dollars (\$52,500) (the “**Development Fee**”), which is equal to the sum of the initial franchise fees for the Restaurants you agree to develop hereunder. Our initial franchise fee for the first Restaurant you develop pursuant to this Agreement is Twenty-Five Thousand Dollars (\$25,000), for the second Restaurant you develop pursuant to this Agreement is Fifteen Thousand Dollars (\$15,000), and for the third Restaurant you develop pursuant to this Agreement is Twelve Thousand Five Hundred Dollars (\$12,500). The Development Fee is consideration for the rights we grant you in this Agreement, is fully earned by us when we and you sign this Agreement, and is not refundable under any circumstances, even if you do not comply or attempt to comply with the Schedule and we then terminate this Agreement for that reason.

6. **Grant of Franchises.** You must submit to us a separate application for each of the Restaurants you wish to develop pursuant to this Agreement. You agree to give us all information and materials we request in order to assess each proposed site. We will supply you with our site selection criteria and may put you in contact with a commercial real estate broker; however, we will not conduct site selection activities for you. In granting you the development rights under this Agreement, we are relying on your knowledge of the real estate market and your ability to locate and access sites. We will not unreasonably withhold acceptance of any proposed site if the site meets our then current site criteria. However, we have the absolute right not to accept any site not meeting these criteria. If we accept a proposed site, you agree, within the time period we specify, to sign a separate Franchise Agreement (and related documents) for the Restaurant. If you do not do so, or cannot obtain lawful possession of the proposed site, we may withdraw our acceptance of the proposed site. After you (and your owners) sign a Franchise Agreement (and related documents, including Guaranty), its terms and conditions will control your development and operation of the Restaurant; *provided, however,* that (i) the required opening date is governed exclusively by this Agreement and (ii) you may not sign any lease, sublease, or other document for the site of your second or third Restaurant you are required to open pursuant to the Schedule until you have opened the immediately preceding Restaurant you are required to open pursuant to the Schedule.

In addition to our rights with respect to proposed Restaurant sites, we may delay your development of any of the Restaurants pursuant to this Agreement for the time period we deem best if we believe, in our sole judgment, when you submit your application, that you are not yet operationally, managerially, or otherwise prepared to develop, open and/or operate the Restaurants in full compliance with our standards and specifications. In considering whether you are prepared to develop, open and/or operate new Restaurants, we may consider, among other things, the following: (a) whether you are current on the payment of all royalties, advertising and other fees under all of your then-current Franchise Agreements; (b) whether you are in good standing with all of our food safety audits; (c) whether you are in good standing in Steritech and inspections; (d) whether you have approved Chatmeter scores; (e) whether you have an approved number of certified managerial personnel; and, (f) whether you are in material breach of any agreement between you (or any of your affiliates), on the one hand, and us (or any of our affiliates), on the other hand. We may delay development for the time period we deem best as long as the delay will not in our reasonable opinion cause you to breach your development obligations under the Schedule (unless we are willing to extend the Schedule proportionately to account for the delay).

7. **Term.** This Agreement’s term begins on the date we and you sign it and ends on the date when (a) the final Restaurant to be developed under the Schedule has opened (or, if earlier, must have opened) for business, or (b) this Agreement otherwise is terminated.



8. **Termination.** We may terminate this Agreement and your right to develop the Restaurants at any time, effective upon delivery to you of written notice of termination: (a) if you fail to satisfy either your development obligations under the Schedule or any other obligation under this Agreement, which defaults you have no right to cure; or (b) if any Franchise Agreement for a Restaurant (or any other franchise agreement between us and you (or your affiliated entity) for any other A&W Restaurant) is terminated by us in compliance with its terms or by you (or your affiliated entity) for any (or no) reason; or (c) if we have delivered a formal written notice of default to you (or your affiliated entity) under a Franchise Agreement for a Restaurant (or any other franchise agreement between us and you (or your affiliated entity) for any other A&W Restaurant), whether or not you (or your affiliated entity) cure that default and whether or not we subsequently terminate the Franchise Agreement or the other franchise agreement. No portion of the Development Fee is refundable upon a termination of this Agreement or under any other circumstances.

A termination of this Agreement is not deemed to be the termination of any franchise rights under a Franchise Agreement for a Restaurant (or of any other franchise agreement between us and you (or your affiliated entity) for any other A&W Restaurant) because this Agreement grants you no separate franchise rights. Franchise rights arise only under franchise agreements signed directly with us. A termination of this Agreement does not affect any franchise rights granted under any then-effective individual franchise agreements.

9. **Assignment.** Your development rights under this Agreement are not assignable at all. This means that we will not under any circumstances allow the development rights to be transferred. A transfer of the development rights would be deemed to occur (and would be prohibited) if there is an assignment of any Franchise Agreement, any change in your ownership (whether or not it is a controlling ownership interest), any change in your owners' ownership (if such owners are legal entities and whether or not it is a controlling ownership interest), a transfer of this Agreement separate and apart from the Franchise Agreements, or any other event attempting to assign the development rights.

10. **Relationship of Parties and Indemnification.** You understand and agree that you are and will be our independent contractor under this Agreement. Nothing in this Agreement may be construed to create a partnership, joint venture, agency, employment or fiduciary relationship of any kind. None of your employees will be considered to be our employees. Neither you nor any of your employees whose compensation you pay may in any way, directly or indirectly, expressly or by implication, be construed to be our employee for any purpose, most particularly with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state or federal governmental agency. You are solely responsible for your employees, all acts of your employees and all employment related decisions, including but not limited to, those decisions concerning wages, benefits, hours of work, scheduling, hiring, firing, discipline, training, supervision, recordkeeping and all other terms and conditions of employment. It shall constitute a material breach of this Agreement if you recruit, or attempt to recruit, any employee of ours or of any other of our franchisees during the term of this Agreement. We will not have the power to hire or fire your employees.

You acknowledge and agree, and will never contend otherwise, that you alone will exercise day-to-day control over all operations, activities and elements of the Restaurants and that under no circumstance shall we do so or be deemed to do so.

You may not, without our prior written approval, obligate us for any expenses, liabilities or other obligations, other than as specifically provided in this Agreement. Except as expressly provided in this Agreement, we may not control or have access to your funds or the expenditure of your funds or in any other way exercise dominion or control over the Restaurants. Except as

otherwise expressly authorized by this Agreement, neither party will make any express or implied agreements, warranties, guarantees or representations or incur any debt in the name of or on behalf of the other party, or represent that the relationship between us and you is other than that of franchisor and franchisee. We do not assume any liability, and will not be considered liable, for any agreements, representations, or warranties made by you which are not expressly authorized under this Agreement. We will not be obligated for any damages to any person or property which directly or indirectly arise from or relate to your operation of the Restaurants.

You shall exonerate and indemnify us and A&W Concentrate Company (an unaffiliated company that owns our principal trademarks), and our and its respective officers, directors, employees, agents, corporate parents, subsidiaries, affiliates, shareholders, successors and assigns (the “**Indemnified Parties**”) from and against (a) any and all claims, losses, liabilities and costs incurred in connection with any action, suit, proceeding, claim, demand, investigation, or formal or informal inquiry (regardless of whether any of the foregoing is reduced to judgment) or any settlement of the foregoing, which actually or allegedly, directly or indirectly, arises out of, is based upon, arises out of, or is in any way related to the construction, operation or condition of any part of the Restaurants or Restaurants’ premises, the conduct of business at the Restaurants’ premises including, but not limited to, the food and beverages sold therefrom, the ownership or possession of real or personal property, any negligent act, omission, misfeasance or nonfeasance by you or any of your agents, contractors, servants, or employees, and including, without limitation, any and all conduct by your employees, all of your obligations incurred pursuant to any provision of this Agreement, and (b) any and all fees (including actual attorneys fees), costs and other expenses incurred by or on behalf of us in the investigation of or defense against any and all such claims.

