



## FRANCHISE DISCLOSURE DOCUMENT

<b>SUBFRANCHISOR:</b> NativeWahl LLC A Michigan Limited Liability Company 2608 Government Center Drive Manistee, MI 49660 (231) 398-6830 www.nativewahl.com	<b>FRANCHISOR:</b> Wahlburgers Franchising LLC A Massachusetts Limited Liability Company 350 Lincoln Street, Suite 2501 Hingham, MA 02043 (781) 749-4972 www.wahlburgers.com
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The subfranchisee will operate a restaurant under the name “Wahlburgers,” which features high quality gourmet hamburgers and certain ancillary branded merchandise such as clothing, souvenirs and novelty items (“Wahlburgers Restaurant”) to be located in a Native American tribal location.

The total investment necessary to begin operation of a Wahlburgers Restaurant ranges from approximately \$1,525,000 to \$2,765,000 (excluding land and liquor license) for a full service restaurant and from \$1,080,000 to \$1,985,000 (excluding land and liquor license) for a fast casual restaurant. This includes \$40,000-\$76,950 that must be paid to the subfranchisor or its affiliate(s).

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 subfranchisor 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 Franchise Sales, 2608 Government Center Drive, Manistee, MI 49660, (231) 398-6830.

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 (“FTC”). You can contact the FTC by calling 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 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 28, 2023

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<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 H and I.
<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 subfranchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit F 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 Wahlburgers 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 either the franchisor or subfranchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or subfranchisor or their management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Wahlburgers franchisee?</b>	Item 20 or Exhibits H and I 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 A.

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 and Choice of Law.** The agreement requires you to resolve any disputes with us initially by tribal Peacemaking, a form of mediation and, if that is unsuccessful, by arbitration in the Detroit, Michigan metropolitan area office of the American Arbitration Association, with the franchise agreement governed by the laws of Little River Band of Ottawa Indians and where silent, federal law of the United States. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate or litigate with us in Michigan than in your own state.
2. **Negative Net Worth.** The Subfranchisor's financial condition as reflected in its financial statements (see Item 21) calls into question the Subfranchisor's financial ability to provide services and support to you.
3. **Short Operating History.** The Subfranchisor is at an early stage of development and has a limited operating history. This Subfranchise is likely to be a riskier investment than a subfranchise in a system with a longer operating history.

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.

**ADDITIONAL DISCLOSURES  
REQUIRED BY THE STATE OF MICHIGAN**

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

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

- (a) A prohibition of the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in the Michigan Franchise Investment Law. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful 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 franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) The term of the franchise is less than 5 years; and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (f) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (g) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (h) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.

(ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(i) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(j) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

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

Any questions regarding this Notice shall be directed to the Attorney General's Office, Consumer Protection Division, 525 West Ottawa Street, G. Mennen Williams Building – 1<sup>st</sup> Floor, Lansing, Michigan 48913 (517) 373-7117.

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## **Exhibits**

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

To simplify the language in this disclosure document, “NativeWahl,” “we,” or “us” means NativeWahl LLC, the subfranchisor (or the “Master Franchisee” as defined in the Master Franchise Agreement) which has been authorized to sell Wahlburgers restaurant franchises in tribally owned locations throughout the United States (other than in Rhode Island or Hawaii and in certain other specified tribal locations) and “WF” means Wahlburgers Franchising LLC, the franchisor. “You” means the person or legal entity who is granted the franchise. If you are a tribe, corporation, partnership, limited liability company, or other business entity, certain provisions of this disclosure document also apply to your owners and will be noted.

NativeWahl is a Michigan limited liability company formed on October 8, 2021, whose principal business address is 2608 Government Center Drive, Manistee, Michigan 49660. We were formed for the sole purpose of subfranchising Wahlburgers Restaurants. We are authorized to offer and sell Wahlburgers restaurant subfranchises in tribally owned or controlled locations throughout the United States (other than in Rhode Island or Hawaii and in certain other specified tribal locations) under subfranchising rights that WF has granted to us. We conduct business under our company name. We do not do business or intend to do business under any other name.

WF is a Massachusetts limited liability company formed on April 9, 2014, whose principal business address is 350 Lincoln Street, Suite 2501, Hingham, MA 02043. WF does business under its company name and the trade name “Wahlburgers.”

MANY ITEMS OF INFORMATION IN THIS DISCLOSURE DOCUMENT ARE STATED TWICE WHERE NECESSARY, FOR US AND FOR WF. WHILE WE MUST MAKE THIS DUPLICATE DISCLOSURE, WE ARE AN INDEPENDENT BUSINESS FROM WF. WE OPERATE UNDER A MASTER FRANCHISE AGREEMENT WITH WF THAT OBLIGATES US TO ADHERE TO WF’S REQUIREMENTS. WF DOES NOT GUARANTEE THE PERFORMANCE OF OUR OBLIGATIONS TO YOU. WE ARE RESPONSIBLE FOR SUPPORTING OUR SUBFRANCHISEES AND WF IS RESPONSIBLE FOR SUPPORTING ITS FRANCHISEES. YOUR SUBFRANCHISE AGREEMENT IS A CONTRACT BETWEEN YOU AND US. WF WILL CONTINUE TO SET AND MODIFY WAHLBURGERS SYSTEM STANDARDS WITH WHICH YOU WILL BE REQUIRED TO COMPLY UNDER YOUR SUBFRANCHISE AGREEMENT.

We are co-owned by **(a)** Native Source Restaurant Group, LLC (“Native Source”), a tribally-owned limited liability company organized in September 2021 under the laws of the Little River Band of the Ottawa Indians, a Native Sovereign Nation, whose principal business address is 2608 Government Center Drive, Manistee, Michigan 49660 and **(b)** Native ARKK, LLC (“Native ARKK”), a Michigan limited liability company organized in September 2021, whose principal business address is 1750 South Telegraph Road, Suite 310, Bloomfield Hills, Michigan 48302. Native ARKK is a subsidiary of ARKK Food Company, Inc., a Michigan corporation incorporated in May 2012, whose principal business address is 1750 South Telegraph Road, Suite 310, Bloomfield Hills, Michigan 48302.

We have offered Wahlburgers Restaurant subfranchises since December 2021. Neither we nor our affiliated owners have previously offered franchises or subfranchises in any line of business, nor do we engage in any other business. Neither we nor our affiliated owners currently own or operate a Wahlburgers Restaurant. As of December 31, 2022, there was 1 subfranchised

Wahlburgers Restaurant in operation. NativeWahl's agents for service of process in various states are listed in Exhibit B.

WF is a wholly-owned subsidiary of Wahlburgers Holding Company LLC ("WB Holding"), a Massachusetts limited liability company formed on June 8, 2011, whose principal business address is the same as WF's. (On March 31, 2014, WB Holding changed its name from E&P Burger Concepts LLC to Wahlburgers Holding Company LLC.) WB Holding does not offer franchises in any business and does not engage in any business other than owning WF and its affiliated Wahlburgers entities.

WF has been offering Wahlburgers franchises in the United States since August 2014 but has never itself operated a Wahlburgers Restaurant. WF's affiliates, Paragon Funding Group III, LLC ("PFG"), Wahlburgers Fenway, LLC ("Fenway") and Wahlburgers Lynnfield, LLC ("Lynnfield"), WB Myrtle Beach LLC ("Myrtle") and WB Frisco LLC ("Frisco") each operate a Wahlburgers Restaurant. PFG is a Massachusetts limited liability company formed on June 9, 2011, Fenway is a Massachusetts limited liability company formed on May 6, 2014, Lynnfield is a Massachusetts limited liability company formed on March 31, 2014, Myrtle is a Massachusetts limited liability company formed on February 28, 2019 and Frisco is a Massachusetts limited liability company formed on June 14, 2019. The principal business address of each is the same as WF's. PFG, Fenway, Lynnfield, Myrtle and Frisco have not offered franchises in any line of business. As of January 1, 2023, there were 91 franchised Wahlburgers Restaurants and 5 Wahlburgers Restaurants operated by WF affiliates. WF has not previously offered franchises in any line of business, nor does WF engage in any other business.

WF's affiliate, Wahlburgers Franchising International LLC ("WB International"), offers Wahlburgers franchises outside of the United States and Canada. WB International is a Massachusetts limited liability company formed on August 29, 2016, whose principal business address is the same as WF's. WB International has been offering Wahlburgers franchises since its formation but has never operated a Wahlburgers Restaurant. WB International has not previously offered franchises in any line of business, nor does it engage in any other business.

WF's agents for service of process in various states are listed in Exhibit B.

### **Wahlburgers Restaurants**

We are offering, under the terms of this disclosure document, the opportunity to become a subfranchisee to develop and operate a Wahlburgers Restaurant located within tribally owned locations (commonly referred to as "reservation", "trust lands", or "fee lands") or located within tribally controlled (but not owned) locations (*i.e.*, not located on a reservation, trust land, or fee land) subject to Wahlburgers' prior written approval. A substantial majority of the tribal location subfranchised Wahlburgers Restaurants that we expect to sell are likely to be located inside or adjacent to gaming facilities operated on tribally owned properties.

Wahlburgers Restaurants are burger-oriented restaurants, featuring décor elements that emphasize the connection to the celebrity Wahlberg family, primarily well-known actor/producer/artists Mark and Donnie, along with their chef brother Paul. Wahlburgers Restaurants are contemporary and casual, with an emphasis on a colorful, fun, festive atmosphere in keeping with the family spirit. A full service free-standing Wahlburgers Restaurant occupies approximately 4,500 square feet, and a fast casual Wahlburgers Restaurant occupies approximately 1,800 - 2,200 square feet. A full service Wahlburgers Restaurant includes a full bar, subject to license availability. Full service and fast casual Wahlburgers Restaurants located

within or adjacent to gaming facilities may vary in size from typical full service and fast casual Wahlburgers Restaurants. We expect to generally subfranchise full service restaurants, except when special circumstances apply such as a gaming facility having available space only as part of or adjacent to a food court; a smaller fast casual Subfranchised Restaurant will require both WF's and our approval.

Wahlburgers Restaurants operate according to a unique and distinctive system ("System"), whose distinguishing characteristics include Wahlburgers' décor, layout, color schemes, and designs (collectively, "Trade Dress"); Wahlburgers' menu items, recipes and food preparation and service techniques; Wahlburgers' standards and specifications for equipment, equipment layouts, and interior and exterior accessories; and the accumulated experience reflected in Wahlburgers' training program, operating procedures, and standards and specifications.

WF has described its mandatory and recommended standards, specifications, and operating procedures in its confidential operating manuals ("Manual"). We will loan one copy of, or provide electronic access to, the Manual for the term of your franchise. WF may periodically change, improve, add to, and further develop the Manual and the elements of the System.

Before you acquire a site for a Subfranchised Restaurant, we and WF must approve the site for the Subfranchised Restaurant including, where applicable, the proposed location within a gaming facility property ("Location"). Once the site is approved, we will forward you a Subfranchise Agreement (Exhibit C) for the Location and, where applicable, the Gaming Facility Addendum (Exhibit D).

You should not acquire any interest in a site for a Subfranchised Restaurant until we have accepted the site in writing and you have signed the Subfranchise Agreement.

Your receipt of this disclosure document does not mean you will be accepted as a subfranchisee or that you may develop or open a Subfranchised Restaurant. Before you may develop and open a Subfranchised Restaurant, among other things, we and WF must approve you as a Wahlburgers subfranchisee (or if you already are a subfranchisee, approve you for expansion); you must sign the Subfranchise Agreement and pay the Initial Subfranchise Fee (as described in Item 5); we and WF must accept the site for your proposed Subfranchised Restaurant in writing; and you (or your Operating Principal (as defined in Item 15)) and those managerial personnel whom we designate must attend and successfully complete (as determined by us in our sole discretion) the Initial Training Program ("ITP") (as described in Item 11).

### **Market and Competition**

The market for gourmet burger restaurants is well-developed. Your Subfranchised Restaurant will compete with other national and regional gourmet burger restaurants, as well as other franchised, chain or independent restaurants. Some of Wahlburgers' competitors have longer operating histories than does Wahlburgers. The restaurant business is highly competitive based on price, service, restaurant location and food quality and is subject to fluctuations in consumer tastes, economic conditions, population, and traffic patterns. In addition, for Subfranchised Restaurants located in a gaming facility, the success of your restaurant may be highly dependent upon the success of the gaming facility and the volume of business that it draws.

## **Industry-Specific Laws**

We are not aware of any laws applicable to a Wahlburgers Restaurant that would not apply to restaurant businesses generally. You must comply with all applicable local, state, and federal laws and regulations, including those relating to alcoholic beverages, health, sanitation, food handling, food preparation, waste disposal, smoking restrictions, discrimination, employment, sexual harassment and advertising. If you will be operating a full service Subfranchised Restaurant, you also must obtain a liquor license before you open the Subfranchised Restaurant. The difficulty and cost of obtaining a liquor license and the procedures for securing the license vary greatly from area to area. There is also wide variation in state, tribal and local laws and regulations that govern the sale of alcoholic beverages. In addition, state dram shop laws give rise to potential liability for injuries that are directly or indirectly related to the sale and consumption of alcohol.

Some laws require point of sale disclosures, including statements concerning nutritional and dietary characteristics of the food served at the Subfranchised Restaurant. There are other laws and regulations applicable to businesses generally (such as the Americans with Disabilities Act) with which you must comply. You should consult with your attorney concerning these and other laws and ordinances that may affect the operation of the Subfranchised Restaurant. You must also obtain all real estate permits and other required licenses.

## **ITEM 2 BUSINESS EXPERIENCE**

### **Our Business Experience**

#### **Manager: Eugene Magnuson**

Mr. Magnuson has served as one of our Managers since our inception in October 2021. He also has been General Manager of Native Source, a co-owner of the Subfranchisor, since September 2021 and General Manager of Little River Holdings LLC, a tribally owned company, since July 2019. Mr. Magnuson was Merchandise Manager for a Kroger Store in Plymouth, Indiana from September 2018 to July 2019 and was the Treasurer of the Pokagon Band of Potawatomi Indians from August 2015 to August 2018.

#### **Manager: Tyler Leppanen**

Mr. Leppanen has served as one of our Managers since our inception in October 2021. He also has been Chief Operating Officer of Native Source, a co-owner of the Subfranchisor, since September 2021 and Chief Operating Officer of Little River Holdings since September 2018. Mr. Leppanen was the Executive & Economic Development Director for the Manistee Downtown Development Authority in Manistee, Michigan from September 2016 to September 2018.

#### **Manager: Keith Jahnke**

Mr. Jahnke has served as one of our Managers since our inception in October 2021. He also has been an owner and manager of Native ARKK, LLC, a co-owner of the Subfranchisor, since September 2021. Mr. Jahnke has been Chairman of the Board of ARKK Food Company, Inc., a food service company which supplies premium and innovative protein products and the parent company of Native ARKK, in Bloomfield Hills, Michigan since May 2012.