As used above, the phrase “claims, losses, liabilities and costs” includes all claims; causes of action; fines; penalties; liabilities; losses; compensatory, exemplary, statutory or punitive damages or liabilities; costs of investigation; lost profits; court costs and expenses; reasonable attorneys’ and experts’ fees and disbursements; settlement amounts; judgments; compensation for damage to our reputation and goodwill; costs of or resulting from delays; travel, food, lodging and other living expenses necessitated by the need or desire to appear before (or witness the proceedings of) courts or tribunals (including arbitration tribunals), or government or quasi-governmental entities (including those incurred by the Indemnified Parties’ attorneys and/or experts); all expenses of recall, refunds, compensation and public notices; and, other such amounts incurred in connection with the matters described. All such losses and expenses incurred under this indemnification provision will be chargeable to and paid by you pursuant hereto, regardless of any actions, activity or defense undertaken by us or the subsequent success or failure of the actions, activity or defense.

You agree to give us written notice of any such action, suit, proceeding, claim, demand, inquiry or investigation that could be the basis for a claim for indemnification by any Indemnified Party within three days of your actual or constructive knowledge of it. At your expense and risk, we may elect to assume (but under no circumstance will we be obligated to undertake) the defense and/or settlement of the action, suit, proceeding, claim, demand, inquiry or investigation. However, we will seek your advice and counsel and keep you informed with regard to the defense or contemplated settlements. Our undertaking of defense and/or settlement will in no way diminish your obligation to indemnify us and the other Indemnified Parties and to hold them harmless.

We will have the right, at any time we consider appropriate, to offer, order, consent or agree to settlements or take any other remedial or corrective actions we consider expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in our sole judgment, there are reasonable grounds to do so. Under no circumstance will we or the other

Indemnified Parties be required to seek recovery from third parties or otherwise mitigate our losses to maintain a claim against you. You agree that any failure to pursue recovery from third parties or mitigate loss will in no way reduce the amounts recoverable by us or the other Indemnified Parties from you. The indemnification obligations of this Section 10 will survive the expiration or sooner termination of this Agreement.

11. **No Waiver of Default; Force Majeure**. The waiver by either party of any breach or default, or series of breaches or defaults, of any term, covenant or condition herein contained shall not be deemed a waiver of any subsequent or continuing breach or default of the same or any other term, covenant or condition contained in this Agreement.

Neither party shall be liable or be deemed in default because of any delay or failure for any cause beyond its reasonable control, including, without limitation, fire, floods, national disasters, Acts of God, war, civil commotion, terrorist acts, any governmental act or regulation, any delays or defaults in deliveries by common carriers and/or postal services and/or overnight couriers, computer network outages, late deliveries or non-deliveries of goods or non-furnishing of services by third party vendors, strikes, lockouts, labor troubles, rationing of materials any any other similar event beyond such party's control. Provided, however, that the foregoing shall not operate to relieve you from the timely performance of your payment and other monetary obligations under this Agreement

12. **Construction and Severability**. If any part of this Agreement shall for any reason be declared invalid or unenforceable, the validity of the remaining portions shall not be affected thereby and such remaining portions shall remain in full force and effect as if this Agreement had been executed with such invalid portion eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including therein any such portions which might be declared invalid; provided, however, that in the event any part hereof relating to the payment of fees to us is for any reason declared invalid or unenforceable, then we shall have the option of terminating this Agreement upon written notice to you.

This Agreement and the validity and performance hereof shall be governed by the laws of the Commonwealth of Kentucky without recourse to Kentucky (or any other) choice of law or conflicts of law principles and this Agreement shall be construed under those laws as if the Restaurants developed hereunder are located in the Commonwealth of Kentucky. If we move our principal headquarters to another state, we reserve the right to designate that state's law as governing, again without recourse to that successor state's (or any other) choice of law or conflicts of law principles, upon written notice to you. If, however, any provision of this Agreement is not enforceable under the laws of Kentucky (or a successor state we designate as provided above), and if any of the Restaurants are located outside of Kentucky (or such hereafter designated state) and the provision would be enforceable under the laws of the state in which such Restaurant(s) are located, then that provision (and only that provision) will be interpreted and construed under the laws of that state. This Section 12 is not intended to invoke, and shall not be deemed to invoke, the application of any franchise, business opportunity, antitrust, unfair competition, fiduciary or any other doctrine of law of the State of Kentucky, or any successor state we designate as provided above, which would not otherwise apply by its terms jurisdictionally or otherwise but for the within designation of governing law.

The parties agree that any action brought by either party against the other arising out of or related to this Agreement or any related agreement shall be brought exclusively in a state or federal district court of competent jurisdiction situated in the state, county and judicial district in which our principal place of business is then located, and the parties do hereby waive all questions of personal jurisdiction or venue for the purposes of carrying out this provision. The parties agree this forum is the most convenient forum for both jurisdiction and venue. The

parties agree that this is a mutually convenient forum for any trial concerning disputes under this Agreement. It is mandatory that this forum be exclusively used for all disputes and no other forum may be used. Notwithstanding the foregoing, however, with respect to any action for monies owed, injunctive or other extraordinary or equitable relief, or involving possession or disposition of, or other relief relating to, any Restaurant's site, we may bring such an action in any state or federal district court which has jurisdiction.

The parties to this Agreement explicitly waive their respective rights to a jury trial in any litigation between them which is authorized or contemplated by this Agreement, and hereby stipulate that any such trial shall occur without a jury.

You and your guarantors hereby irrevocably waive, to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special, consequential or other similar damages in any action or proceeding whatsoever between such parties and/or any of their affiliates and us and/or any of our affiliates, and you and such others covenant never to advance or pursue any such claim for punitive damages. You and such others agree that in the event of a dispute, you and such others shall be limited to the recovery from the Indemnified Parties of any actual damages sustained by you or them.

You may only pursue any claim you have against us or the other Indemnified Parties in an individual legal action or proceeding. You shall not join or combine your legal action or proceeding in any manner with any action or claim of any other A&W Restaurant franchisee, franchise owner or franchisee guarantor, nor will you maintain any action or proceeding against us and the other Indemnified Parties in a class action, whether as a representative or as a member of a class or purported class, nor will you seek to consolidate, or consent to the consolidation of, all or part of any action or proceeding by any of them against us or the other Indemnified Parties with any other litigation against us or such other Indemnified Parties.

Any and all legal actions or proceedings brought by you against us or the other Indemnified Parties arising out of or related to this Agreement or any related agreement; any breach of this Agreement or any related agreement; the relations between you and us and/or the other Indemnified Parties; and, any and all disputes between you and us and/or the other Indemnified Parties, whether sounding in law or equity, must be commenced within two years from the occurrence of the acts, errors and/or omissions giving rise to such legal action or proceeding. If not, then you irrevocably covenant and agree that such action or proceeding shall be barred

13. **Notices.** All notices and other communications shall be written and be deemed delivered (a) at the time delivered by hand; (b) at the time delivered via computer transmission; (c) one (1) business day after transmission by facsimile or other electronic system if the sender has confirmation of successful transmission; (d) one (1) business day after being placed in the hands of a nationally recognized commercial courier service for next business day delivery; or (e) three (3) business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid, addressed to the recipient at the address set forth below, unless that party shall have given such written notice of change of address to the sending party, in which event the new address so specified shall be used.

<b><u>YOU</u></b>  _____ _____ _____ _____ _____	<b><u>US</u></b>  A&W RESTAURANTS, INC. 1648 McGrathiana Parkway, Suite 380 Lexington, KY 40511 ATTN: Legal Affairs Email:
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14. **Headings**. The headings inserted in this Agreement are for reference purposes only and shall in no way affect the construction of this Agreement or limit the generality of any of its provisions.

15. **Compliance with Laws**. You represent that you intend to and shall at your own cost and expense, promptly and continuously comply with all laws, ordinances, orders, rules, regulations, and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards, and offices thereof. No provision of this Agreement or any other requirement by us shall be construed as (a) requiring you to take any action that is inconsistent with applicable state or federal law or (b) preventing you from complying with applicable law.

16. **Entire Agreement**. This Agreement and the documents referred to herein constitute the entire agreement between the parties and supersedes and cancels any and all prior and contemporaneous agreements, understandings, representations, inducements and statements, oral or written, of the parties in connection with the subject matter hereof. Notwithstanding the foregoing, however, this Agreement shall preserve, and not supersede, subordinate, enlarge or extend, any presently existing rights or obligations of the National A&W Franchise Association (“NAWFA”), its members or us which are granted in or imposed by prior agreements between NAWFA and us. Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the Franchise Disclosure Document that we furnished to you.

17. **Amendment or Modification**. No amendment or modification of this Agreement shall be binding unless executed in writing by both us and you.

18. **Survival**. Any provision of this Agreement which imposes in any fashion, directly or indirectly, an obligation following the termination or expiration of this Agreement will survive the termination or expiration and will continue to be binding upon the parties to this Agreement. This Agreement will be binding upon and inure to the benefit of the parties, their heirs, successors and assigns.

**[Signatures on following page]**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

<b>A&amp;W RESTAURANTS, INC.</b>	<b>DEVELOPER</b>
By: _____	_____ [Name]
Title: _____	By: _____
Date: _____	Title: _____
	Date: _____

**EXHIBIT A**  
**TO DEVELOPMENT AGREEMENT**

You agree to develop and open and continually operate three (3) new Restaurants according to the following Schedule:

Restaurant Number	Date by which Restaurant Must be Opened	Cumulative Number of Restaurants to Be Open and Operating No Later than the Opening Dates (in previous column)
1		1
2		2
3		3

<p><b>A&amp;W RESTAURANTS, INC.</b></p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p><b>DEVELOPER</b></p> <p>_____</p> <p>[Name]</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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**EXHIBIT E**

**A&W® OPERATIONS MANUAL  
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# A&W<sup>®</sup> Operations Manual

## Updated February 2024



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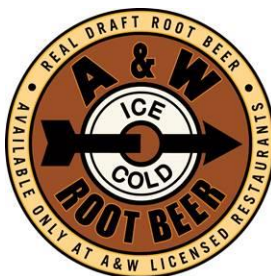
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## EXHIBIT F

### **AGENTS FOR SERVICE OF PROCESS**

If a state is not listed below, A&W Restaurants, Inc. has not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed below in which A&W Restaurants, Inc. has appointed an agent for service of process.

There may also be additional agents appointed in some of the states listed below.

#### **CALIFORNIA**

Commissioner, Department of Financial Protection  
and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344

#### **HAWAII**

Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs,  
Business Registration Division,  
Securities Compliance Branch  
335 Merchant Street, Room 205  
Honolulu, Hawaii 96813

#### **ILLINOIS**

Attorney General of the State of Illinois  
500 South Second Street  
Springfield, Illinois 62706

#### **INDIANA**

Indiana Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, Indiana 46204

#### **MARYLAND**

Maryland Securities Commissioner  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

#### **MICHIGAN**

Corporations Division  
Bureau of Commercial Services  
Department of Labor and Economic Growth  
P.O. Box 30054  
Lansing, Michigan 48909

#### **MINNESOTA**

Commissioner of Commerce  
Department of Commerce  
85 7th Place East, Suite 280  
St. Paul, Minnesota 55101-2198

#### **NEW YORK**

Secretary of State of the State of New York  
One Commerce Plaza  
99 Washington Avenue, 6<sup>th</sup> Floor  
Albany, New York 12231

#### **NORTH DAKOTA**

Securities Commissioner, State of North Dakota  
600 East Boulevard Avenue, 14<sup>th</sup> Floor  
Bismarck, North Dakota 58505

#### **RHODE ISLAND**

Director of Department of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 68-2  
Cranston, Rhode Island 02920

#### **SOUTH DAKOTA**

Department of Labor and Regulation  
Division of Insurance  
Securities Regulation  
124 S. Euclid Ave., 2<sup>nd</sup> Floor  
Pierre, South Dakota 57501

#### **VIRGINIA**

Clerk, Virginia State Corporation Commission  
1300 East Main Street, 9<sup>th</sup> Floor  
Richmond, Virginia 23219  
(804-371-9733)

#### **WASHINGTON**

Director, Department of Financial Institutions  
Securities Division  
150 Israel Rd. SW  
Tumwater, WA 98501

#### **WISCONSIN**

Administrator, Division of Securities  
Department of Financial Institutions  
4822 Madison Yards Way, North Tower  
Madison, Wisconsin 53705

## **EXHIBIT G**

### **STATE AUTHORITIES**

#### **CALIFORNIA**

Office of the Commissioner  
California Department of Financial Protection  
and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344  
(866) 275-2677

#### **HAWAII**

Commissioner of Securities of the State of  
Hawaii  
Department of Commerce and Consumer  
Affairs, Business Registration Division,  
Securities Compliance Branch  
335 Merchant Street, Room 205  
Honolulu, Hawaii 96813

#### **ILLINOIS**

Chief – Franchise Bureau  
Office of Attorney General  
State of Illinois  
500 South Second Street  
Springfield, Illinois 62706

#### **INDIANA**

Franchise Section  
Indiana Securities Commission  
302 West Washington Street, Room E-111  
Indianapolis, Indiana 46204

#### **MARYLAND**

Office of the Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

#### **MICHIGAN**

Consumer Protection Division  
Antitrust and Franchise Unit  
Michigan Department of Attorney General  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
525 W. Ottawa Street  
Lansing, Michigan 48913

#### **MINNESOTA**

Minnesota Department of Commerce  
Franchise Division  
85 7th Place East, Suite 280  
St. Paul, Minnesota 55101-2198

#### **NEW YORK**

New York State Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, New York 10005

#### **NORTH DAKOTA**

North Dakota Securities Department  
600 East Boulevard Avenue, 14<sup>th</sup> Floor  
Bismarck, North Dakota 58505

#### **RHODE ISLAND**

Division of Securities  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 68-2  
Cranston, Rhode Island 02920

#### **SOUTH DAKOTA**

Department of Labor and Regulation  
Division of Insurance  
Securities Regulation  
124 S. Euclid Ave., 2<sup>nd</sup> Floor  
Pierre, South Dakota 57501

#### **VIRGINIA**

State Corporation Commission  
Division of Securities and Retail Franchising  
1300 East Main Street, 9th Floor  
Richmond, Virginia 23219  
(804-371-9051)

#### **WASHINGTON**

Securities Division  
Department of Financial Institutions  
150 Israel Rd. SW  
Tumwater, WA 98501

#### **WISCONSIN**

Securities and Franchise Registration  
Wisconsin Department of Financial Institutions  
4822 Madison Yards Way, North Tower  
Madison, Wisconsin 53705