**Manager: Peter Andoni**

Mr. Andoni has served as one of our Managers since our inception in October 2021. He also has been an owner and manager of Native ARKK, LLC, a co-owner of the Subfranchisor, since September 2021. Mr. Andoni has been President of ARKK Food Company, Inc., a food service company which supplies premium and innovative protein products and the parent company of Native ARKK, in Bloomfield Hills, Michigan since May 2012. He also has been owner and President of Gamma Doni, LLC, doing business as Shield's Restaurant Bar & Pizzeria, in Southfield, Michigan since October 1991 and as owner and President of Alpha Doni, LLC, doing business as Shield's Restaurant Bar & Pizzeria, in Troy, Michigan since October 1991.

**Business Development Manager: Nicholas Andoni**

Mr. Andoni has served as our Business Development Manager since our inception in October 2021. He also has been Business Development Manager of Native ARKK, LLC, a co-owner of the Subfranchisor, since September 2021 and Business Development Manager of ARKK Food Company, Inc. in Bloomfield Hills, Michigan since July 2021. Mr. Andoni was a full-time student for more than five years preceding June 2021, at which time he graduated from the University of Michigan in Ann Arbor, Michigan, with a degree in international economics. During his college years, he also served in part-time positions as a corporate marketing intern for ARKK Food Company during the summers of 2019 and 2020, for Shinola, a manufacturer of watches and other consumer goods in Detroit, Michigan from September 2019 until April 2020, and for the Greece Lacrosse Association from June 2019 until November 2019, performing services in both Thessaloniki, Greece during June 2019 and thereafter until November 2019 in Bloomfield Hills, Michigan.

**WF's Business Experience**

**President and Chief Executive Officer: John C. Fuller**

Mr. Fuller has served as WF's President and Chief Executive Officer since May 2020. From August 2015 to March 2020, he was President and Chief Executive Officer for International Coffee & Tea LLC d/b/a The Coffee Bean & Tea Leaf in Los Angeles, California.

**Chief Legal and Administrative Officer: Alan E. McKenna**

Mr. McKenna has served as WF's Chief Legal and Administrative Officer since March 2021. From June 2019 to March 2021, he was Vice President and General Counsel. From May 2010 to May 2019, Mr. McKenna was a partner in the law firm of Stevenson, McKenna & Callanan in Boston, Massachusetts.

**Chief Franchise Operations and Development Officer: James A. Smith Jr.**

Mr. Smith has served as WF's Chief Franchise Operations and Development Officer since January 2023. Prior to that, he was WF's Chief Operating Officer from January 2022 to December 2022. From June 2020 to January 2022, Mr. Smith was WF's Senior Vice President of Operations and Development. From December 2014 to June 2020, he was Vice President of Operations for International Coffee & Tea LLC d/b/a The Coffee Bean & Tea Leaf in Los Angeles, California.

## **Senior Vice President of Global Supply Chain: Christopher Snyder**

Mr. Snyder has served as WF's Senior Vice President of Global Supply Chain since January 2023. From October 2017 to December 2022, he was WF's Vice President of Purchasing/Food & Beverage.

### **ITEM 3 LITIGATION**

#### **Our Litigation**

We have no litigation that is required to be disclosed in this Item.

#### **WF's Litigation**

*Leonard v. Wahlberg, CA No. 1783CVOO189 (Mass. Sup. Ct.)*

On February 21, 2017, William Leonard and Shipyard Burger, LLC, minority owners in WB Holding, filed this action in the Plymouth, Massachusetts Superior Court against Mark Wahlberg, Donnie Wahlberg, Paul Wahlberg, Closest to the Burger, LLC, Dwahlburgers LLC, Nothing But the Burger LLC and WF's former Chief Executive Officer, Rick Vanzura, alleging that defendants breached a fiduciary duty they owed to plaintiffs, breached the terms of the operating agreement for WB Holding and misrepresented business opportunities to plaintiffs. Plaintiffs sought damages in an unspecified amount, production of certain records to which plaintiffs claim to be entitled under Massachusetts law and an accounting to determine the value of plaintiffs' ownership interests in WB Holding. On June 7, 2019, defendants and William Leonard entered into a settlement agreement under which Closest to the Burger, LLC agreed to acquire Mr. Leonard's interest in WB Holding for \$900,000. This action was dismissed with prejudice on July 31, 2019.

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

### **ITEM 4 BANKRUPTCY**

#### **Our Bankruptcies**

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

#### **WF's Bankruptcies**

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

### **ITEM 5 INITIAL FEES**

#### **Initial Subfranchise Fee**

On or before the date on which you sign the Subfranchise Agreement, you must pay us the Initial Subfranchise Fee. The Initial Subfranchise Fee is \$60,000 for a full-service Subfranchised Restaurant, whether within a gaming facility or not, and \$40,000 for a fast casual Subfranchised Restaurant. The Initial Subfranchise Fee is fully earned by us when paid by you and is not credited against any other fees to be paid to us. We have no obligation to refund the

Initial Subfranchise Fee in whole or in part for any reason. A portion of the Initial Subfranchise Fee is remitted to WF.

### **On-Site Evaluation**

If we, at your request, provide on-site evaluation (as we consider advisable), you must reimburse us for all travel, living and other expenses incurred by our representatives in connection with such on-site evaluation. As of the date of this disclosure document, we do not charge a fee to provide an on-site evaluation, although we reserve the right to do so, not to exceed \$5,000. If applicable, the on-site evaluation fee will be nonrefundable and will not be credited against any other fees to be paid to us. We have no obligation, however, to conduct any on-site evaluations of locations you propose.

### **Grand Opening Advertising**

Unless your Subfranchised Restaurant will be located within an existing gaming facility, you must conduct initial marketing for the Subfranchised Restaurant in accordance with a grand opening plan that you have prepared and to which we have consented ("Grand Opening Plan"). Under the Grand Opening Plan, you will be required to spend a minimum of \$15,000 on grand opening activities over the period beginning one month prior to opening and continuing through the second month after opening. As part of your Grand Opening Plan spending, provided you use Wahlburgers' prototypes, we will provide website, menu and other design services (as we deem appropriate) for which you will pay us \$5,000 of the amount you are required to spend. The \$5,000 that you may pay to us in connection with the Grand Opening Plan, if applicable, is nonrefundable and will not be credited against any other fees paid to us.

### **Construction Oversight**

If we provide construction review or oversight services (as we consider advisable), you must pay us a nonrefundable fee of \$1,250 per day. Any construction oversight fees paid to us will not be credited against any other fees paid to us. We estimate that, if we provide these services to you, on average, the total amount paid by you to us for these services will be \$5,000.

### **Training Fees**

**Initial Training Program (ITP).** We will provide the ITP to up to 4 individuals at no additional cost to you. During the initial year following the date of this disclosure document, we anticipate that such ITP will be provided in collaboration with WF and at a WF-affiliated training facility until we complete our own facilities. Additional employees who desire to attend the ITP, and any replacement employees who are required to attend the ITP, may do so, subject to space availability and your payment of a training fee. The training fee for each additional employee currently is \$1,500. You will also be required to pay all travel, living and other expenses incurred by your employees while attending training.

**Opening Support.** We may, in our sole discretion, provide assistance in opening the Subfranchised Restaurant and in training your employees as we deem appropriate in light of your needs and the availability of our personnel. If we provide on-site assistance, you must reimburse us for all travel, living and other expenses incurred by our training personnel and representatives while providing this assistance. If we determine that you require greater support than we believe



to be reasonable, we may, but are not required to, provide that support, and we will charge you a fee of \$450 per day to provide that additional opening support.

\* \* \*

Generally, the fees identified in this Item 5 are uniformly imposed on all subfranchisees to whom we offer subfranchises but may not be the same as fees imposed and collected by WF under its Wahlburgers Restaurant franchising program.

**ITEM 6  
OTHER FEES**

Type of Fee (1)	Amount	Due Date	Remarks
<b>Royalty</b>	8% of your Fiscal Period Gross Sales (2)	Before 5:00 pm on the 10 <sup>th</sup> day after the end of each Fiscal Period – by electronic funds transfer (2)	See Note (3) for a definition of Gross Sales and Note (4) for a definition of Fiscal Period. A portion of Royalties is remitted to WF.
<b>Brand Fund Contribution</b>	0.5% of Gross Sales.	Same as Royalty	You must contribute 0.5% of the Fiscal Period Gross Sales of the Subfranchised Restaurant to the Wahlburgers Brand Fund. You are required to use your best efforts to advance the reputation of Wahlburgers Restaurants and the products sold under the Marks and to develop awareness of Wahlburgers Restaurants among consumers in order to increase the goodwill of the Marks and the System, but you will have no specific local marketing or advertising spending obligation other than the Brand Fund contribution.
<b>Point of Sale Materials</b>	Our cost	As incurred	If we or WF develop any point-of-sale materials, we or WF may offer to sell those to you at a reasonable cost.

Type of Fee (1)	Amount	Due Date	Remarks
<b>Transfer Fee</b>	\$5,000	Upon submission of request for consent to transfer	You will not be required to pay a transfer fee in connection with a transfer to a business entity that you form for convenience of ownership, but you will need to comply with certain conditions.  This fee also applies to transfers of partial ownership interests and transfers upon death or permanent incapacity.
<b>Additional Training</b>	As of the date of this disclosure document, there is no charge for attending additional training in the form of regularly-scheduled classes at our offices or designated training facilities if space is available.	As incurred	We have the right to charge a fee for additional training, whether mandatory or optional. You must also pay all travel, living, and other expenses incurred by you (or your Operating Principal) and your employees while attending any additional training programs.
<b>Audit and Inspection Costs</b>	Full cost of the inspection or audit, including travel, lodging, meals and wages of our or WF's representatives, and our or WF's reasonable professional fees	Upon demand	Payable only if an inspection or audit is made necessary by your failure to provide required reports or supporting records or provide such reports or records on a timely basis, or if the audit or inspection reveals an understatement of Gross Sales of greater than 2% for the audit period.
<b>Indemnification</b>	Actual losses and expenses incurred by us or WF and our respective officers, affiliates, managers, members, etc.	As incurred	You must defend, indemnify and hold us and WF and our respective officers, affiliates, managers, members, etc. harmless with respect to any and all claims arising directly or indirectly from, as a result of, or in connection with the Subfranchised Restaurant.

Type of Fee (1)	Amount	Due Date	Remarks
<b>Interest</b>	Interest on the amount owed from the due date until paid	When any payment due to us from you is not received in full by the due date	The interest rate is the lesser of the maximum rate permitted for indebtedness of this nature in the state in which the Subfranchised Restaurant is located (which is 10% per annum in California) or 18% per annum.
<b>Late Fee</b>	\$100	When any payment due to us from you is not received by the due date	Payable at our discretion. (In California, the highest lawful rate of interest is 10% per annum.)
<b>Collection Costs</b>	All costs and expenses that we incur, including reasonable professional fees	Upon demand	These costs and expenses may include commissions due a collection agency and all costs associated with litigation, in addition to interest charges on these costs. (In California, the highest lawful rate of interest is 10% per annum.)
<b>800 Number and Secret Shopper Programs</b>	If implemented, all costs associated with the 800 number, Secret Shopper programs or other programs as we may	As incurred	If implemented, you must participate in programs initiated to verify customer satisfaction and/or your compliance with all operational and other aspects of the System.
<b>Non-Cash Payment System</b>	All costs associated with non-cash payment systems	As incurred	You must accept debit cards, credit cards, stored value gift cards or other non-cash payment systems specified by us or WF to enable customers to purchase
<b>Market Research and Testing</b>	Proportionate cost of conducting test marketing programs	As incurred	We or WF may periodically conduct market research and testing to determine consumer trends and the salability of new food products and services. You must cooperate with us and WF in connection with the conduct of such test marketing programs at your own expense.
<b>New Product and Supplier Testing</b>	A reasonable fee, not to exceed the actual cost of inspecting and testing the proposed product or evaluating the proposed supplier, including personnel and	Within 30 days after receipt of invoice	Payable if you ask us or WF to review a new supplier or new product, whether or not we or WF approves the supplier or product (see Item 8 for a description of the supplier approval process).
<b>Reimbursement of Insurance Costs</b>	Cost of insurance, plus a reasonable fee for our services in procuring the insurance	Upon demand	Payable only if you fail to obtain and maintain the minimum insurance we require, and we choose to procure the required

Type of Fee (1)	Amount	Due Date	Remarks
<b>Relocation</b>	A reasonable fee, plus our reasonable expenses incurred in connection with consideration of your relocation request	Upon demand, if required	You may not relocate the Subfranchised Restaurant without our and WF's prior written consent, which we may withhold in our sole discretion.
<b>Renewal Fee</b>	\$20,000	At the time that the new subfranchise agreement is signed	
<b>Site Analysis</b>	Cost of analysis	As incurred	As part of the site acceptance process, we may require a site analysis prepared by a third party vendor at your expense. We reserve the right to designate the third party vendor used to prepare the site. analysis.
<b>QA Audit Costs</b>	All costs and expenses incurred in connection with next QA Audit	Within 10 days after receipt of invoice from us	Applicable if the Subfranchised Restaurant fails to obtain a passing score on any QA Audit
<b>Lost Revenue Damages</b>	The aggregate of the Royalty Fee and the Brand Fund contribution percentages multiplied by the average monthly Gross Sales of your Subfranchised Restaurant during the 12 full calendar months immediately preceding the termination date, multiplied by the number of calendar months in the Measurement Period.	Within 15 days after the effective date of termination	If we terminate the Subfranchise Agreement because of your breach or if you terminate the Subfranchise Agreement without cause, you will pay us Lost Revenue Damages in an amount equal to the net present value of the Royalty Fee and the Brand Fund contribution that would have been paid had the Subfranchise Agreement not been terminated, from the date of termination to the earlier of the following (defined as the "Measurement Period"): <b>(a)</b> five years following the date of termination, or <b>(b)</b> the scheduled expiration of the term of the Subfranchise Agreement.

#### NOTES

- (1) Unless otherwise noted, all fees are imposed by, collected by, and payable to us or WF and are not refundable. Generally, the fees identified in this Item 6 are uniformly imposed on subfranchisees to whom we offer subfranchises but may not be the same as fees imposed and collected by WF under its Wahlburgers Restaurant franchising program.
- (2) You must participate in our electronic funds transfer program, which authorizes us to use a pre-authorized bank draft system. You must sign and complete the documents that we may require from time to time to authorize and direct your bank or financial

institution to pay and deposit directly to our account. You must furnish to us and your bank all authorizations necessary to effect payment by the methods we specify. WF and we reserve the right to modify the method by which you must pay the Royalty, Brand Fund contribution, and other amounts owed to us under the Subfranchise Agreement upon receipt of written notice by WF or us.