## **EXHIBIT H**

### **FRANCHISEES WHO HAVE LEFT THE SYSTEM**

The name, city and state, and current business telephone number of last known home telephone number of every Franchisee who has had a restaurant terminated, canceled, not renewed, transferred or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the period January 1, 2023 through December 31, 2023, or who has not communicated with A&W with ten weeks of the date of this Disclosure Document, is included below. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

## Closed - Single Brand Stores

Store ID	City	State	Franchisee	Owner Phone
20102	Hot Springs	AR	Mohammad Lone	(631) 523-3149
90266	Dinuba	CA	Ajay Sidhu	(559) 289-7314
94010	Modesto	CA	Johnny Matthews	(209) 578-5210
94574	Grand Junction	CO	TA Operating, LLC	(440) 617-8931
94112	Spring Valley	MN	Tom Evanoff	(920) 242-0585
90079	Myrtle Point	OR	Phil & Mary Jo Whitener	(208) 297-4323
94645	Roseburg	OR	Andrew Shirtcliff	(541) 543-9223

## Closed Co-Brand Stores

Store ID	City	State	Franchisee	Owner Phone
31005	Gassville	AR	Sadiq Ali	(407) 963-0775
31187	Siloam Springs	AR	Scott Gentry	(479) 462-7338
E720435	Gilroy	CA	Harman Management Corp	(650) 941-5681
E720419	Riverbank	CA	Harman Management Corp	(650) 941-5681
E720451	Patterson	CA	Harman Management Corp	(650) 941-5681
E720426	Stockton	CA	Harman Management Corp	(650) 941-5681
E720091	San Jose	CA	Harman Management Corp	(650) 941-5681
E720479	Windsor	CO	Harman Management Corp	(650) 941-5681
E720316	Colorado Springs	CO	Harman Management Corp	(650) 941-5681
E720237	Denver	CO	Harman Management Corp	(650) 941-5681
E720318	Colorado Springs	CO	Harman Management Corp	(650) 941-5681
08117	Cresco	IA	Wayne Mashek	(563) 547-3112
31523	Enid	OK	Tabbassum Mumtaz	(707) 486-7274
31512	Bartlesville	OK	Tabbassum Mumtaz	(707) 486-7274
H495013	Bethlehem	PA	Richard Bower II	(610) 703-0111
31652	Mount Pleasant	PA	LJS Opco Two, LLC	(502) 815-6100
31479	Mauldin	SC	LJS Opco Two, LLC	(502) 815-6100
31486	Anderson	SC	LJS Opco Two, LLC	(502) 815-6100
31487	Greenville	SC	LJS Opco Two, LLC	(502) 815-6100
08188	Greer	SC	LJS Opco Two, LLC	(502) 815-6100
31889	La Follette	TN	Robert Jenkins	(423) 587-0690
31704	San Antonio	TX	LJS Opco Two, LLC	(502) 815-6100
31540	Lubbock	TX	LJS Opco Two, LLC	(502) 815-6100
31070	San Angelo	TX	LJS Opco Two, LLC	(502) 815-6100
31803	Terrell	TX	LJS Opco Two, LLC	(502) 815-6100
31817	Dallas	TX	LJS Opco Two, LLC	(502) 815-6100
31814	Carrollton	TX	LJS Opco Two, LLC	(502) 815-6100
08115	Fort Worth	TX	Anwar Dossani	(817) 442-1159
94615	Saint George	UT	Harman Management Corp	(650) 941-5681
94719	Ogden	UT	Harman Management Corp	(650) 941-5681
95302	Draper	UT	Harman Management Corp	(650) 941-5681
31215	Clarksburg	W VA	LJS Opco One, LLC	(502) 815-6100
D181005	Seattle	WA	Amin Vakil	(425) 778-9119
E720371	Tacoma	WA	Harman Management Corp	(650) 941-5681

## ITEM H

As of 12/31/2023

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

**Transfers - Single Brands**

Owner City	Owner State	Franchisee	Owner Phone
Mentone	CA	Amer Chris Sabbah	(909) 583-4596
Eaton	CO	Chong Wi	(303) 408-0726
New Meadows	ID	David Kellogg	(208) 347-2219
Fairview	KS	Nathaniel Keim	(785) 285-2148
Garden City	MI	Zahida & Sam Sesi	(248) 798-4774
Ortonville	MI	Nicole Perris	(248) 701-6694
Rochester	MN	Steve Oborn	(612) 598-8803
Columbia Falls	MT	Patrick M. Tabor	(406) 249-1401
Sparks	NV	Mike & Raeleen Baker	(775) 815-1912
Lake George	NY	Wayne Pelak	(772) 532-1706
Webster	SD	Benita Baus	(605) 265-0527
Janesville	WI	Robert Kline	(608) 247-1565
Neillsville	WI	Jerry Becker	(715) 743-7900

**Transfers - Co-Brands**

Owner City	Owner State	Franchisee	Owner Phone
Paducah	KY	LJS Opco Two, LLC	(502) 815-6100
Fishkill	NY	Arthur Windram	(845) 226-2850
Midwest City	OK	Tabbassum Mumtaz	(707) 486-7274
Oklahoma City	OK	Tabbassum Mumtaz	(707) 486-7274
Oklahoma City	OK	Tabbassum Mumtaz	(707) 486-7274
Tulsa	OK	Tabbassum Mumtaz	(707) 486-7274
Yukon	OK	Tabbassum Mumtaz	(707) 486-7274
Spartanburg	SC	LJS Opco Two, LLC	(502) 815-6100
Savannah	TN	LJS Opco Two, LLC	(502) 815-6100
Sweetwater	TN	Liping Chen	(906) 638-8117
Lubbock	TX	Tabbassum Mumtaz	(707) 486-7274
San Angelo	TX	Tabbassum Mumtaz	(707) 486-7274

**EXHIBIT I-1**

**FRANCHISEE ORGANIZATIONS A&W HAS CREATED, SPONSORED OR ENDORSED**

NONE



**EXHIBIT I-2**

**INDEPENDENT FRANCHISEE ORGANIZATIONS**

National A&W Franchisees Association  
PO Box 1144  
Richmond, KY 40476-1144  
866/625-5920  
<http://www.nawfa.com/>  
[rperkins@nawfa.com](mailto:rperkins@nawfa.com)

**EXHIBIT J**

**TECHNOLOGY SERVICES AGREEMENT**

## Technology Services Agreement

This Technology Services Agreement, together with all referenced Exhibits (this “**Agreement**”), is entered into by A&W Restaurants, Inc. (“**Company**”) and \_\_\_\_\_, a(n) \_\_\_\_\_ (corporation, limited liability company, partnership) (“**Franchisee**”) as of the date Franchisee executes this Agreement below (the “**Effective Date**”) and is hereby subject to the terms of the A&W Franchise Agreements, together with all referenced exhibits, attachments, appendices, and schedules (the “**Franchise Agreement(s)**”), dated \_\_\_\_\_, by and between Company and Franchisee. If any provision of this Agreement conflicts with a provision of the Franchise Agreement, the provision in this Agreement prevails, but only to the extent it relates to the rights and obligations of the parties under this Agreement.

### BACKGROUND

WHEREAS, Franchisee operates one or more A&W restaurants as an A&W franchisee pursuant to one or more Franchise Agreement(s).

WHEREAS, pursuant to the Franchise Agreement(s), Franchisee is required to install and utilize a point of sale (“**POS**”) system in its A&W restaurant(s) identified in Exhibit A, attached hereto and incorporated by reference (each individually a “**Restaurant**”).

WHEREAS, Franchisee’s use of kiosk hardware and software, and/or a third-party POS system and related hardware and software, may be subject to additional terms from such third-party providers.