- (3) “Gross Sales” include all revenue from the sale of all services and products (including, but not limited to, certain ancillary branded merchandise, such as clothing, souvenirs and novelty items (“Branded Merchandise”)) and all other income of every kind and nature (including stored value gift cards and gift certificates when redeemed, on-premise sales, other sales made or sold, at, in or upon or from the Location of the Subfranchised Restaurant, and any other type of sale) related to the Subfranchised Restaurant, whether for cash or credit and regardless of collection in the case of credit. Gross Sales also includes all ancillary charges or fees, including delivery fees and other service charges, that are paid to you by a customer or by a third-party delivery or catering service (e.g., Uber Eats, Postmates, Grubhub, ezCater, or DoorDash) (“Third-Party Service”) in connection with delivery or catering services related to the Subfranchised Restaurant (recognizing that though the Third-Party Service may pay you an amount equal to the purchase price charged to the customer less a commission, other fees, and any discounts, credits, or coupons applied to the order, such commission, fees, discounts, credits, and coupons will not be deducted from the Subfranchised Restaurant’s Gross Sales). Gross Sales will not include: **(a)** any bona fide documented federal, state, tribal or municipal sales taxes collected by you from customers and paid by you to the appropriate taxing authority; **(b)** the sale of food, beverages, or merchandise for which refunds have been made in good faith to customers; **(c)** the sale of equipment used in the operation of the Subfranchised Restaurant; **(d)** authorized customer promotional discounts; and **(e)** employee meal discounts. If, due to applicable law, you may not pay a Royalty on alcoholic beverage sales, you will pay us a Royalty on all Gross Sales (except alcoholic beverage sales) in the same dollar amount as would have been paid if alcoholic beverage sales were included.
- (4) Currently, each “Fiscal Period” is a calendar week. WF and we have the right, following written notice to you, to vary the time period that comprises a Fiscal Period.

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

**FULL SERVICE RESTAURANT**

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Initial Franchise Fee (2)	\$60,000	Lump Sum/Cash	No later than the date on which you sign the Subfranchise Agreement	Us (NativeWahl)

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Grand Opening Advertising (3)	\$0-\$15,000	As Arranged	As arranged	Vendors, Us and/or WF
Real Estate (4)	Variable	As Arranged	Before Opening	Landlord, Lender
Architectural Design Services (5)	\$25,000 - \$55,000	As Arranged	Before Opening	Independent Architects and Engineers
Construction/Leasehold Improvements (6)	\$900,000 - \$1,800,000	See Note 6	Before Opening	Construction company and, if applicable, Us
Travel and Living Expenses While Training (7)	\$25,000 - \$80,000	As Arranged	Before Beginning Training	Airlines, Hotels, Restaurants
Furnishing, Fixtures, Equipment (8)	\$350,000 - \$450,000	As Arranged	As Ordered	Suppliers, Approved Suppliers
Signage (8)	\$25,000 - \$35,000	As Arranged	As Ordered	Supplier, Approved Supplier
Smallwares	\$20,000 - \$50,000	As Arranged	As Ordered	Suppliers, Approved Suppliers
Initial Inventory (9)	\$10,000 - \$20,000	As Arranged	Before Opening	Suppliers, Approved Suppliers
Liquor Licenses (10)	Variable	As Arranged	As Incurred	Governmental or Tribal Authority
Miscellaneous Opening Costs (11)	\$30,000 - \$60,000	As Arranged	Before Opening	Suppliers, Utilities, etc.
Register or Point of Sale System (12)	\$30,000 - \$40,000	As Arranged	As Arranged	Supplier
Additional Funds – 3 months (13)	\$50,000 - \$100,000	As Arranged	As Incurred	Employees, Suppliers, Utilities
<b>Total (14)</b>	\$1,525,000 - \$2,765,000 (Does not include real estate or liquor license costs)			

### FAST CASUAL RESTAURANT

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Initial Franchise Fee (2)	\$40,000	Lump Sum/Cash	No later than the date on which you sign the Franchise Agreement	Us (NativeWahl)

Type of Expenditure	Amount (1)	Method of Payment	When Due	To Whom Payment Is To Be Made
Grand Opening Advertising (3)	\$0-\$15,000	As Arranged	As Arranged	Vendors, Us and/or WF
Real Estate (4)	Variable	As Arranged	Before Opening	Landlord, Lender
Architectural Design Services (5)	\$25,000 - \$55,000	As Arranged	Before Opening	Independent Architects and Engineers
Construction/Leasehold Improvements (6)	\$600,000 - \$1,200,000	See Note 6	Before Opening	Construction company and, if applicable, Us
Travel and Living Expenses While Training (7)	\$25,000 - \$80,000	As Arranged	Before Beginning Training	Airlines, Hotels, Restaurants
Furnishing, Fixtures, Equipment (8)	\$300,000-\$350,000	As Arranged	As Ordered	Suppliers, Approved Suppliers
Signage (8)	\$15,000-\$25,000	As Arranged	As Ordered	Suppliers, Approved Suppliers
Smallwares	\$15,000-\$20,000	As Arranged	As Ordered	Suppliers, Approved Suppliers
Initial Inventory (9)	\$10,000-\$20,000	As Arranged	Before Opening	Suppliers, Approved Suppliers
Liquor Licenses (10)	Variable	As Arranged	As Incurred	Governmental or Tribal Authority
Miscellaneous Opening Costs (11)	\$20,000-\$50,000	As Arranged	Before Opening	Suppliers, Utilities, etc.
Register or Point of Sale System (12)	\$15,000-\$30,000	As Arranged	As Arranged	Supplier
Additional Funds – 3 Months (13)	\$15,000-\$100,000	As Arranged	As Incurred	Employees, Suppliers, Utilities
<b>Total (14)</b>	\$1,080,000 to \$1,985,000 (Does not include real estate or liquor license costs)			

### NOTES

- (1) Costs paid to us, our affiliates or WF are not refundable. Whether any costs paid to third parties are refundable will vary based on the practice in the area where the Subfranchised Restaurant is located.
- (2) As described more fully in Item 5, the Initial Franchise Fee is \$60,000 for a full-service Wahlburgers Restaurant and \$40,000 for a fast casual restaurant.
- (3) Unless you will be opening within an existing gaming facility, you must conduct initial marketing for the Subfranchised Restaurant in accordance with a Grand Opening Plan.

Under the Grand Opening Plan, you will be required to spend a minimum of \$15,000 on grand opening advertising over the period beginning one month prior to opening and continuing through the second month after opening. Within 10 days after the end of the period in which you conduct this initial marketing, you must submit appropriate documentation to verify compliance with the grand opening expenditure obligation.

- (4) Unless you will be opening within an existing gaming facility, the cost of acquiring a location for the Subfranchised Restaurant will vary significantly depending on the geographic location. We expect that you will lease the land and building for the Subfranchised Restaurant. The rent for a full service restaurant may range from \$20 to \$300 per square foot per year. This estimate is based on a typical Wahlburgers Restaurant of approximately 3,600 square feet. The rent for a fast casual restaurant may range from \$20 to \$200 per square foot per year. This estimate is based on a restaurant of approximately 1,800 square feet. You may be required to pay the first and last month's lease payment upon signing your lease agreement.
- (5) We will provide you prototypical plans and specifications for a Wahlburgers Restaurant, which you must adapt to suit the shape and dimensions of the Location. You must, at your cost, ensure that your proposed plans for the Subfranchised Restaurant ("Plans") comply with all applicable ordinances, building codes and permit requirements, lease requirements and restrictions and the Americans with Disabilities Act. The cost of architectural design services will vary depending on the geographic location, size and condition of the premises.
- (6) The cost of constructing a Subfranchised Restaurant will vary depending upon whether the restaurant will be a free-standing unit or built within an existing gaming facility, and depending upon the size, condition, and location of the premises, price differences between various suppliers, and contractors and shipping distances from suppliers. These estimates are based on the buildout costs for a building shell for a full service Wahlburgers Restaurant of approximately 4,500 square feet and for a fast casual Wahlburgers Restaurant of approximately 1,800 square feet in a typical retail center space with construction costs ranging from approximately \$200 to \$550 per square foot. Square footage and range of construction costs per square foot may vary significantly for a Subfranchised Restaurant built within an existing gaming facility. All construction materials and fixtures must meet our standards and specifications but may be purchased from any supplier. These costs are normally payable to third parties prior to the opening of the Subfranchised Restaurant or in periodic installments, depending on the type of financing arrangement you are able to obtain. Neither we nor WF undertake to assist you in arranging financing, and there is no assurance that financing will be available to you. Generally, the availability and terms of financing will depend upon many factors, including, particularly, your creditworthiness.
- (7) As described in Item 11, prior to opening a Subfranchised Restaurant, you (or your Operating Principal), the Subfranchised Restaurant's general manager, and any other managerial personnel whom we designate must attend the ITP. We do not charge tuition for this training program, but you are responsible for all salaries, benefits, and travel, living, and other expenses incurred by you and your employees while attending the training. The cost of these expenses will depend on the distance you must travel, the types of accommodations, the number of your employees attending training, and their wages.



- (8)** You must purchase certain items of furniture, fixtures, and equipment. The cost of purchasing equipment may vary as a result of price differences between suppliers and shipping distances from suppliers. You may purchase or lease approved brands and models of equipment and signs from any approved supplier. This estimate includes costs for a building sign and pylon sign (if allowed by the landlord and local code requirements). Payment for these items typically will be made prior to the opening of the Subfranchised Restaurant or in installments over a period of time, depending on the type of financing arrangement you are able to obtain. Generally, the availability and terms of financing will depend upon many factors, including your creditworthiness. These initial costs could be less if the Subfranchised Restaurant is being developed within a gaming facility that has already existing kitchen facilities available for use by you.
- (9)** The cost of an opening inventory of food, beverages, ingredients, and other supplies and materials will vary depending on shipping distances from suppliers and price differences between suppliers. As described in Item 8, these items must conform to specifications established by WF and/or be purchased from WF and/or other approved suppliers.
- (10)** We cannot estimate the cost to obtain required liquor licenses since it varies greatly from jurisdiction to jurisdiction depending on the licensing activity involved and the local liquor license resale market, if any. You will be required, for a full service restaurant, to obtain all licenses required for the service of beer, wine and alcohol at the Subfranchised Restaurant.
- (11)** This item covers such miscellaneous pre-opening costs and expenses as manager and employee labor, utilities and utility deposits, lighting supplies, office supplies, security deposit, pest control, postage and shipping, storage fees, bank service charges, payroll service charges, licenses, permits and a three-month premium for typical insurance coverage. Manager and employee labor expenses vary according to the wage rate and number of employees and managers hired and trained before opening your Subfranchised Restaurant.
- (12)** A description of the computer system can be found in Item 11.
- (13)** This is our estimate of your operating expenses for the initial 3 months of your business, including payroll costs for management, rent, insurance, and utilities. These estimates do not take into account revenue you may take in or any estimate of expenses for royalty payments made to us or contributions to the Brand Fund. Your actual costs will depend on factors such as how closely you follow Wahlburgers System methods and procedures; your management skill, experience and business acumen; financing costs; local economic conditions; the local market for the Subfranchised Restaurant; the prevailing wage rate; competition in the market place; and the sales level reached during the initial period.
- (14)** We have relied in large part on the experience of WF's affiliates PFG, Fenway, Lynnfield, Myrtle and Frisco in the restaurant business to compile these estimates. The estimates are based on WF affiliates' development of typical full service Wahlburgers Restaurants. Costs to develop a Subfranchised Restaurant within an existing gaming facility may vary. You should review these figures carefully with a business advisor before making any decision to purchase a franchise. Neither we nor WF offer financing directly or indirectly for any part of the initial investment.

## ITEM 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

### **Authorized Products and Services**

You may offer for sale and sell in the Subfranchised Restaurant only the products (including, but not limited to, Branded Merchandise), services, and brands that WF has designated in the Manual or otherwise in writing. You must offer all items that WF designates as mandatory for the service format utilized in your Subfranchised Restaurant. WF may also designate some items as optional. WF may change the mandatory and optional menu items, recipes, ingredients, and other products and services in its sole discretion. WF may require that you sell certain brands and prohibit you from selling other brands. You may sell products only in the varieties, weights, sizes, forms, and packages that WF has designated. You must use only authorized ingredients and follow Wahlburgers' recipes in the preparation of menu items.

You may not use the Location for the sale or display of items not authorized by us. Within 15 days after we provide written notice to you, you must begin selling any newly authorized menu items (or using any newly authorized ingredients) or Branded Merchandise and cease selling any menu item or Branded Merchandise that is no longer authorized (or using any ingredient that is no longer authorized); however, if the discontinued menu item, ingredient or Branded Merchandise could pose a hazard to the public or prove detrimental to the system, you must cease selling or using that item, ingredient or Branded Merchandise immediately.

All food and beverages authorized for sale at the Subfranchised Restaurant must be offered for sale under the name that WF specifies in the Manual from time to time. The design of the menus in the Subfranchised Restaurant must conform to WF's specifications and be approved in writing by us. We periodically will provide you suggested retail prices for the products and services offered at the Subfranchised Restaurant and, to the extent permitted by applicable law, may require that you adhere to those suggested prices, including maximum prices. If you have a suggestion for a new menu item or ingredient or new Branded Merchandise, or for a change to an authorized menu item or ingredient or authorized Brand Merchandise, or you wish to participate in a test market program, you must notify us before you implement any such change or commence any such program. You may not add or modify any menu item or participate in a test market program without first obtaining our prior written approval.

### **Supplier Approval Process**

We have the right to require that all food and non-food products (including, but not limited to, Branded Merchandise), supplies, equipment and services that you purchase for use, sale or resale in the Subfranchised Restaurant: **(a)** meet specifications that WF establishes from time to time; **(b)** be purchased only from suppliers that WF has consented to (which may include WF, us and/or our and its affiliates); and/or **(c)** be purchased only from a single source or from a limited number of designated sources (which may include WF and/or its affiliates). To the extent that WF establishes specifications, requires WF's consent to suppliers or designate specific suppliers for particular items, WF will publish such requirements in the Manual or otherwise in writing (which includes electronic publication) that we will make available to you. WF has developed and may continue to develop certain proprietary food products that will be prepared according to WF's proprietary special recipes and formulas, and you agree to purchase those food products developed by WF pursuant to a special recipe or formula only from WF, its affiliates or a third party designated and licensed by WF to prepare and sell such products (which may include us, our affiliates, WF or its affiliates).

WF may create purchasing restrictions to control the quality and selection, and ensure the consistency, of menu items, ingredients, Branded Merchandise and other merchandise; to consolidate System purchases to reduce costs or ensure availability of products; or for other valid business reasons. You must purchase Branded Merchandise exclusively from Stran Promotional Solutions (“Stran”). During fiscal year 2022, the total amount received by WF from Stran from franchisee purchases of Branded Merchandise was \$59,000. This represented 0.7% of total 2022 revenues of \$8.89 million. We did not receive any amounts from Stran from franchisee purchases of Branded Merchandise and do not have any current arrangements to receive any amounts from Stran.

You may not engage in “grey market” activities in which you take advantage of any group purchasing arrangements for Wahlburgers Restaurants to purchase products that you then resell to purchasers outside of the System or use in a business outside of the System.

As of the date of this disclosure document, neither WF, we nor any of our respective affiliates are approved suppliers for any product. WF, we or our respective affiliates may earn income on sales of products (including, but not limited to, Branded Merchandise), ingredients, and/or supplies to you. WF or we may receive rebates, commissions, or other payments from third-party suppliers based on your purchases from them. As of the date of this disclosure document, however, except with respect to Branded Merchandise (as detailed above), such rebates, commissions, or other payments to WF are returned to franchisees by WF, at its sole discretion, and/or contributed to the Brand Fund. You agree that we, WF and our respective affiliates are entitled to retain such income and consideration.

As noted above, Branded Merchandise must be purchased from WF or a source designated by WF (which may include WF, us or our respective affiliates). If you would like to purchase other products or services from a supplier which we and WF have not approved, you must submit a written request for approval. Criteria for approving proposed suppliers will be made available to you on your request. We, WF and our or its designees have the right to inspect the proposed supplier’s facilities and test samples of the proposed products. You agree to pay a reasonable fee, not to exceed the actual cost of the inspection and testing the proposed product or evaluating the proposed supplier, including personnel and travel costs, whether or not the product or supplier is accepted. We and WF have the right to grant, deny or revoke consent to products, services and suppliers in its sole discretion. We will notify you of the decision as soon as practicable following its evaluation, not to exceed 90 days. If approval is obtained, you may contract with the accepted supplier. We, WF and our or its designees reserve the right to reinspect the facilities and products of any accepted supplier and revoke acceptance in writing upon the supplier’s failure to meet any of its then-current criteria.

WF estimates that the purchase of products from WF or its affiliates, or its approved or designated suppliers and/or products that are subject to Wahlburgers standards and specifications represents approximately 34-45% of your overall purchases in establishing the Subfranchised Restaurant and 25-35% of your overall purchases in operating the Subfranchised Restaurant. Currently, we and WF provide no material benefits to you based on your use of approved or designated suppliers. As of the date of this disclosure document, WF has negotiated system-wide purchasing arrangements, including pricing terms, with Sysco, Coca-Cola, Ecolab, Stran, Wolverine, Turano, FireKing and Lamb Wesson to maximize the combined purchasing power benefit of all Wahlburgers Restaurants. Neither we nor WF currently have purchasing or distribution cooperatives, but WF reserves the right to establish them.

There are currently no approved suppliers in which any of our or WF's officers own an interest.

**Computer System**

See Item 11 for information regarding our current minimum standards for the computer system for the Subfranchised Restaurant and your related obligations under the Subfranchise Agreement.

**Insurance**

During the term of the Agreement, you must maintain in full force and effect that insurance which you determine to be necessary, which must include at least the types of insurance and the minimum policy limits specified in the Manual or otherwise in writing. Each insurance policy must be written by an insurance company that maintains an "A+" or better rating by the latest edition of Best's Insurance Rating Service (or another rating service designated by us). The insurance policy or policies must be in effect when you execute the Agreement. The insurance policy or policies must protect WF, you, us, and our respective past, present, and future officers, directors, managers, members, owners, employees, servants, representatives, consultants, attorneys, and agents. WF, we and any entity with an insurable interest designated by WF or us must be named as additional insureds in the policy or policies (statutory policies excepted). Each policy must include a waiver of subrogation in WF's and our favor. We may require additional types of coverage or increase the minimum amount of coverage upon reasonable notice. Your obligation to obtain coverage is not limited in any way by insurance that we maintain. You must provide us with certificates of insurance evidencing the required coverage and proof of payment no later than the date on which you sign the Agreement. The evidence of insurance must include a statement by the insurer that the policy or policies will not be canceled or materially altered without at least 30 days' prior written notice to us. If you fail to obtain and maintain insurance coverage as required by the Agreement, we have the right, but not the obligation, to obtain the required insurance on your behalf and to charge you for the cost of the insurance, plus a reasonable fee for our services in procuring the insurance.

**ITEM 9  
FRANCHISEE'S OBLIGATIONS**

**This table lists your principal obligations under your franchise agreement, the form of Subfranchise Agreement attached as Exhibit C, and, where applicable, the Gaming Facility Addendum attached as Exhibit D. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.**

	<b>Obligation</b>	<b>Section in Subfranchise Agreement (FA) and, where applicable, Gaming Facility Addendum (GFA)</b>	<b>Disclosure Document Item</b>
a.	Site selection and acquisition/lease	FA: Sections 3 and 4 GFA: Sections 3 and 4	Items 7 and 11
b.	Pre-opening purchases/leases	FA: Sections 3, 4, 5.2 and 12.10	Items 5, 7 and 8

	<b>Obligation</b>	<b>Section in Subfranchise Agreement (FA) and, where applicable, Gaming Facility Addendum (GFA)</b>	<b>Disclosure Document Item</b>
c.	Site development and other pre-opening requirements	FA: Sections 3 and 5 GFA: Sections 3, 4 and 5	Items 7 and 11
d.	Initial and ongoing training	FA: Section 9	Items 6, 7 and 11
e.	Opening	FA: Sections 5.2, 5.3, 10.1 and 10.2 GFA: Sections 3,4,5, 6 and 7	Item 11
f.	Fees	FA: Sections 1.1.3, 2.2.8, 3.2, 3.3, 5.1.2, 6, 7.2, 7.4, 8.1, 8.6, 9, 10.2, 12.5, 12.10 and 16.3	Items 5 and 6
g.	Compliance with standards and policies/ Manual	FA: Sections 11 and 12	Items 8, 11, and 14
h.	Trademarks and proprietary information	FA: Sections 8.4, 13 and 18	Items 13 and 14
i.	Restrictions on products/services offered	FA: Sections 12.3 and 12.5	Item 16
j.	Warranty and customer service requirements	FA: Sections 12.8, 12.9, 12.11 and 12.13	Item 11
k.	Territorial development and sales quotas	FA: Section 1.2	Item 12
l.	Ongoing product/service purchases	FA: Sections 12.3 and 12.5	Item 8
m.	Maintenance, appearance and remodeling requirements	FA: Sections 12.7 and 12.8	Item 11
n.	Insurance	FA: Section 12.10	Items 6, 7 and 8
o.	Advertising	FA: Section 8 GFA: Section 7	Items 6 and 11
p.	Indemnification	FA: Section 23	Item 6
q.	Owner's participation/management/staffing	FA: Sections 12.9	Items 11 and 15
r.	Records and reports	FA: Sections 6.4 and 7	Item 6
s.	Inspections and audits	FA: Sections 5.1, 5.2, 7.4, 12.5.4, 12.11 and 13.2(f)	Items 6, 8, and 11

	<b>Obligation</b>	<b>Section in Subfranchise Agreement (FA) and, where applicable, Gaming Facility Addendum (GFA)</b>	<b>Disclosure Document Item</b>
t.	Transfer	FA: Sections 15 and 16	Items 6 and 17
u.	Renewal	FA: Section 2.2 GFA: Section 2	Item 17
v.	Post-termination obligations	FA: Section 20	Item 17
w.	Non-competition covenants	FA: Section 18	Item 17
x.	Dispute resolution	FA: Section 28	Item 17

## **ITEM 10 FINANCING**

Neither we nor WF offers any direct or indirect financing. Neither we nor WF guarantees your note, lease or obligation.

## **ITEM 11 SUBFRANCHISOR'S OR FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

**Except as listed below, neither we nor WF are required to provide you with any assistance.**

### **Our Pre-Opening Obligations**

Before you open the Subfranchised Restaurant, we will:

1. Advise you in writing whether we have accepted the site within 60 days after we receive a complete site review report (as determined by us). If we do not respond within 60 days, we will be deemed to have not accepted the site. (Subfranchise Agreement § 3.4.1)
2. Review the proposed sublease, lease, or purchase contract for the accepted site to ensure that it includes the provisions we require as set forth in the Subfranchise Agreement. (Subfranchise Agreement § 4)
3. Provide you prototypical plans and specifications for a Wahlburgers Restaurant. (Subfranchise Agreement § 5.1.1)

4. Loan you one copy of, or provide you with electronic access to, the Manual, which contains detailed standards, specifications, instructions, forms, reports, and procedures for management and operation of the Subfranchised Restaurant. You may keep the Manual for as long as the Subfranchise Agreement (or any successor subfranchise agreement) remains in effect, but the Manual remains WF's property. WF may revise the contents of the Manual, and you agree to comply with each new or changed section. (Subfranchise Agreement § 11). We will permit you to inspect a copy of the Manual at our offices before you purchase a franchise, if you first sign a Confidentiality Agreement, which is attached as Exhibit E.

5. Provide to you (or your Operating Principal), the Subfranchised Restaurant's general manager, and any other managerial personnel that we designate the ITP. Our training program is described below. (Subfranchise Agreement § 9.1)

6. Provide consultation and advice to you with regard to construction or renovation of the Subfranchised Restaurant, building layout, furnishings, fixtures and equipment plans and specifications, employee selection and training and purchasing and inventory control. (Subfranchise Agreement § 10.1)

### **Our Obligations After Opening**

During the operation of the Subfranchised Restaurant, we or WF, as indicated, will:

1. WF will collect, administer, and spend for advertising purposes monies paid by franchisees, subfranchisees and company-operated Wahlburgers Restaurants into the Brand Fund as described below. (Subfranchise Agreement § 8.1)

2. WF will periodically change the System, including modifications to the Manual, the menu, the required equipment, the signage, the Proprietary Marks, and the Trade Dress. You must accept, use, or display in the Subfranchised Restaurant any such System changes and make such expenditures as the System changes require. WF also has the right to vary System standards, in its reasonable judgment, to accommodate circumstances of individual franchisees and subfranchisees. (Subfranchise Agreement § 12.2)

3. We will provide additional ongoing training to you (or your Operating Principal), your managerial personnel, training personnel, and/or other previously trained and experienced staff members at the times and locations that we designate. (Subfranchise Agreement § 9.2)

4. We will periodically advise and consult with you regarding the operation of the Subfranchised Restaurant and make available, as we believe appropriate, information regarding the System and new developments, techniques, and improvements in the areas of restaurant design, operations, management, menu development, sales and customer service, marketing, and other areas. We may provide these services through visits by our respective representatives to the Subfranchised Restaurant or your offices (although we are not obligated to make any visits), the distribution of printed or filmed material, an Intranet or other electronic forum, meetings or seminars, training programs, telephone communications, or other forms of communications. (Subfranchised Agreement § 10.3)

### **Brand Fund and Marketing**

**Grand Opening Plan.** Unless you are opening your restaurant in an existing gaming facility, under the Grand Opening Plan, you will be required to spend a minimum of \$15,000 on

grand opening activities over the period beginning one month prior to opening and continuing through the second month after opening. Within 10 days after the end of the period in which you conduct this initial marketing, you must submit appropriate documentation to verify compliance with this obligation.

**Local Advertising.** You are required to use your best efforts to advance the reputation of Wahlburgers Restaurants and the products sold under the Marks and to develop awareness of Wahlburgers Restaurants among consumers in order to increase the goodwill of the Marks and the System but as of the issuance this disclosure document, you have no specific local marketing or advertising spending obligation other than the Brand Fund contribution.

You agree to conduct all marketing in a dignified manner and in accordance with the standards and requirements we specify periodically. You agree that all advertising and promotional materials must bear the Proprietary Marks in the form, color, location and manner that we prescribe. WF will have the final decision on all creative development of advertising and promotional messages.

WF owns all advertising and promotional materials developed by you, and you will take all actions we and/or WF specify to vest ownership in WF. Prior to use, you must submit all advertising materials to us for Wahlburgers' and our approval, which approval will not be unreasonably withheld.

**Brand Fund.** WF has established a Brand Fund to which you must contribute 0.5% of Gross Sales. Your contribution to the Brand Fund must be paid at the same time and in the same manner as the Royalty. There currently is no franchisee advertising council that advises WF or us on advertising policy.

WF may use the Brand Fund Contributions and any earnings of the Brand Fund for any costs associated with advertising, marketing, public relations, promotional programs and materials (which may be national, regional or local in scope), and/or any other activities that WF believes would benefit the System, including the following: advertising campaigns in various media; point-of-purchase materials; review of locally-produced ads; free standing inserts; brochures; purchasing and/or developing promotional materials; market research, including secret shoppers; sponsorships; design and maintenance of a web site; celebrity endorsements; trade shows; association dues; search engine optimization costs; establishment of a third party facility for customizing local advertising; accounting costs; and holding an annual franchise convention. WF will not use the Brand Fund for any activity whose sole purpose is the marketing of franchises or subfranchises or the soliciting of franchisees or subfranchisees; however, you acknowledge that the Wahlburgers web site, public relations activities, community involvement activities, and other activities that may be supported by the Brand Fund may contain information about franchising opportunities.

WF has the right to direct all programs supported by the Brand Fund, with final discretion over creative concepts, the materials and media used in the programs, and their placement. WF may work with its in-house advertising department and/or a regional advertising agency to develop advertising for print and radio. WF and we do not guarantee that you will benefit from the Brand Fund in proportion to your contributions to the Brand Fund. In spending advertising monies, WF will not be obligated to make expenditures for any franchisee or subfranchisee that are equivalent or proportionate to that franchisee's or subfranchisee's contribution or to ensure that any particular franchisee or subfranchisee benefits directly or on a pro rata basis from expenditures of the funds. WF likewise will not be obligated to spend any amount on advertising



in the area or territory in which your Subfranchised Restaurant is located. You must participate in all advertising, marketing, promotions, research, and public relations programs instituted by the Brand Fund.

WF will not use any contributions to the Brand Fund to defray any of its general operating expenses, except for reasonable administrative costs and overhead that WF incurs in activities reasonably related to the administration of the Brand Fund or the management of Brand Fund-supported programs (including salaries of its personnel who devote time to Brand Fund activities). WF will separately account for the Brand Fund, but WF does not need to segregate Brand Fund monies from its other monies. WF may terminate and subsequently restart the Brand Fund. On termination, WF may spend the remaining monies for Brand Fund purposes or return the monies to the restaurants that contributed to the Brand Fund on a pro rata basis.

Any point-of-sale materials produced with Brand Fund monies will be made available to you at a reasonable cost, and the proceeds of such sales will be credited to the Brand Fund. WF is not required to have an independent audit of the Brand Fund completed. WF will make available an unaudited statement of contributions and expenditures for the Brand Fund no sooner than 90 days after the close of its fiscal year to franchisees and subfranchisees who make a written request for a copy. Wahlburgers Restaurants owned by WF and/or its affiliates will contribute to the Brand Fund on the same basis as comparable franchisees and subfranchisees. If WF reduces the Brand Fund Contribution for franchisees, WF will have the right to reduce by the same amount the required contribution for Wahlburgers Restaurants operated by WF or its affiliates.