WHEREAS, Franchisee and Company acknowledge that potential advantages to the A&W system, as defined in the Franchise Agreement (“**A&W System**”), related to marketing, purchasing, and inventory management can be obtained from Company’s polling of the information and files that Franchisee and other A&W franchisees maintain on their POS systems.

WHEREAS, the parties acknowledge that Company currently has certain rights to obtain data and records from Franchisee, as specified in the Franchise Agreement, and that by accessing and polling Franchisee’s POS systems directly, the benefits to the A&W System may be maximized.

WHEREAS, Company and Franchisee desire to make such information and files available for polling by Company to help to achieve such benefits.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, Company and Franchisee agree as follows:

1. **Scope.** The purpose of this Agreement, which includes any exhibits, appendices, attachments, or other supporting documents specifically identified as part of this Agreement, is to provide a single contract under which Franchisee may procure services from Company and the service providers referenced herein.
2. **Definitions.** All terms under the Franchise Agreement are hereby incorporated by reference within this Agreement.
  - (a) “**Affiliate**” shall mean any person or entity: (a) which owns a majority of the equity interests of the Franchisee or Company; (b) a majority of the equity interests of which is owned by the Franchisee or Company; or (c) a majority of the equity interests of which is owned by a person or entity which owns a majority of the equity interests of the Franchisee or Company. As used in this paragraph, “owns” or “owned” shall include both direct and indirect ownership.
  - (b) “**Equipment**” shall have the meaning set forth in the POS System Terms.
  - (c) “**ISP**” shall have the meaning set forth in the POS System Terms.

- (d) “**Kiosk**” shall encompass self-ordering kiosk hardware and software provided by Service Providers.
- (e) “**LTO**” shall mean products deemed current limited time offers by the Company.
- (f) “**Personal Data**” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular person or household.
- (g) “**POS Data**” shall have the meaning set forth in Section 3(a).
- (h) “**POS System Terms**” means the POS System Terms attached hereto as Exhibit B, which apply during Franchisee’s subsequent use of the POS System and Kiosk(s).
- (i) “**POS System**” means a Point of Sale (“POS”) system and other technologies supported, provided, and serviced by Service Providers, as specified by Company, including all software and Equipment related to entering and tracking orders.
- (j) “**Released Parties**” shall have the meaning set forth in Section 6(b) of this Agreement.
- (k) “**Service Provider**” shall mean the third-party Equipment, POS System, and technology service provider attached hereto as Exhibit C.
- (l) “**Third Party Beta Releases**” shall have the meaning set forth in Section 4(d) of this Agreement.
- (m) “**Third-Party Platform**” means any software, software-as-a-service, POS system, data sources, or other products or services not provided by Company or a Service Provider that is integrated with or otherwise accessible through the POS system.

### 3. Access and Polling.

- (a) Franchisee hereby agrees that Company (or Company’s Affiliates) may poll data files from any POS System and other platforms (“**POS Data**”) to upload, retrieve, analyze, download, and use daily sales activity information at Restaurant(s) to benefit the A&W System, including without limitation, for use calculating royalty and/or advertising fee amounts.
- (b) Company agrees that it will not use POS Data for any purpose other than to assist in decisions designed to analyze and/or benefit the A&W System. The foregoing shall not prevent Company from sharing aggregated POS Data without identification of individual POS Data, with brand-specific franchise organizations, product suppliers or other vendors for the purpose of achieving A&W System benefits.
- (c) To the extent that POS Data contains Personal Data, each party will comply with all applicable requirements of applicable laws, rules and regulations related to privacy, security, data protection, and/or the processing of Personal Data. Each party represents and warrants at all times that: (i) it has the necessary right and authority to enter into this Agreement and to perform its obligations herein; (ii) its execution and performance under this Agreement will not violate any agreement to which it is a party; (iii) it has provided all required information to customers; and (iv) it shall take reasonable steps to ensure that access to the Personal Data is limited to those employees and agents who have a need to know or otherwise access the Personal Data and who are bound in writing to protect the confidentiality of the Personal Data. Franchisee shall ensure that each customer receives any required disclosures (e.g., privacy policy) at or before the point at which any Personal Data is received or collected about the customer. Company may unilaterally implement and require additional privacy and security controls, obligations, or requirements between Company and Franchisee should Company reasonably determine they are necessary to comply with applicable data laws, in Company’s sole judgment.

#### 4. **Third-Party POS Systems; Third-Party Platforms.**

- (a) Franchisee shall directly and independently obtain POS System services from the Service Provider(s). Franchisee acknowledges that Company does not control and is not responsible for such POS System services or any fees (and their occurrence) charged by Service Provider to Franchisee related to such POS System services. The pricing for Franchisee's use of any POS System services and any associated fees depends on Franchisee's agreement with Service Provider. Company is not responsible for the acts or omissions of any third party and shall have no responsibility for or liability in connection with any POS System services Franchisee receives from a third party, including a Service Provider, even if Company collects monies with respect to such POS System or services. Company makes no representation or warranty with respect to such third party's POS System services or such third party's access to or ability to integrate with the products, services, and systems of Company or Franchisee and any such access or ability may terminate at any time and Company shall have no obligation to advise Franchisee of such termination.
- (b) POS System. Franchisee's use of the POS System is subject to the terms and conditions as set forth in the POS System Terms, of which a current copy is attached hereto as Exhibit B. Company reserves the right to update these POS System Terms at any time, provided that Company shall make commercially reasonable efforts to provide notice. Franchisee is hereby bound by and shall comply with the terms and conditions set forth in this Agreement and the POS System Terms, which are hereby expressly incorporated by reference herein. Any breach by Franchisee of the POS System Terms shall be deemed a breach of this Agreement.
- (c) Kiosk Services. Franchisee may elect to use one or more Kiosks, at its option. If Franchisee chooses to install one or more Kiosks, it must be in conjunction with the POS System authorized by Company. Franchisee is hereby bound by and shall comply with the terms and conditions set forth in this Agreement and the POS System Terms in its use of any Kiosks.
- (d) Third-Party Platforms. The POS System may support integrations with certain Third-Party Platforms. To enable the POS System to access and receive Franchisee's information from a Third-Party Platform, Franchisee may be required to input its credentials for such Third-Party Platform. By enabling use of the POS System with any Third-Party Platform, Franchisee authorizes Company to access Franchisee's accounts with such Third-Party Platform for the purposes described in this Agreement. Franchisee is responsible for complying with any relevant terms and conditions of the Third-Party Platform and for maintaining appropriate accounts in good standing with the providers of the Third-Party Platform. Franchisee acknowledges and agrees that Company has no responsibility or liability for any Third-Party or how a Third-Party Platform uses or processes Franchisee data after such is exported to a Third-Party Platform. Company cannot ensure that the POS System will maintain integrations with any Third-Party Platform and Company may disable integrations of the POS System with any Third-Party Platform at any time provided that Company shall make commercially reasonable efforts to provide notice. For clarity, this Agreement governs Franchisee's use of and access to the POS System, even if accessed through an integration with a Third-Party Platform. **TO THE EXTENT FRANCHISEE USES FEATURES IN THE SERVICE THAT INTEGRATES WITH A THIRD-PARTY PLATFORM AND FRANCHISEE REQUESTS THAT COMPANY INTEGRATE WITH SUCH THIRD-PARTY PLATFORM'S BETA OR PRE-RELEASE FEATURES ("THIRD-PARTY BETA RELEASES"), COMPANY WILL HAVE NO LIABILITY ARISING OUT OF OR IN CONNECTION WITH COMPANY'S PARTICIPATION IN**

SUCH THIRD-PARTY BETA RELEASES OR FRANCHISEE'S USE OF SUCH INTEGRATED FEATURES.