In WF's last fiscal year, of the total monies spent by the Brand Fund, of the total monies spent by the Brand Fund, approximately 35% was spent on brand strategy and agency fees; approximately 33% was spent on business services, including consumer review providers and loyalty program; approximately 5% was spent on creative development, including photo/video shoots and point of purchase printing; approximately 8% was spent on digital advertising programs (e.g., Google Ads, programmatic advertising); approximately 2% was spent on website development; and approximately 17% was spent on miscellaneous expenses, including sponsorships, consultants and legal fees. No money was spent by the Brand Fund to solicit new franchisees.

With respect to the Brand Fund, while WF may spend in any fiscal year an amount greater or less than the aggregate contribution of Wahlburgers Restaurants to the applicable Fund, generally, WF believes that WF will spend all advertising payments during the taxable year in which the contribution and earnings are received. If WF does not spend the advertising payments in one year, WF will likely spend them in the following year or distribute any surplus to then-current franchisees and subfranchisees who contribute to the applicable Fund and restaurants operated by WF or its affiliates.

**Point-of-Sale Materials.** If we or WF develop any point-of- sales materials, we or WF may offer to sell those to you at a reasonable cost.

**Social Media.** You may not promote, offer, or sell any products or services relating to the Subfranchised Restaurant through, or use any of the Proprietary Marks in, any form of electronic communications, including Internet web sites, social networking sites, applications or other future technological avenues that enable users to create and share content or to participate in social networking (collectively, "Social Media"), without WF's or our prior written consent, which may be withheld for any or no reason. WF or we may establish a Social Media policy, and you must comply with any such Social Media policy, as modified periodically. Your use of any Social Media

relating to the Subfranchised Restaurant is subject to WF's and our prior written approval. You may not establish an independent site or page on any Social Media. If we or WF authorize you to have and/or design a site or a page on any Social Media for the Subfranchised Restaurant, your site and page may only be accessed from WF's site or page, and WF may prohibit links between your site or page and any other site.

Any use of Social Media by you with respect to the Subfranchised Restaurant constitutes advertising and promotion, and you must comply with the restrictions on advertising described above and any additional policies and standards we or WF issues from time to time with respect to Social Media. Any copyright in your sites or pages on Social Media will be deemed to be owned by WF, and you agree to sign any documents that WF reasonably deems necessary to affirm its ownership of the copyright. If necessary, you must ensure cooperation with WF and us by any web site service provider or web site hosting company with which you do business. You must have or obtain the lawful right to use any proprietary materials of others that appear on your sites or pages on Social Media. WF periodically may provide to you content for your sites and pages on Social Media, including copy, news stories and photographs. WF must consent to any changes to your sites and pages on Social Media.

**Public and Media Relations.** You may not issue any press or other media releases or other communications without our prior consent. As a subfranchisee of the System, you may only participate in internal and external communications activities that create goodwill, enhance our public image, and build the Wahlburgers brand.

### **Computer System**

You must obtain and install, at your expense, a computerized point-of-sale system ("POS System"). We reserve the right to specify a vendor or supplier and, if acquired through us, charge you for such hardware, software, support, and other related services ourselves. As of the date of this disclosure document, NCR Aloha is the only approved POS System. Your POS System must record customer transactions and collect and generate Gross Sales for the Subfranchised Restaurant and sales by categories. WF also reserves the right to require you to replace your existing POS System with one designated by WF, at your sole cost, but not more frequently than every 24 months. We may require you to install and maintain any software or other proprietary system designated by us, at your sole cost. The current cost to obtain the hardware and software system is approximately \$31,200 (without tablets) to \$35,700 (with tablets) with a monthly service fee of approximately \$685 that covers services, including Kitchen, Aloha, Loyalty, Online Ordering, Gift Cards, Insight, Aloha Enterprise, Mobile Pay, Encrypted Payments and Network protection.

We and WF will have independent access to the information and data on the POS System, and there are no contractual limitations on our and WF's right to access that information. Neither we, WF, our respective affiliates, nor any third parties are required to provide ongoing maintenance, repairs, upgrades, or updates to your computer system. Currently, there are no optional or required maintenance/upgrade contracts for your POS System. We estimate that the annual cost of optional or required maintenance, upgrades, or updates for your POS System is approximately \$6,000-\$12,000.

You must: **(a)** maintain on the computer system only the financial and operating data specified in the Manual; **(b)** transmit data to us] and to WF in the form and at the times required by the Manual; **(c)** give us and WF unrestricted access to your computer system at all times (including IDs and passwords, if necessary) to download and transfer via modem or other connection as we

determine; **(d)** maintain the computer system in good working order at your own expense; **(e)** replace or upgrade the computer system as we require (but not more than every 24 months); **(f)** install high speed Internet and/or communications connections; **(g)** ensure that your employees are adequately trained in the use of the computer system and our related policies and procedures; **(h)** comply with the Payment Card Industry Data Security Standard (“PCI DSS”) at all times; **(i)** engage any vendor WF or we designate to ensure the security of your data and compliance with the PCI DSS; and **(j)** use any proprietary software or support services and other proprietary materials that we or WF provide to you in connection with the operation of the Subfranchised Restaurant and if we require, execute a license agreement and pay to us, as the case may be, a reasonable license fee for the use of such proprietary software. You may not install any software other than authorized upgrades or make any hardware modifications to the computer system without our express written consent. Because computer designs and functions change periodically, we may make substantial modifications to your computer requirements or require installation of entirely different systems during the term of the Subfranchise Agreement.

### **Selecting the Location of Your Subfranchised Restaurant**

We do not select the specific site for your Subfranchised Restaurant. You select the site for your Subfranchised Restaurant, including the location within a gaming facility, if applicable, subject to our and WF’s acceptance based on the site selection criteria in effect at the time of your request. As noted in Item 1, you should not acquire any interest in a site for your until we and WF have approved you as a Wahlburgers subfranchisee and we have accepted the site. If not within a particular proposed gaming facility, you must select the site from within a general area mutually agreed to in writing by you and us, and you must obtain acceptance for a site within 180 days after you sign the Agreement. If we do not accept a site within that time period, we, at our option, may terminate the Agreement.

With respect to each proposed site, you must submit to us a site review report consisting of financial pro formas, a description of the site, photographs, demographic information, site characteristics (including access and egress points and the amount of road traffic), other restaurant options in the area or the gaming facility, and any other information that we may require, including, but not limited to, a letter of intent or other evidence satisfactory to us, which confirms your favorable prospects for obtaining the site. In addition, we may require a site analysis prepared by a third party vendor at your expense. We reserve the right to designate the third party vendor used to prepare the site analysis. If the site review report is acceptable, we reserve the right to conduct one on-site evaluation of the proposed site before deciding whether to accept the site. If we conduct an on-site evaluation, we may charge you a fee as determined by us, and you must pay all travel, living and other expenses incurred by our representative. Within 60 days after receipt of a complete (as determined by us) site review report, we will advise you in writing whether we have accepted the site; however, we have no obligation to review any site review report if you or your affiliates are not in full compliance with all agreements with us and/or our affiliates. If we do not respond within that time period, we will be deemed to have denied acceptance of the site. Our acceptance or denial of acceptance of a site may be subject to reasonable conditions as determined in our sole discretion.

Our acceptance indicates only that we believe that the site meets our then-current site selection criteria. Applying criteria that have appeared effective with other sites might not accurately reflect the potential for all sites, and demographic and/or other factors included in or excluded from our criteria could change, altering the potential of a site. The uncertainty and instability of these criteria are beyond our control, and we are not responsible if a site we accept fails to meet your expectations. Your submission of a proposed site for our acceptance, including

a proposed site within a gaming facility, is based on your own independent investigation of the site's suitability for a Wahlburgers Restaurant.

### **Typical Time Between Agreement Signing and Opening**

The length of time between signing of the Subfranchise Agreement and the opening of your Subfranchised Restaurant is typically 6 to 12 months. Factors affecting the length of time between the execution of the Subfranchise Agreement and the opening of your Subfranchised Restaurant include whether the location is free-standing or within an existing or under-development gaming facility and the sourcing of economically viable sites, site plan and building permit approvals, obtaining required liquor licenses, obtaining any site licenses and government approvals, constructing the building and site improvements, weather variations and hiring, and training managers and hourly employees.

### **Training**

**ITP.** At least 6 weeks before your Wahlburgers Restaurant opens for business, you (or your Operating Principal), your Wahlburgers Restaurant's general manager and at least 3 other managerial personnel whom we designate must attend, and become certified in, the ITP. The length of the ITP is 2 weeks. We or our affiliates or designees offer the ITP during the year on an as-needed basis. Until we have established our own training facility, likely within the year following the date of this disclosure document, we will provide your employees and you the ITP at a Wahlburgers Restaurant operated by WF or its affiliates and/or WF's corporate office, which is currently in Hingham, Massachusetts. We will not authorize your Wahlburgers Restaurant to open until those employees whom we designate have attended and successfully completed (as determined by us in our sole discretion) the ITP. Upon our request, as a prerequisite to the ITP, attendees must successfully complete (as determined by us in our sole discretion), at your cost, a ServSafe food safety training and certification program administered by the National Restaurant Association Educational Foundation.

We do not charge a training fee for the ITP for the first 4 individuals. Additional employees who desire to attend the ITP, and any replacement employees who are required to attend the ITP, however, may do so, subject to space availability and your payment of a training fee. You must pay all salaries, benefits, travel, living, and other expenses incurred by you and your employees while attending the training. We have the right to dismiss from the ITP any person whom we believe will not perform acceptably in the position for which he/she has been hired, and you must provide a suitable replacement within 30 days of dismissal. In such event, we will have no obligation to extend the Opening Date (as defined in the Subfranchise Agreement). Until we establish a training facility, WF's Director of Training, Elena Ford, will be responsible for the training program. Ms. Ford has approximately 31 years of experience in food and beverage service and 26 years of experience in training. She became Director of Training in October 2022.

If you (or your Operating Principal) fail to complete the ITP to our satisfaction, we will permit you (or your Operating Principal) to repeat the ITP at the next available scheduled training session and upon a second failure may terminate the Agreement; however, we will have no obligation to extend the Opening Date. We reserve the right to charge a training fee if you (or your Operating Principal) are required to repeat the ITP.

The following chart summarizes the subjects taught during ITP:

## TRAINING PROGRAM

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON-THE-JOB TRAINING	<i>LOCATION</i>
General Management/ Concept/Culture	5.25	0	Until we have established a training facility, WF's corporate office which is currently located in Hingham, Massachusetts, a WF affiliate company-owned Wahlburgers Restaurant or another location
Front of the House	0	16	A WF affiliate-owned Wahlburgers Restaurant or another location
Back of the House	0	16	A WF affiliate-owned Wahlburgers Restaurant or another location
Shadow Manager on Duty	0	47.75	A WF affiliate-owned Wahlburgers Restaurant or another location

**Ongoing Training; Training of Replacement Personnel.** We may require you (or your Operating Principal), your managerial personnel, training personnel, and/or other previously trained and experienced staff members to attend and complete satisfactorily various training courses that we or WF periodically choose to provide at the times and locations that we designate, as well as periodic conventions, regional meetings, and conferences that we specify. We may charge a fee for these courses as determined by us. You must pay all salaries, benefits, travel, living, and other expenses incurred by you and your employees during all training courses and programs.

We require that your replacement managerial and training personnel satisfactorily complete Wahlburgers' training programs within the time period required by the Manual after being designated as managerial or training personnel. We may charge a fee for these training programs as determined by us.

Any specific ongoing training or advice we or WF provides does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which we or WF may discontinue and modify from time to time.

**Training Materials and Methods.** WF's training materials include its training manual, and on-the-job training guides. All training materials remain WF's property. Except for the ITP, WF and we have the right to provide training programs in person, on DVD, via the Internet, in printed or electronic format, or by other means, as WF or we determine.

## ITEM 12 TERRITORY

### Subfranchise Agreement

We are authorized to offer and sell Wahlburgers restaurant subfranchises only in tribally owned or controlled locations throughout the United States (except for Rhode Island or Hawaii and in certain other specified tribal locations) under subfranchising rights that WF has granted us.

You will not receive any exclusive territory under the Agreement, although we and WF will generally provide you a protected territory of approximately that area encompassed within a 2-mile radius of your Wahlburgers Restaurant, subject to the exceptions noted below in this Item 12 ("protected Area"). You may face competition from other franchisees, from outlets that WF may own, or from other channels of distribution or competitive brands that WF controls.

Nothing in the Subfranchise Agreement prohibits us and our affiliates or WF and its affiliates from, among other things: **(a)** operating or licensing others to operate, during the term of the Agreement, Wahlburgers Restaurants at any location other than in the Protected Area; **(b)** operating or licensing others to operate, after the Agreement terminates or expires, Wahlburgers Restaurants at any location, including in the Protected Area; **(c)** manufacturing, distributing and selling, or causing to be manufactured, distributed and sold, food, goods, wares, merchandise, services, products and Branded Merchandise, whether or not authorized for sale at Wahlburgers Restaurants, under the Proprietary Marks or other trademarks, service marks, logos or commercial symbols, at wholesale or retail, at any location through any channel of distribution, including, but not limited to, mail order and catalog, direct mail advertising, the Internet and other methods of distribution, regardless of the proximity to any Wahlburgers Restaurant developed or under development at the Location or under consideration by you; **(d)** developing and owning other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks; and/or **(e)** purchasing, being purchased by, merging or combining with, businesses that directly compete with Wahlburgers Restaurants. WF reserves to itself all rights to use and license the System and the Proprietary Marks other than those we expressly granted under the Subfranchise Agreement.

You do not receive any right under the Subfranchise Agreement to develop or operate additional Wahlburgers Restaurants. Our and WF's prior written consent is required before you relocate your Wahlburgers Restaurant. Factors used to approve a request for relocation include, without limitation, whether **(1)** the need for relocation arises from adverse circumstances at the present site beyond your control; **(2)** the proposed new site meets our and WF's then-current standards for development; and **(3)** the proposed new site, in our opinion, will not adversely impact existing Wahlburgers Restaurants.


You may only sell or distribute products identified by some or all of the Proprietary Marks from the Location; you may not use any other method or channel of distribution. We do not impose any geographic restrictions on your ability to solicit customers; however, see Item 11 for restrictions on your use of Social Media. There are no restrictions on our or WF's ability to solicit customers, nor must we or WF compensate you if we or WF solicit or accept orders. WF reserves the right to merchandise and distribute goods and services identified by the Proprietary Marks (or different proprietary marks) through any method or channel of distribution, including the Internet.

## ITEM 13 TRADEMARKS

The Subfranchise Agreement grants you the right to operate a retail restaurant under the “Wahlburgers” name and mark and to use the Proprietary Marks owned by WF or its affiliates in the operation of your Subfranchised Restaurant. By Proprietary Marks, we mean the “Wahlburgers” name and mark and certain other names, marks, logos, insignias, slogans, emblems, symbols, and designs that WF and its affiliates have designated, or may in the future designate, for use with the System.

WF has the right, following our reasonable notice to you, to change, discontinue, or substitute any of the Proprietary Marks and adopt new Proprietary Marks for use with the System without any liability for any diminishment of the System. You must implement any such change at your expense within the time that we or WF may specify.

In addition to other registered trademarks, the following principal trademarks have been registered by WF’s affiliate, Wahlburgers I, LLC (“WB I”), with the United States Patent and Trademark Office (“USPTO”) on the Principal Register, and all required affidavits of continued use have been filed and accepted:

Mark	Registration Number	Registration Date
WAHLBURGERS	4,328,948	April 30, 2013
OUR FAMILY. OUR STORY. OUR BURGERS	4,297,131	March 5, 2013
	4,637,134	November 11, 2014

WF has entered into a license agreement with WB I dated as of September 12, 2014 under which WF has a perpetual license to use, and license third parties to use, the Proprietary Marks. We will provide you with WF’s guidelines for the use of the Proprietary Marks. You must follow their guidelines and rules when you use the Proprietary Marks. You cannot use the Proprietary Marks in any manner not authorized by us or in any corporate or legal name. You cannot use any other trade names, service marks, or trademarks in conjunction with the Subfranchised Restaurant.

There are no presently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court relating to the principal Proprietary Marks. There are no pending infringement, opposition or cancellation proceedings or material litigation involving the principal Proprietary Marks. Except as stated above, there are no agreements currently in effect that significantly limit our right to use or license the use of the Proprietary Marks in any manner material to you. We do not know of either superior prior rights or infringing uses that could materially affect your use of the principal Proprietary Marks in any state.

The Subfranchise Agreement does not contain any provisions under which we or WF are required to defend or indemnify you against any claims of infringement or unfair competition arising out of your use of the Proprietary Marks. The Subfranchise Agreement does require that you notify us promptly of any unauthorized use of the Proprietary Marks and any challenge by any person or entity to the validity of, WF's ownership of, or its right to use, any of the Proprietary Marks. WF has the right, but not the obligation, to initiate, direct, and control any litigation or administrative proceedings relating to the Proprietary Marks, including any settlement. You must sign all documents and provide any other assistance we or WF believes is necessary for the defense or prosecution of any such litigation or proceeding. You may not, directly or indirectly, contest, or aid in contesting, the validity, or WF's ownership, of the Proprietary Marks.

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

Neither we nor WF own any patents or registered copyrights, nor do we or WF have any pending patent applications, that are material to your Subfranchised Restaurant or the System; however, WF claims copyright protection in the Manual and certain forms, architectural, engineering and construction plans, advertising materials, product specifications, computer programs, newsletters, training materials, and operations and accounting materials. WF has not registered those materials with the United States Registrar of Copyrights.

The Manual and these other materials contain WF's detailed standards, specifications, instructions, forms, reports, and procedures for the management and operation of the Subfranchised Restaurant. You must treat the Manual, training materials, and any other manuals or materials created or approved by WF for use with the System as secret and confidential. You may not copy, duplicate, or otherwise reproduce the Manual or other materials provided by us or by WF. In addition, you may not make any confidential information or materials supplied by us or by WF available to any unauthorized person without our prior written consent.

You may not communicate, divulge, or use for any purpose other than the operation of the Subfranchised Restaurant any confidential information, knowledge, trade secrets, or know-how that may be communicated to you or that you may learn by virtue of the Subfranchise Agreement or the operation of the Subfranchised Restaurant. You may divulge confidential information only to your professional advisers, your employees who must have access to the information to develop or operate The Subfranchised Restaurant, your contractors, and your landlord, provided that you obtain our prior consent. All information, knowledge and know-how relating to WF, its business plans, or the System are deemed confidential, except information that you can demonstrate came to your attention by lawful means prior to WF's or our disclosure, or that, at the time of WF's or our disclosure to you, had become a part of the public domain. At our request, you must require your employees and any other person or entity to whom you wish to disclose any confidential information to sign agreements providing that they will maintain the confidentiality of the disclosed information. The agreements must be in a form satisfactory to us and must identify WF and us as third-party beneficiaries with the independent right to enforce the agreements.

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

You are not obligated to participate personally in the day-to-day operation of the Subfranchised Restaurant, but we recommend that you or one of your principal owners (if applicable) do so. Each Wahlburgers Restaurant must, however, at all times, be under the



personal, on-premises supervision of one of the following designated individuals, who must meet our applicable training qualifications for their position: the Operating Principal, a general manager or an assistant manager.

If you are a business entity, you must appoint an individual to serve as your Operating Principal. The Operating Principal: **(a)** must be accepted by us; **(b)** must agree to be personally bound by the covenants and indemnification obligations set forth in the Subfranchise Agreement; **(c)** must live within a reasonable driving distance of the Location, and **(d)** must devote full-time and best efforts to supervising the development and operation of the Subfranchised Restaurant. The Operating Principal must complete the ITP, have authority over all business decisions related to the Subfranchised Restaurant and have the authority to bind you in your dealings with us and WF. We will provide all services to, and we and WF will communicate primarily with, the Operating Principal. You must obtain our prior written consent before you change the Operating Principal. If the Operating Principal no longer qualifies as such, you must designate another qualified person to act as the Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified. We will advise you whether we have consented to the new Operating Principal within a reasonable time after receipt of your notice. If we do not consent, you will have 15 days from your receipt of our decision to designate another person to act as Operating Principal who satisfies the preceding qualifications.

The Operating Principal must remain active in overseeing the operations of the Subfranchised Restaurant, including without limitation, regular, periodic visits to the Subfranchised Restaurant and sufficient communications with us to ensure that the Subfranchised Restaurant's operations comply with the operating standards as detailed by WF and/or us from time to time in the Manual or otherwise in written or oral communications.

If you are a business entity, all direct or indirect holders of an equity interest in you of 10% or more other than a sovereign nation tribe ("10% Owners") must jointly and severally guarantee your payment and performance of your obligations under the Agreement (but this obligation shall not extend to a tribe and its members) and must bind themselves to the terms of those agreements by executing the guarantee attached thereto.

At our request, you will require your employees (including your Operating Principal, manager and assistant manager) to sign agreements, which may be provided by us, under which they agree to maintain the confidentiality of information disclosed by WF or by us.

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

You must use the Location solely for the operation of the Subfranchised Restaurant and maintain sufficient inventories, adequately staff each shift with qualified employees and continuously operate the Subfranchised Restaurant at its maximum capacity and efficiency for the minimum number of days and hours set forth in the Manual or as we or WF otherwise specify in writing (subject to the requirements of local laws and licensing requirements). You may offer for sale and sell in the Subfranchised Restaurant only the products and services that WF has approved in the Manual or otherwise in writing. (See Items 8 and 9 for additional information regarding authorized products and services.) WF, in its sole discretion, and without limitation, may periodically change the System, including modifications to the Manual, the menu (including authorized products), the required equipment, the signage, the Proprietary Marks and the Trade Dress. You must accept, use or display in the Subfranchised Restaurant any such System changes and make such expenditures as the System changes require. WF also has the right to

vary System standards in particular instances as WF deems appropriate in our reasonable judgment. We and WF do not limit the customers to whom you may sell goods or services.

**ITEM 17  
RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION THE FRANCHISE  
RELATIONSHIP**

**This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

**SUBFRANCHISE AGREEMENT**

<b>Provision</b>	<b>Section In Subfranchise Agreement or, where applicable, the Gaming Facility Addendum (GFA)</b>	<b>Summary</b>
a. Length of the franchise term	Section 2.1  GFA Section 2	20 years from the date the Subfranchised Restaurant opens, or in the case of a Subfranchised Restaurant in a gaming facility, the lesser of such 20-year term or a period coterminous with your occupancy rights in the gaming facility
b. Renewal or extension of the term	Section 2.2	You will have the option to obtain one successor franchise term, which will be for a period of 10 years, unless Wahlburgers decides to stop franchising the Wahlburgers concept or Wahlburgers decides to withdraw the Wahlburgers concept from the geographical market in which your Wahlburgers Restaurant is located.
c. Requirements for you to renew or extend	Section 2.2	Conditions include: providing timely notice; substantial compliance with expiring franchise agreement; not be in default under any agreement with us or our affiliates; not be in default beyond the applicable cure period under any real estate lease, equipment lease, or financing instrument relating to the Subfranchised Restaurant or any agreement with any vendor or supplier to the Subfranchised Restaurant; have the right to continue operating at Subfranchised Restaurant for the full term of the successor franchise agreement; renovate and modernize the Subfranchised Restaurant to reflect the then-current image of Wahlburgers Restaurants; sign a general release; complete any additional training that we require; and pay a renewal fee. You also must sign our then-current form of subfranchise agreement, the terms of which likely will differ materially from your original Agreement, including, without limitation, those relating to royalty fees and advertising obligations.
d. Termination by you	Not Applicable	
e. Termination by us without cause	Not Applicable	

<b>Provision</b>	<b>Section In Subfranchise Agreement or, where applicable, the Gaming Facility Addendum (GFA)</b>	<b>Summary</b>
f. Termination by us with cause	Section 19	We may terminate upon default.
g. "Cause" defined - curable defaults	Section 19.2	You have 30 days (10 days for any monetary default) to cure defaults other than those discussed in Section 19.1 and 19.2.3 and 19.2.4 of the Agreement.
h. "Cause" defined – non-curable defaults	Section 19.1	Non-curable defaults include: failure to open Subfranchised Restaurant by the Opening Date; insolvency; bankruptcy; execution levied against your business or property; foreclosure; material breach of covenants; material misrepresentation; conviction or no contest plea to a crime that is likely to harm the System's reputation or our goodwill; transfer without obtaining our prior written consent; default beyond the applicable cure period under any agreement with us or our affiliates, any real estate lease, equipment lease, or financing instrument relating to the Subfranchised Restaurant or any agreement with any vendor or supplier to the Subfranchised Restaurant, provided that, if the default is not by you, you are given written notice and 10 days to cure; refuse to permit audit; conditions that seriously jeopardize public health or safety; loss of right to operate at the Location and, if applicable, failure to secure our acceptance of another site within required time period; failure to operate the Subfranchised Restaurant for 3 or more consecutive days, or 5 total days; receipt of 2 or more notices of default within any 12 month period; and an entity that is not a party to the Agreement is actually operating the Subfranchised Restaurant without our prior written consent.
i. Your obligations on termination/non-renewal	Section 20	Obligations include: immediately cease to operate the Subfranchised Restaurant and refrain from holding yourself out as a present or former franchisee or subfranchisee of the System; cease to use the System, the Proprietary Marks, and the Manual; pay all sums due to us, our affiliates, and your suppliers; cease to use in any manner the confidential methods, procedures, and techniques associated with the System; continue to abide by the covenants; cease to use the Proprietary Marks and all other distinctive signs and names associated with the System; cancel any assumed name or equivalent registration and any domain name registration containing the Proprietary Marks; pay lost revenue damages; complete de-identification ; deliver to us all hard copies, and delete all electronic copies, of the Manual and all training materials, marketing materials, records, files, instructions, and correspondence containing confidential information; deliver to us all customer information you have compiled and uninstall any software that we have provided.
j. Assignment of contract by us	Section 15	There are no restrictions on our right to assign.

Provision	Section In Subfranchise Agreement or, where applicable, the Gaming Facility Addendum (GFA)	Summary
k. "Transfer" by you-defined	Section 16.1	Includes sale, assignment, transfer, merger, conveyance, give away, pledge, mortgage, or other encumbrance of any interest in the Subfranchise Agreement, the Subfranchised Restaurant, the Location, the lease for the Subfranchised Restaurant, substantially all of the assets of the Subfranchised Restaurant, any direct or indirect ownership interests in you (if you are a business entity) or substantially all of your other assets pertaining to your operations under the Subfranchise Agreement.
l. Our approval of transfer by you	Section 16.2	If you propose to undertake a Transfer, you must obtain our prior written consent. The decision as to whether to consent to a Transfer will be made in the exercise of our business judgment, but our consent will not be unreasonably withheld.
m. Conditions for our approval of transfer	Sections 16.3, 16.4	Except as provided below, if you propose to undertake a Transfer, the conditions for our approval include: compliance with the Subfranchise Agreement and any other agreement with us, our affiliates, any lenders that have provided financing pursuant to an arrangement with us, and your major suppliers; if applicable, payment of a transfer fee (see Item 6); simultaneous Transfer of any other Wahlburgers Restaurants then-operated by you; submit a copy of all contracts, all other agreements or proposals, and all other information requested by us; qualified transferee; sign assignment agreement and any other agreements that we require to reflect the Transfer; sign, at our option, any amendments to the Subfranchise Agreement that we require and/or our then-current standard form of subfranchise agreement for a term ending on the expiration date of the Agreement; modernize and upgrade the Subfranchised Restaurant; sign general release; reasonable sales price and other proposed terms; your affiliates' compliance with any Wahlburgers Agreement to which they are a party and with any agreement with lenders that have provided financing pursuant to an arrangement with us; and execute guarantee. In addition, transferee and those of transferee's employees whom we designated must complete the ITP. If you propose to admit a new owner having less than a 10% ownership interest, remove an existing owner or change the distribution of ownership interests, conditions include: provide notice; submit copies of all proposed contracts and other information that we request; pay transfer fee (see Item 6); compliance with Agreement and any other agreement with us, our affiliate, any lenders that have provided financing pursuant to an arrangement with us and your major suppliers; sign assignment agreement and any other agreements we require to reflect the Transfer; sign, at our option, any amendments to the Agreement that we require and/or our then current standard form of franchise agreement for a term ending on the expiration date of the Agreement; sign general release; and comply with governing documents requirement.

Provision	Section In Subfranchise Agreement or, where applicable, the Gaming Facility Addendum (GFA)	Summary
n. Our right of first refusal to acquire your business	None	
o. Our option to purchase your business	Section 20.1.10	Unless you operate another Subfranchised Restaurant, within 15 days after termination, you must sell to us, and we will buy, all Branded Merchandise which you purchased from a designated supplier, WF or us. You will pay all freight charges incurred in shipping these items to us or Wahlburgers and, except as described below, the purchase price for the Branded Merchandise will be the price paid by you less 10% for handling and restocking costs. We are not obligated to purchase, although we may purchase, Branded Merchandise that is no longer authorized for sale in Wahlburgers Restaurants or Branded Merchandise that is not in saleable and useable condition (as we determine). The purchase price for that Branded Merchandise will be separately negotiated. We may deduct from the monies to be paid to you for repurchase of the Branded Merchandise all monies that you owe to us.
p. Your death or disability	Section 16.5	If the Transfer is a transfer of direct or indirect ownership interests in you after the death or permanent incapacity of an owner, that person's executor, administrator, or personal representative must apply to us within 3 months for consent to transfer the person's interest. All conditions of transfer apply (see m. above). If the interest is not disposed of within 6 months after the date of death or appointment of a personal representative, we may terminate the Subfranchise Agreement.
q. Non-competition covenants during the development term	Section 18.2.2	No interest in any Competitive Business. "Competitive Business" means any business, store, restaurant or location: <b>(1)</b> whose sales of hamburgers are reasonably likely to account for 10% or more of the food sales of the business in any calendar month; and/or <b>(2)</b> whose method of operation or trade dress is similar to that used in the System. "Competitive Business" does not, however include those businesses in which any of your owners or you have a direct or indirect, legal or beneficial interest and: <b>(a)</b> that had been in operation prior to the date of the first subfranchise-related agreement between you and us; or <b>(b)</b> that your owners or you had contracted to develop prior to the date of the first subfranchise-related agreement between you and us, provided those businesses are listed in Exhibit A to the Subfranchise Agreement.  In addition, you may not divert any business or customer to any Competitive Business.