**5. Term and Termination.**

(a) This Agreement is effective as of the Effective Date and expires on the date of expiration or termination of the Franchise Agreement, unless otherwise described herein.

(b) Default.

(1) The following shall constitute an Event of Default under this Agreement by Franchisee: (a) Franchisee's failure to comply with the terms set forth in this Agreement; (b) upon thirty (30) days prior written notice of breach from Company, Franchisee's breach of any of its obligations under this Agreement that remains uncured after expiration of such notice period; (c) Franchisee's failure to observe or perform any covenant or agreement binding on Franchisee under any other agreements it has with Company or Service Provider within any applicable grace period; or (d) Franchisee becomes insolvent or commits an act of bankruptcy under the United States Bankruptcy Act, or files or has filed against it, voluntarily or involuntarily, a petition in bankruptcy or for reorganization or for the adoption of an arrangement or plan under the United States Bankruptcy Code or shall procure or be appointed a receiver for any substantial portion of its properties, or initiates or has initiated against it, voluntarily or involuntarily, any act, process or proceeding under any insolvency law or other statute or law providing for the modification or adjustment of the rights of creditors.

(2) If an Event of Default occurs, Company may do any of the following: (a) immediately terminate this Agreement; or (b) stop performing any of the services provided for in this Agreement until the Event of Default is cured. These remedies set forth in this Agreement are not exclusive, but are cumulative and in addition to any other remedies otherwise available to Company in law and equity.

(3) A default under this Agreement shall constitute a default under any other agreement between Company and Franchisee or Franchisee's Affiliates.

**6. Warranty Disclaimer; Limitation of Liability.**

(a) COMPANY SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, THIRD-PARTY PLATFORMS, KIOSKS, POS SYSTEMS, OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF COMPANY. FRANCHISEE MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

(b) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, EXCEPT AS EXPRESSLY STATED HEREIN, IN NO EVENT WILL COMPANY, SERVICE PROVIDER, OR THEIR REPRESENTATIVES AND AFFILIATES, OR ANY OF THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS (COLLECTIVELY, THE "**RELEASED PARTIES**"), BE LIABLE TO FRANCHISEE OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY OR INABILITY TO USE THE SERVICES, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF SERVICES, BUSINESS OR GOODWILL, LOSS OR CORRUPTION OF DATA,

LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION OR SHUTDOWN, FAILURE TO ACCURATELY TRANSFER, READ OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION OR BREACHES IN SYSTEM SECURITY, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT RELEASED PARTIES WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- (c) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, EXCEPT AS EXPRESSLY STATED HEREIN, IN NO EVENT WILL THE RELEASED PARTIES' COLLECTIVE AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, EXCEED TEN THOUSAND DOLLARS (\$10,000.00)

- 7. **Indemnification.** Franchisee will indemnify, defend, and hold the Released Parties harmless from and against any damages and costs awarded against Company or agreed in settlement by Franchisee (including reasonable attorneys' fees) arising from or relating to a claim(s) that: (a) any Franchisee Data processed in accordance with this Agreement; (b) Franchisee's use of a Third-Party Platform, Kiosk, and POS System; (c) Franchisee's breach or alleged breach of this Agreement or Franchisee's agreements with Service Providers; (d) any negligent act, omission, or willful misconduct of Franchisee in the performance of this Agreement; or (e) Franchisee's breach of any covenant, warranty, or representation set forth in this Agreement.

## 8. General.

- (a) Entire Agreement; Amendments. This Agreement and all referenced Exhibits and agreements constitute the entire agreement between the parties and supersedes and cancels any and all prior and contemporaneous agreements, understandings, representations, inducements and statements, whether oral or written, of the parties in connection with the subject matter hereof. No amendment or modification of this Agreement shall be binding unless executed in writing by all parties named herein.
- (b) Compliance with Laws. Franchisee agrees to comply with all applicable laws in its use of a POS System, Kiosk, POS Data, and Equipment.
- (c) Assignment. Company may assign this Agreement and any or all benefits and obligations arising from it at any time without prior notice to Franchisee. However, Franchisee shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Company, and any such assignment not previously consented to in writing by Company shall be null and void. This Agreement shall be binding on and shall inure to the benefit of the successors and assignees of the Franchisee hereto, but nothing in this Section shall be construed as a consent to any assignment of this Agreement by Company except as provided hereinabove.
- (d) Attorney's Fees and Enforceability. If any action at law or equity is brought to enforce or interpret any of the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled. In the event a provision of this Agreement is held by any court to be invalid, void or

unenforceable by action of law or equity, the remaining provisions shall continue in full force and effect and such invalid, void or unenforceable provision shall be stricken from this Agreement.

- (e) No Waiver. A failure by a party to insist upon strict compliance with any term of this Agreement, enforce any right or seek any remedy upon any default of any other party shall not affect, or constitute a waiver of, such party's right to insist upon such strict compliance, enforce that right or seek that remedy with respect to that default or any prior, contemporaneous or subsequent default. Waiver of the benefit of any provision of this Agreement must be in writing to be effective. The waiver made by any party of a breach of any provision herein shall not operate or be construed as a waiver of any subsequent breach.
- (f) Notice. All notices shall be written and deemed delivered (i) at the time delivered by hand; (ii) at the time delivered via computer transmission; (iii) one (1) business day after transmission by facsimile or other electronic system if the sender has confirmation of successful transmission; (iv) one (1) business day after being placed in the hands of a nationally recognized commercial courier service for next business day delivery; or (v) three (3) business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid, addressed to the recipient at the address set forth below, unless that party shall have given such written notice of change of address to the sending party, in which event the new address so specified shall be used.

If to Franchisee:

If to Company:

\_\_\_\_\_  
Franchisee Name

A&W RESTAURANTS, INC.  
1648 McGrathiana Parkway, Suite 380

\_\_\_\_\_  
Street Address

Lexington, KY 40511  
ATTN: Legal Affairs

\_\_\_\_\_  
City          State      Zip Code

ATTN: \_\_\_\_\_

Email: \_\_\_\_\_

- (g) Authority and Counterparts. If the Franchisee is a corporation, limited liability company, general or limited partnership, or other form of business entity, the Franchisee and the individual signing this Agreement on behalf of the Franchisee agree and represent that such individual has the actual and legal authority to act on behalf of and legally bind the Franchisee. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. Execution of this Agreement via facsimile or electronic means, such as DocuSign, shall be deemed to be original signatures.
- (h) Delays; Force Majeure. Neither Company nor any Service Provider shall be held liable for any failure or delay in delivery or in rendering service if the failure or delay is caused, either entirely or in material part, by events beyond its control, including but not limited to fire, floods, national disasters, Acts of God, war, civil commotion, terrorist acts, any governmental act or regulation, any delays or defaults in deliveries by common carriers and/or postal service and/or overnight couriers, computer network outages, late deliveries



or non-deliveries of goods or non-furnishing of services by third party vendors, strikes, lockouts, labor troubles, rationing of materials, and any other similar event beyond such party's control. Provided, however, the foregoing shall not operate to relieve Franchisee from the timely performance of its payment and other monetary obligations under this Agreement or any other agreement between Franchisee and Company and/or any Service Provider.