<b>Provision</b>	<b>Section In Subfranchise Agreement or, where applicable, the Gaming Facility Addendum (GFA)</b>	<b>Summary</b>
r. Non-competition covenants after the franchise is terminated or expires	Section 18.2.3	For 2 years following the expiration, termination or transfer of the Subfranchise Agreement, no interest in any Competitive Business that is located within 2 miles of the Subfranchised Location or within 2 miles of any other Wahlburgers Restaurant. In addition, you may not, for 2 years after expiration, termination, or transfer of the Subfranchise Agreement, sell, assign, lease, or transfer the Subfranchised Location to any person or entity that intends to operate a Competitive Business at the Subfranchised Location.
s. Modification of the agreement	Sections 12.2, 18.2, 26	No modification generally without signed agreement, but we may modify the System.
t. Integration/merger clause	Section 26	Only the terms of the Subfranchise Agreement, the documents referred to therein and the Manual are binding (subject to state law). Any other oral or written promises related to the subject matter of the Subfranchise Agreement may not be enforceable. This is not intended to disclaim any representation made in this disclosure document.
u. Dispute resolution by arbitration or mediation	Sections 28.1, 28.2	If a dispute arises out of or under the Subfranchise Agreement, the parties will first attempt to resolve it through tribal peacemaking (we are only authorized to offer and sell Wahlburgers restaurant subfranchises in tribally owned or controlled locations in the United State).If such a dispute cannot be successfully resolved through tribal peacemaking, the dispute will be subject to arbitration between the parties to be conducted pursuant to the American Arbitration Association Rules. Any demand for arbitration must be filed with the AAA office nearest to our principal offices, or the AAA office nearest to Wahlburgers' principal offices if Wahlburgers is a named party or if it has assumed rights or obligations under the Subfranchise Agreement.
v. Choice of forum	Sections 28.1, 28.2	Any demand for arbitration must be filed with the AAA office nearest to our principal offices, or the AAA office nearest to Wahlburgers' principal offices if Wahlburgers is a named party or if it has assumed our rights or obligations under the Subfranchise Agreement.
w. Choice of law	Section 28.3	The Subfranchise Agreement is governed by the laws of Little River Band of Ottawa Indians and, where silent, federal law of the United States. In the event that tribal law and federal law are silent with respect to a matter to be resolved, the laws of the State of Michigan including the UCC provisions effective at the time of the dispute will govern.

Certain states require franchisors to make additional disclosures related to the information contained in this disclosure document. These disclosures are contained in Exhibit G to this disclosure document.

**ITEM 18  
PUBLIC FIGURES**

Mark, Donnie and Paul Wahlberg have an indirect ownership in WF's parent, WB Holding, and promote the sale of Wahlburgers franchises. As such, each of the Wahlbergs will receive an indirect financial benefit from fees paid by subfranchisees to us, some of which we remit to WF. None of the Wahlbergs have made any direct investment in us or in WF.

**ITEM 19  
FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a subfranchisor or franchisor to provide information about the actual or potential financial performance of its franchised and/or company-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 subfranchisor or franchisor provides the actual records of an existing outlet you are considering buying; or **(2)** a subfranchisor or 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.

Neither we nor WF currently make any representations about a franchisee's financial performance or the past financial performance of WF company-affiliated or franchised outlets. We and WF also do not authorize our respective 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 subfranchisor's management by contacting Eugene Magnuson or Tyler Leppanen, two of our Managers, at 2608 Government Center Drive, Manistee, MI 02043, (781) 749-4972, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

**Subfranchisor's Tables**

**Table No. 1  
Systemwide Outlet Summary  
Fiscal Years 2020 to 2022**

Outlet Type	Year	Outlets at Start of year	Outlets at End of Year	Net Change
<b>Subfranchised by Us</b>	2020	0	0	0
	2021	0	0	0
	2022	0	1	+1

<b>Subfranchisor Affiliate Company-Owned</b>	2020	0	0	0
	2021	0	0	0
	2022	0	0	0
<b>Total Outlets</b>	2020	0	0	0
	2021	0	0	0
	2022	0	1	+1

**Table No. 2  
Transfers of Outlets Subfranchised by NativeWahl from Franchisees to New Owners  
For Years 2020 to 2022**

State	Year	Number of Transfers
Total	2020	0
	2021	0
	2022	0

**Table No. 3  
Status of Franchised Outlets Subfranchised by NativeWahl  
For Years 2020 to 2022 (1) (2)**

**FAST CASUAL RESTAURANTS**

State	Year	Outlets at Start of Year	Outlets Opened	Termination	Non-Renewals	Reacquired by Us	Ceased Operations – Other Reasons	Outlets at End of the Year
NM	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Total	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1

**FULL SERVICE RESTAURANTS**

State	Year	Outlets at Start of Year	Outlets Opened	Termination	Non-Renewals	Reacquired by Us	Ceased Operations – Other Reasons	Outlets at End of the Year
Total	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0



**NOTES**

- (1) Attached as Exhibit H is a list of the addresses and telephone numbers of all subfranchised Wahlburgers locations and the name of the subfranchisee for each subfranchised location as of the end of NativeWahl's 2022 fiscal year.
- (2) No confidentiality agreements were signed with any franchisees that would restrict them from speaking openly with you about their experiences with us or WF. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. As of the date of this disclosure document, there are no Wahlburgers franchisee organizations.

**Table No. 4  
Status of NativeWahl Subfranchisor-Affiliated Company-Owned Outlets  
For Years 20209 to 2022 (1)**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees (3)	Outlets at End of Year
Total	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0

**NOTES**

- (1) If multiple events occurred affecting a Wahlburgers Restaurant, this table shows the event that occurred last in time.

**Table No. 5  
Subfranchisor's Projected Openings as of December 31, 2022**

State	Franchise Agreements Signed but Outlet Not Opened	Projected New Franchised Outlets in Next Fiscal Year	Projected New Company-Owned Outlets in Next Fiscal Year
CA	0	1	0
OK	0	1	0
Total	0	2	0

## Franchisor's Systemwide Tables

**Table No. 1  
Systemwide Outlet Summary  
Fiscal Years 2020 to 2022 (1)**

Outlet Type	Year	Outlets at Start of Year	Outlets at End of Year	Net change
Franchised	2020	25	42	+17
	2021	42	72	+30
	2022	72	91	+19
Company-Owned	2020	5	5	+0
	2021	5	5	+0
	2022	5	5	+0
Total Outlets	2020	30	47	+17
	2021	47	77	+30
	2022	77	96	+19

### NOTES

- (1) The numbers for 2020-2022 are as of WF's fiscal year end (respectively, January 3, 2021 and January 2, 2022, and January 1, 2023). WF's fiscal year ends on the Sunday closest to December 31. As mentioned in Item 1, the Company-Owned Restaurants identified in this Table 1 are owned and operated by WF's affiliates.

**Table No. 2  
Transfers of Outlets from Franchisees to New Owners  
(Other than Wahlburgers)  
For Years 2020 to 2022 (1)**

State	Year	Number of Transfers
All States	2020	0
	2021	0
	2022	0
Total	2020	0
	2021	0
	2022	0

### NOTES

- (1) The numbers for 2020-2022 are as of WF's fiscal year end (respectively, January 3, 2021 and January 2, 2022, and January 1, 2023). Our fiscal year ends on the Sunday closest to December 31.

**Table No. 3  
Status of Franchised Outlets  
For Years 2020 to 2022 (1) (3)**

**ITEM 21 FULL SERVICE RESTAURANTS**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Us	Ceased Operations – Other Reasons	Outlets at End of the Year
AL	2020	1	1	0	0	0	1	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
CA	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	2	1
	2022	1	0	0	0	0	1	0
CT	2020	1	0	1	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
FL	2020	2	1	0	0	0	2	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
GA	2020	1	1	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	1	1
IA	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
IL	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
IN	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
KS	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
MA	2020	2	0	0	0	0	0	2
	2021	2	1	0	0	0	0	3
	2022	3	0	0	0	0	0	3
MI	2020	4	0	0	0	0	2	2
	2021	2	1	0	0	0	0	3
	2022	3	0	0	0	0	1	2

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Us	Ceased Operations – Other Reasons	Outlets at End of the Year
MN	2020	1	0	0	0	0	0	1
	2021	1	1	0	0	0	0	2
	2022	2	0	0	0	0	0	2
NJ	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
NV	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
NY	2020	1	0	0	0	0	1	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
OH	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
PA	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
TN	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
WI	2020	1	1	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Total	2020	25	6	1	0	0	6	24
	2021	24	4	0	0	0	2	26
	2022	26	0	0	0	0	3	23

### FAST CASUAL RESTAURANTS

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Us	Ceased Operations – Other Reasons	Outlets at End of the Year
CA	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	2	0	0	0	0	3
HI	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Us	Ceased Operations – Other Reasons	Outlets at End of the Year
IA	2020	0	5	0	0	0	0	5
	2021	5	9	0	0	0	0	14
	2022	14	7	0	0	0	0	21
IL	2020	0	3	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	2	0	0	0	0	0	2
KS	2020	0	0	0	0	0	0	0
	2021	0	2	0	0	0	0	2
	2022	2	1	0	0	0	0	3
MN	2020	0	10	0	0	0	0	10
	2021	10	0	0	0	0	0	10
	2022	12	0	0	0	0	0	12
MO	2020	0	2	0	0	0	0	2
	2021	2	4	0	0	0	0	6
	2022	5	3	0	0	0	0	8
NE	2020	0	0	0	0	0	0	0
	2021	0	8	0	0	0	0	8
	2022	7	0	0	0	0	0	7
NM	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
OH	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
SD	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	1	0	0	0	0	2
WI	2020	0	0	0	0	0	0	0
	2021	0	3	0	0	0	0	3
	2022	3	2	0	0	0	0	5
Total	2020	0	18	0	0	0	0	18
	2021	18	28	0	0	0	0	46
	2022	46	21	0	0	0	0	68

**NOTES**

- (1) The numbers for 2020-2022 are as of WF's fiscal year end (respectively, January 3, 2021 and January 2, 2022 and January 1, 2023). WF's fiscal year ends on the Sunday closest to December 31. If multiple events occurred affecting a Wahlburgers Restaurant, this table shows the event that occurred last in time.

- (2) Attached as Exhibit I is a list of the addresses and telephone numbers of all franchised Wahlburgers locations and the name of the franchisee for each franchised location as of the end of WF's 2022 fiscal year, and a subfranchised location located in New Mexico.
- (3) No confidentiality agreements were signed with any franchisees that would restrict them from speaking openly with you about their experiences with WF or with us. Exhibit I includes a list of all Wahlburgers franchisees who had a franchised restaurant terminated, canceled or not renewed or otherwise voluntarily or involuntarily ceased to do business under a franchise agreement, including in connection with a transfer, during WF's last fiscal year, or failed to communicate with WF within 10 weeks of the date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. As of the date of this disclosure document, there are no Wahlburgers franchisee organizations.

**Table No. 4**  
**Status of WF-Affiliated Company-Owned Outlets**  
**For Years 2020 to 2022 (1) (2) (3)**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees (3)	Outlets at End of Year
MA	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
SC	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
TX	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
Total	2020	5	0	0	0	0	5
	2021	5	0	0	0	0	5
	2022	5	0	0	0	0	5

**NOTES**

- (1) The numbers for 2020-2022 are as of WF's fiscal year end (respectively, January 3, 2021 and January 2, 2022 and January 1, 2023). Our fiscal year ends on the Sunday closest to December 31. Our fiscal year ends on the Sunday closest to December 31.
- (2) If multiple events occurred affecting a Wahlburgers Restaurant, this table shows the event that occurred last in time.
- (3) The restaurants identified in this Table 4 are owned and operated by WF's affiliates and are full service restaurants.

**Table No. 5  
WF's Projected Openings as of January 2, 2023**

<b>State</b>	<b>Franchise Agreements Signed but Outlet Not Opened</b>	<b>Projected New Franchised Outlets in Next Fiscal Year</b>	<b>Projected New Company-Owned Outlets in Next Fiscal Year</b>
CA	0	1	0
CT	1	1	0
IA	0	8	0
IL	0	3	0
MA	1	2	0
MN	0	4	0
MO	0	2	0
NE	0	8	0
OK	0	1	0
SD	0	3	0
WI	0	2	0
<b>Total</b>	<b>1</b>	<b>35</b>	<b>0</b>

**ITEM 21  
FINANCIAL STATEMENTS**

Attached to this disclosure document as Exhibit F are our audited financial statements as of December 31, 2022. Also included in Exhibit F are the audited financial statements of WF for the fiscal years ending January 3, 2021, January 2, 2022 and January 1, 2023. We have not been in business for 3 years or more and cannot include 3 fiscal years of financial statements required by the FTC Rule.

**ITEM 22  
CONTRACTS**

The following agreements related to a subfranchised Wahlburgers Restaurant are attached as exhibits to this disclosure document:

- Exhibit C     Subfranchise Agreement
- Exhibit D     Gaming Facility Addendum
- Exhibit E     Confidentiality Agreement

**ITEM 23  
RECEIPT**

The last two pages of this disclosure document are detachable receipt pages. Please sign and date each of them as of the date you received this disclosure document and return one copy to us.