**IN WITNESS WHEREOF, the parties have executed this Agreement as of \_\_\_\_\_**  
**("Effective Date").**

**A&W RESTAURANTS, INC,**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FRANCHISEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

Restaurant(s)

## EXHIBIT B

### **POS System Terms**

These POS System Terms form a part of the Technology Services Agreement (“**Agreement**”) between Company and Franchisee. Company has agreed that as a condition of incorporating the POS System and/or Kiosk(s) into the A&W System, the following provisions will be expressly incorporated into the Agreement for the POS System. All terms under the Agreement are hereby incorporated by reference within these POS System Terms. Capitalized terms used but not otherwise defined in these POS System Terms will have the meaning given to them in the Agreement. If any provision of these POS System Terms conflicts with a provision of the Agreement, the provision in these POS System Terms prevails, but only to the extent it relates to the rights and obligations of the parties under these POS System Terms.

#### **Background**

WHEREAS, Service Provider and Company have entered into an agreement to provide certain sale, service, software, and support of the POS System to franchisees.

WHEREAS, when Franchisee activates its use of the POS System and/or Kiosk(s), Franchisee agrees to accept such use under the terms and conditions set forth herein. Further, Franchisee agrees and assumes certain responsibilities and obligations as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, it is agreed by and between Company and the Franchisee that these POS System Terms shall govern the use of the POS System and/or Kiosk(s) and that the parties shall abide by the terms and conditions of these POS System Terms as set forth below.

#### **1. Scope.**

- (a) Franchisee agrees that the POS System is a standardized database and Equipment package that remains consistent in every Restaurant. This includes but is not limited to:
  - (1) Minimum hardware configuration.
  - (2) Core menu items.
  - (3) Approved hometown favorites.
  - (4) LTOs.
  - (5) Approved discounts and promotions.
  - (6) Approved software or hardware “add-ons” (e.g., Kiosk, delivery and online ordering integrations, loyalty programs).
- (b) **Menu Configuration.** Franchisee agrees to a centralized standard menu configuration with a required keyboard layout. This includes A&W core menu items, approved hometown favorites, approved discounts and refunds. Kiosks require a uniform format, layout, and content that is limited to core menu items and LTOs only. Any additions or subtractions from the core database will require approval from Company.

#### **2. Franchisee Obligations.**

- (a) Franchisee shall adhere to all POS System and Kiosk standards for hardware, software, processes, business rules and requirements. Franchisee shall adopt minimum hardware requirements including, but not limited to, the computer system, POS terminals, Kitchen Display Screens (KDS screens), printers, uninterrupted power supply, bump bars and cash drawers. Franchisee shall use the POS System and only approved add-on software and hardware.

- (b) Franchisee shall maintain current warranty or maintenance coverage on all essential items of equipment comprising the POS System and/or Kiosk(s), including but not limited to the printers, POS terminals, networking equipment, communications equipment, server, or internet connectivity (collectively, the “**Equipment**”). Franchisee shall pay any costs of repair for the Equipment that is not covered under the applicable warranty.
  - (c) Franchisee shall be responsible for timely site preparation including, but not limited to, the provision for adequate electrical power and sufficient number and type of electrical outlets, and sufficient workspace for Service Provider’s personnel to perform installation services, if specified, and provide a suitable installation environment for the POS System. Franchisee shall be responsible for hardware cabling except as specifically set forth herein to be provided by Service Provider. The POS System shall be deemed accepted by Franchisee when the POS System has been installed and made ready for use at the Franchisee’s site in accordance with the manufacturer’s installation and operational specifications by Service Provider; and Service Provider has tested to ensure that all included hardware and software substantially meet the manufacturer’s specifications or those contained in this Agreement.
  - (d) Franchisee shall, within seventy-two (72) hours, repair or replace any equipment or cabling that, due to failure or defect, interferes with the normal operation of the POS System, prevents the POS System from communicating with the Company, or prevents the POS System from communicating with the Company servers. This will include, but is not limited to, internet connectivity.
  - (e) Franchisee shall not install any software other than those designated by Company or Service Provider on any of the POS System. If unauthorized software is found on any of the POS System Equipment, Company or Service Provider may remove it without notice to the Franchisee.
  - (f) Franchisee agrees to stay current with all Company technology changes, enhancement, and additions, pertaining to the POS System as may be communicated. Hardware or software upgrades or Team Member training may be required, at Franchisee’s expense, in the event of a change to major technology standards or in the event that the Franchisee’s hardware or software is past the supported end of life as defined by the manufacturer.
  - (g) Franchisee shall adhere to Company POS programming schedules, such as LTO promotions, core menu changes and additions/subtractions from core menu. Franchisee is limited to selling items programmed into the POS System.
  - (h) Franchisee agrees that Company will have access to all POS Data including, but not limited to, menu mix, sales, coupons, and discounts.
  - (i) Franchisee shall cause reasonable restaurant-level cooperation with the Help Desk staff in problem solving via the telephone and/or electronic communication such as email or online chat.
  - (j) Franchisee is responsible for accurate data entry into the Franchisee’s POS System.
  - (k) Franchisee is responsible for establishing and maintaining an internet connection with an appropriate Internet Service Provider (“ISP”).
3. **Use Restrictions.** Franchisee shall not, and shall ensure that its personnel do not, directly or indirectly:
- (a) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the POS System software or any part thereof;

- (b) combine the POS System or any part thereof with, or incorporate the POS System or any part thereof in, any other programs not authorized by Company;
- (c) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the POS System software or any part thereof;
- (d) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the POS System or POS System software, or any features or functionality of the POS System, to any third party for any reason; or
- (e) use the POS System or related software in violation of any law, regulation or rule.

#### 4. Performance, Help Desk Support, Loss of Data

- (a) **POS System Performance.** Service Provider shall ensure that the POS System operates all functions outlined in the Operations Manual, with optimal performance levels at the time the POS System is shipped to Franchisee. The POS System shall be maintained in a clean and functional condition by Franchisee. Should the POS System become inoperable, the Franchisee shall contact Service Provider immediately.
- (b) **Help Desk Support.** Franchisee Help Desk Support will be provided by Service Provider and Company. Help Desk support will include assisting with problems pertaining to:
  - (1) The POS System.
  - (2) The software that is identified as supported in the agreement between Service Provider and Company.
  - (3) The Wide Area Network (“WAN”), with the exception of the Franchisee’s ISP.
- (c) **Loss of Data.** Company shall not be liable for any POS Data that it receives from the Franchisee. Company disclaims any liability for any errors in the data it inputs (other than errors that are the result of Company’s gross negligence or willful misconduct). Company shall not be liable for any errors or defects in the POS System.

#### 5. Payment Terms.

Franchisee shall keep current all payments for fees related to its use of the POS System, including but not limited to:

- (a) Site survey and initial cabling and electrical work.
- (b) Restaurant network installation.
- (c) Ongoing software subscription(s).
- (d) Ongoing help desk fees.
- (e) Repairs and maintenance.

Franchisee shall make all payments to Service Provider directly per the Service Provider’s required terms.

#### 6. Personnel.

- (a) Franchisee agrees that it will use a properly trained employee to input and maintain all Third-Party Platform information on the POS System.
- (b) Except as expressly required herein, Franchisee shall not grant to anyone other than Service Provider personnel or Company’s information technology staff, any administrative privileges for the POS System.

- (c) Franchisee shall maintain at least one (1) General Manager or Restaurant Manager per Restaurant that has attended the approved Service Provider training at the Restaurant during installation.
- (d) Franchisee shall maintain at least one person (e.g., the Key Operator, Supervisor, or other Team Member with supervisory authority over Franchisee's Restaurant(s) who is properly trained on the POS System. This person shall provide support to the Restaurant(s) for all Franchisee specific POS System support needs. This person must receive calls from the Restaurant(s), Service Provider, and/or Company if the support or involvement is needed. In the event a Restaurant is unable or unwilling to resolve a problem concerning the POS System that is within its control, the certified and trained person will be contacted and requested to work with the Restaurant directly until the problem has been resolved.

**7. Maintenance, Repairs, and Updates.**

- (a) Franchisee will maintain the POS System in a clean and good working condition at all times. In the event of any damage or malfunction of the POS System, Service Provider shall repair or replace the POS System at Franchisee's expense in a reasonable time period after being notified by the Franchisee. In the event of any routine and/or scheduled maintenance, Company shall inform the Franchisee at least twenty-four (24) hours in advance. Franchisee shall not grant to anyone other than Company or Service Provider personnel or staff any administrative privileges for the POS System without advance written approval from Company. Franchisee agrees to stay current with all updates provided by either Company or Service Provider. Company and/or Service Provider may access the POS System, at any time and without notice to Franchisee, to provide support, perform upgrades and maintenance, ensure security, ensure compliance with laws and industry regulations, and perform other tasks as needed to support the POS System. Franchisee is solely responsible for the repair and/or replacement cost of the POS System as invoiced by Service Provider on Franchisee's monthly point of sale statement. Service Provider may require Franchisee to execute a maintenance or support agreement prior to providing any repair, maintenance, support or replacement of the POS System; the terms of such agreement may supersede those of these POS System Terms.
- (b) Franchisee agrees that periodic software upgrades will be administered by Service Provider to keep all software programs current.
- (c) Franchisee agrees that Service Provider will be exclusive provider of all replacement hardware of any and all POS related equipment.

8. **Risk of Loss.** Risk of loss or damage to the POS System shall pass to Franchisee upon delivery of the POS System to Franchisee or upon receipt of the POS System at Franchisee's location if not delivered by an independent carrier (regardless of whether the purchase price has been paid in full). Unless otherwise advised by Franchisee, Service Provider may insure the full value of the POS System shipped or declare full value thereof to the carrier at the time of delivery to the carrier and all such insurance costs shall be for Franchisee's account. Confiscation or destruction of, or damage to the POS System shall not in any way affect the liability of Franchisee to pay the purchase price in full. Franchisee shall inspect the POS System promptly upon delivery, and shall notify Service Provider promptly in writing of all defects in the POS System, including but not limited to defective materials, defective workmanship or that the POS System is not in good working order. Franchisee's failure to so notify Service Provider shall be conclusive evidence that no such defects or damages existed upon delivery.

9. **Term.** The initial term of these POS System Terms shall be from the Effective Date as set forth in the Agreement through December 31<sup>st</sup> of that year. Upon the expiration of the initial term, these

POS System Terms shall automatically renew for successive one year renewal terms, unless or except as otherwise provided herein or in Section 5(b) of the Agreement. In the event Company or Service Provider will no longer provide the POS System as described herein, the Franchisee will be notified in writing and these POS System Terms will terminate sixty (60) days following the date of such notice. In the event the Franchisee permanently closes the Restaurant for business, sells or otherwise transfers the Restaurant to a third party, the Franchisee shall notify Company in writing and these POS System Terms shall terminate only with respect to the Restaurant as of the date of closure, sale or transfer. Notwithstanding the forgoing, these POS System Terms will remain effective with respect to the Franchisee's other Restaurants, if any.

**10. Warranty.**

- (a) Franchisee shall obtain any warranties on the POS System and software from the Service Provider. Further, Company does not provide any warranty with respect to any data that it or others input into the POS System.
- (b) EXCEPT FOR THE WARRANTIES PROVIDED HEREIN, ALL SERVICES, SUPPORT, AND THE POS SYSTEM INCLUDING THE DATA THAT IT INPUTS INTO THE POS SYSTEM, OR THE POS SYSTEM SOFTWARE ARE PROVIDED "AS IS." NEITHER COMPANY NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, TITLE, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ARISING BY USAGE OR TRADE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR THAT THE POS SYSTEM OPERATIONS SHALL BE ERROR FREE OR OPERATE UNINTERRUPTED. COMPANY SHALL NOT BE LIABLE FOR THE RESULTS OF ANY COMMUNICATIONS SENT OR ANY COMMUNICATIONS THAT WERE FAILED TO BE SENT USING THE SERVICES.

**11. Security.** Franchisee acknowledges that after delivery, the security and protection of the POS System and data, including protections against unauthorized access unless provided by Service Provider, is solely and entirely Franchisee's responsibility. Franchisee must secure and maintain virus and spyware protection software, which may include, but is not limited to firewalls, passwords, physical security, access control policies, and the like. Support or services necessitated by any failure or breach of Franchisee's security to Franchisee's POS System or data, including without limitation, damage caused by hackers or persons lacking authorized access, are not covered under this Agreement, and will be supplied by Service Provider only upon Franchisee's request, on a reasonable efforts basis with mutually agreeable conditions and on a time-and-materials basis. Franchisee acknowledges that credit card providers, banks, and credit card processing companies implement and require specific policies in conjunction with their cards and services. Franchisee shall be solely responsible for compliance with all policies, rules, regulations, and procedures required by the credit card companies, bank, and/or processors Franchisee elects to accept or utilize.

**12. Inability to Perform.** Company and Service Provider shall not be required to perform their obligations under this Agreement, or be liable for Company or Service Provider's failure to perform or for delay in performance of Company or Service Provider's obligations hereunder if such performance is prevented, hindered or delayed by reason of any cause beyond the reasonable control of Company or Service Provider, including without limitation, any labor dispute, act of God, regulation or order of any government authority, or failure of a supplier to timely deliver any product.

## EXHIBIT C

### Supplier List

Company's current approved technology vendors are below. Company reserves the right to modify this list at any time.

1. Service Provider – Retail Data Systems Wisconsin (RDS Wisconsin)
2. POS System provider – PAR Brink POS
3. Kiosk provider - Grubrr



## State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, 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:

<b>State</b>	<b>Effective Date</b>
California	
Hawaii	
Illinois	
Indiana	
Maryland	
Michigan	
Minnesota	
New York	
North Dakota	
Rhode Island	
South Dakota	
Virginia	
Washington	
Wisconsin	

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.

## 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 A&W Restaurants, Inc. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that we give you this Disclosure Document 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 A&W Restaurants, Inc. 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 authority listed on Exhibit G.

The franchisor is A&W Restaurants, Inc., located at 1648 McGrathiana Parkway, Suite 380, Lexington, Kentucky 40511. Its telephone number is (859) 219-0019.

Issuance Date: April 12, 2024

The franchise seller offering the franchise is \_\_\_ Kevin M. Bazner; \_\_\_ Betsy Schmandt; \_\_\_ David Crowley; \_\_\_ John Palumbo; \_\_\_ Elizabeth Bazner; \_\_\_ Randy Cordray; located at 1648 McGrathiana Parkway, Suite 380, Lexington, KY 40511, (859) 219-0019.

A&W Restaurants, Inc. authorizes the respective state agencies identified on Exhibit F to receive service of process for it in the particular state.

I have received a Franchise Disclosure Document dated April 12, 2024, that included the following Exhibits:

- A. List of Franchisees
- B. Financial Statements
- C. Franchise Agreement
- C-1. New Restaurant Incentive Addendum
- C-2. Captive Restaurant Addendum
- C-3. Co-Brand Restaurant Addendum
- D. Development Agreement
- E. A&W® Operations Manual Table of Contents
- F. Agents for Service of Process
- G. State Authorities
- H. Franchisees Who Have Left The System
- I-1. Franchisee Organizations We Have Created, Sponsored or Endorsed
- I-2. Independent Franchisee Organizations
- J. Technology Services Agreement

**FRANCHISEE:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

## 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.

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- I-2. Independent Franchisee Organizations
- J. Technology Services Agreement

**FRANCHISEE:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)