**EXHIBIT A**  
**LIST OF STATE ADMINISTRATORS**



**California**

Department of Financial Protection and  
Innovation  
320 West 4<sup>th</sup> Street Suite 750  
Los Angeles, CA 90013

2101 Arena Boulevard  
Sacramento, CA 95834  
1-866-275-2677

[Ask.DFPI@dfpi.ca.gov](mailto:Ask.DFPI@dfpi.ca.gov)

**Michigan**

Michigan Department of Attorney  
General  
Consumer Protection Division  
Antitrust and Franchise Unit  
670 Law Building  
Lansing, MI 48913  
(517) 373-7117

**New York:**

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21st Floor  
New York, NY 10005  
(212) 416-8222

**North Dakota:**

North Dakota Securities Department  
600 East Boulevard, Fourteenth Floor,  
Dept 414  
Bismarck, ND 58505-0510  
(701) 328-4712

**Oregon:**

Division of Consumer and Business  
Services  
Finance & Corporate Securities  
350 Winter Street, NE  
Labor and Industries Building, Rm 21  
Salem, OR 97301-3881  
(503) 378-4100

**Rhode Island:**

Securities Division  
Department of Business  
Regulation 1511 Pontiac  
Avenue  
John O. Pastore Complex-  
Bldg. 69 Cranston, Rhode  
Island 02920  
(401) 462-9527

**South Dakota:**

Department of Labor and  
Regulation  
Division of Insurance  
Securities Regulation  
124 South Euclid Suite 104  
Pierre, SD 57501-3185  
(605) 773-3563

**Virginia:**

State Corporation Commission  
Division of Securities &  
Retail Franchising  
1300 East Main Street, 9<sup>th</sup> Floor  
Richmond, VA 23219  
(804) 371-9051

**Washington:**

Department of Financial Institutions  
Securities Division  
150 Israel Road, S  
P.O. Box 9033  
Olympia, WA 98507  
(360) 902-8760

**Wisconsin:**

Division of Securities  
Department of Financial  
Institutions  
345 W. Washington Avenue  
Madison, WI 53703  
(608) 266-2801

***EXHIBIT B***

***LIST OF AGENTS FOR SERVICE OF PROCESS***

**California:**

California Commissioner of the Department of  
Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, CA 90013-2344

**Michigan:**

Michigan Department of Commerce  
Corporations and Securities Bureau  
525 W. Allegan Street,  
Lansing, MI 48913

**Minnesota:**

Minnesota Department of Commerce  
Securities Unit  
85 7<sup>th</sup> Place East, Suite 280  
Saint Paul, MN 55101

**New York:**

Attn: New York Secretary of State  
New York Department of State  
The Division of Corporations  
One Commerce Plaza  
99 Washington Avenue, 6th Floor  
Albany, NY 12231-0001

**North Dakota:**

North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol Fifth Floor Dept 414  
Bismarck, ND 58505-0510  
Phone: 701-328-4712

**South Dakota:**

Department of Labor and Regulations  
Division of Securities  
124 S. Euclid, Suite 104  
Pierre, South Dakota 57501

**Virginia:**

Clerk  
State Corporation Commission  
1300 E. Main Street  
Richmond, VA 23219

**Washington:**

Director of Dept. of Financial Institutions  
Securities Division  
150 Israel Road, SW  
Tumwater, Washington 98501

**Wisconsin:**

Administrator, Division of Securities  
Department of Financial Institutions  
345 W. Washington Avenue, Fourth Floor  
Madison, WI 53703

**EXHIBIT C**  
**SUBFRANCHISE AGREEMENT**

**WAHLBURGERS RESTAURANT  
SUBFRANCHISE AGREEMENT FOR A TRIBAL LOCATION**

\_\_\_\_\_  
Subfranchisee

\_\_\_\_\_  
Effective Date

\_\_\_\_\_  
Subfranchised Location

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Exhibit A – Subfranchise Information

Exhibit B – Special Rights of Wahlburgers

Exhibit C – Guarantee and Assumption of Subfranchisee's Obligations

Exhibit D – Commitment to be Bound by Certain Obligations

**WAHLBURGERS RESTAURANT  
SUBFRANCHISE AGREEMENT FOR A TRIBAL LOCATION**

This Subfranchise Agreement (“Agreement”) is made as of \_\_\_\_\_ (“Effective Date”) by and between NativeWahl LLC (“Master Franchisee”, “we”, “us” or “our”), a limited liability company organized under the laws of the State of Michigan with its principal offices at 2608 Government Center Dr., Manistee, MI 49660, and \_\_\_\_\_ (“Subfranchisee”, “you” or “your”), a \_\_\_\_\_ organized under the laws of \_\_\_\_\_.

**RECITALS**

Wahlburgers Franchising LLC (“Wahlburgers”), a limited liability company formed under the laws of the Commonwealth of Massachusetts, with its principal offices at 350 Lincoln Street, Suite 2501, Hingham, MA 02043 and its affiliates have developed a distinctive format, appearance and set of specifications and operating procedures (collectively, “System”) relating to the development, establishment and operation of restaurants identified by the Proprietary Marks, as defined below, (“Wahlburgers Restaurants”) that feature high quality gourmet hamburgers and certain ancillary branded merchandise such as clothing, souvenirs and novelty items (“Branded Merchandise”).

The distinguishing characteristics of the System include, but are not limited to, Wahlburgers' décor, layout, color schemes and designs (collectively, “Trade Dress”); Wahlburgers' menu items, recipes and food preparation and service techniques; Wahlburgers' standards and specifications for equipment, equipment layouts and interior and exterior accessories; and the accumulated experience reflected in Wahlburgers' training program, operating procedures and standards and specifications. Wahlburgers may periodically change, improve, add to and further develop the elements of the System.

The System is identified by means of the “Wahlburgers” name and mark and certain other names, marks, logos, insignias, slogans, emblems, symbols and designs that have been designated, or may in the future be designated, for use with the System (collectively, “Proprietary Marks”). Wahlburgers has the exclusive right to use, and permit Wahlburgers franchisees and subfranchisees to use, the Proprietary Marks. Wahlburgers may modify the Proprietary Marks used to identify the System, including the principal Proprietary Marks.

Pursuant to a Master Franchise Agreement dated as of October 11, 2021 between Wahlburgers and us, Wahlburgers has, among other things, authorized us to license third parties to use the Wahlburgers System in connection with the opening and operation of Wahlburgers Restaurants in particular areas.

You desire to obtain from us a license to use the System in connection with the development, opening and continuous operation of the Subfranchised Restaurant at the location identified in Exhibit A (“Subfranchised Location”).

You understand and acknowledge the importance of Wahlburgers' high and uniform standards of quality, operations and service and the necessity of developing and operating the Subfranchised Restaurant in strict conformity with this Agreement and the confidential operating manuals (“Manual”).

We are willing to grant you a subfranchise to use the System and Proprietary Marks in connection with the development and operation of a Subfranchised Restaurant at the Subfranchised Location, subject to the terms and conditions of this Agreement.

**NOW THEREFORE**, the parties agree as follows:

## **1 GRANT OF SUBFRANCHISE**

### **1.1 Grant.**

**1.1.1** Subject to the terms and conditions of this Agreement, we hereby grant to you a non-exclusive subfranchise for the right, and you accept and undertake the obligation, to use the Proprietary Marks and the System to continuously operate the Subfranchised Restaurant at the Subfranchised Location during the term of this Agreement ("Term"). The Subfranchised Restaurant will be operated in the format specified in Exhibit A.

**1.1.2** This Agreement is subject in its entirety to the Special Rights of Wahlburgers as set forth in attached Exhibit B.

**1.1.3** You may not establish or operate any Wahlburgers Restaurant other than the Subfranchised Restaurant at the Subfranchised Location in connection with this Agreement. You may not use the Proprietary Marks or the System at any location other than the Subfranchised Location. You may not relocate the Subfranchised Restaurant without our prior written consent, which we may withhold in our sole discretion. We have the right to require you to pay a reasonable fee, plus our reasonable expenses incurred in connection with consideration of your relocation request.

**1.1.4** You agree that you will, at all times, faithfully, honestly and diligently perform your obligations under this Agreement, that you will continuously exert your best efforts to promote and enhance the business of the Subfranchised Restaurant and that you will not engage in any other business or activity that may conflict with your obligations under this Agreement, except the operation of other Wahlburgers Restaurants or other businesses that you operate and that are franchised by Wahlburgers or us. Without our prior written consent, you may not use the Proprietary Marks or the System or sell our proprietary food and beverage products or Branded Merchandise in any wholesale, e-commerce or other channel of distribution besides the retail operation of the Subfranchised Restaurant at the Subfranchised Location.

**1.1.5** Wahlburgers and we have entered, and may continue to enter, into agreements with other franchisees and subfranchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that Wahlburgers, we and other franchisees and subfranchisees may have different rights and obligations does not affect your duties to comply with the terms of this Agreement.

**1.2 Limited Exclusivity.** During the Term, neither we nor Wahlburgers will operate, or license a third party to operate, a Wahlburgers Restaurant within a 2-mile radius of the Subfranchised Location ("Protected Area"). Nothing in this Agreement prohibits Wahlburgers and its affiliates (and to the extent we obtain the right from Wahlburgers, we and our affiliates) from, among other things: **(a)** operating or licensing others to operate, during the Term, Wahlburgers Restaurants at any location other than in the Protected Area; **(b)** operating or licensing others to operate, after this Agreement terminates or expires, Wahlburgers Restaurants at any location, including in the Protected Area; **(c)** manufacturing, distributing and selling, or causing to be manufactured, distributed and sold, food, goods, wares, merchandise, services, products and Branded Merchandise, whether or not authorized for sale at Wahlburgers Restaurants, under the Proprietary Marks or other trademarks, service marks, logos or commercial symbols, at wholesale or retail, at any location through any channel of distribution, including, but not limited to, mail order and catalog, direct mail advertising, the Internet and other methods of distribution, regardless of the proximity to the Subfranchised Restaurant; **(d)** developing and owning other franchise systems for the same or



similar products and services using trade names and trademarks other than the Proprietary Marks; and/or **(e)** purchasing, being purchased by, merging or combining with, businesses that directly compete with Wahlburgers Restaurants. Wahlburgers and its affiliates (and to the extent we obtain the right from Wahlburgers, we and our affiliates) reserve all rights to use and license the System and the Proprietary Marks other than those expressly granted under this Agreement.

## **2 TERM; SUCCESSOR SUBFRANCHISE TERM**

**2.1 Term.** The Term begins on the Effective Date and, unless this Agreement is terminated at an earlier date as provided in Section 19, expires at midnight on the day preceding the 20<sup>th</sup> anniversary of the date the Subfranchised Restaurant first opened for business. (We may complete and forward to you a notice to memorialize the date the Subfranchised Restaurant first opened for business.) If, during the Term, you lose the right to possession of the Subfranchised Location through no action or failure to act on your part (other than the failure to extend the lease for the Subfranchised Location through the Term), you may relocate the Subfranchised Restaurant (without paying us any additional initial subfranchise fee) at your expense, and the Term will not expire if: **(a)** we accept the new location; **(b)** you construct and equip a new Subfranchised Restaurant at the new location in accordance with our then-current System standards and specifications; **(c)** the Subfranchised Restaurant is open to the public for business at the new location within 6 months after your loss of possession of the Subfranchised Location; and **(d)** you reimburse us for all reasonable expenses actually incurred by us in connection with the acceptance of the new location. We may condition our consent to your relocation request upon, among other things, your payment of an agreed upon minimum Royalty to us during the period in which the Subfranchised Restaurant is not in operation.

**2.2 Successor Subfranchise Term.** When this Agreement expires, you will have the option to obtain one successor subfranchise term of 10 years, unless: **(a)** Wahlburgers has announced a decision to stop franchising the Wahlburgers concept; or **(b)** Wahlburgers decides to withdraw the Wahlburgers concept from the geographic market in which the Subfranchised Restaurant is located. You must give us written notice of your desire to exercise your option not more than 18 months and not less than 12 months before the end of the Term. We may require you to satisfy any or all of the following as a condition of exercising your option for the successor subfranchise term:

**2.2.1** You must execute the standard form of Wahlburgers Restaurant Subfranchise Agreement that we are then using for tribal locations ("Successor Subfranchise Agreement"). The terms of the Successor Subfranchise Agreement may be substantially different from the terms of this Agreement. We will modify the Successor Subfranchise Agreement to delete terms inapplicable to the successor term (such as opening requirements).

**2.2.2** During the Term, you have substantially complied with this Agreement and the System.

**2.2.3** Neither you nor your affiliates are in default under this Agreement or any other agreements between you or your affiliates and us or our affiliates; you and your affiliates must not be in default beyond the applicable cure period under any lease for the Subfranchised Location or equipment lease or financing instrument relating to the Subfranchised Restaurant; and you must not be in default beyond the applicable cure period with any vendor or supplier to the Subfranchised Restaurant.

**2.2.4** You must have the right to continue operating at the Subfranchised Location for the full term of the Successor Subfranchise Agreement.

**2.2.5** You must renovate and modernize the Subfranchised Restaurant to reflect the then-current image of Wahlburgers Restaurants.

**2.2.6** You, all 10% Owners (as defined in Section 14.3) and all guarantors under this Agreement must sign a general release, in a form we prescribe, of any and all claims against us, our affiliates and our past, present and future officers, directors, members, managers, shareholders and employees arising out of or relating to the Subfranchised Restaurant.

**2.2.7** You, your Operating Principal (as defined in Section 12.9.3) and those of your employees designated by us must successfully complete (as determined by us in our sole discretion) any additional training courses that Wahlburgers and/or we then require.

**2.2.8** You must pay us a renewal fee in the amount set forth in Exhibit A.

### **3 DEVELOPMENT PROCEDURES**

Sections 3.1-3.3, 3.4.1 and 3.4.4 will not be applicable if, as of the date of this Agreement, the location for the Subfranchised Restaurant has been accepted in writing by us.

**3.1 Your Responsibility.** You must select a site that is located within a general area to which you and we have mutually agreed in writing. Within 180 days after your execution of this Agreement, you must obtain site acceptance from us for the Subfranchised Restaurant. If we have not accepted a site within this time period, we, at our option, may terminate this Agreement pursuant to Section 19. You assume all cost, liability and expense for locating, obtaining and developing a site for the Subfranchised Restaurant. You may not make any binding commitments to purchase or lease a site until we have accepted the site in writing.

**3.2 Site Selection Assistance.** We may, but are not required to, provide you with the following site selection assistance: **(a)** our site selection guidelines and, as you may request, a reasonable amount of consultation with respect thereto; and **(b)** such on-site evaluation as we may deem advisable (subject to the availability of our personnel) as part of our evaluation of your request for site acceptance, provided that, if we provide this assistance at your request, you must pay us a fee in an amount determined by us, not to exceed \$5,000, and reimburse us for all travel, living and other expenses incurred by our representatives in connection with such on-site evaluation. Notwithstanding the foregoing, we have no obligation to conduct any on-site evaluations of locations you propose.

**3.3 Site Information and Evaluation.** For each proposed site, you must submit to us a site review report consisting of financial pro formas, a description of the site, photographs, demographic information, site characteristics (including access and egress points and the amount of road traffic), other restaurant options in the area, and any other information that we may require, including, but not limited to, a letter of intent or other evidence satisfactory to us, which confirms your favorable prospects for obtaining the site. In addition, we may require a site analysis prepared by a third party vendor at your expense. We reserve the right to designate the third party vendor used to prepare the site analysis. If the site review report is acceptable, we reserve the right to conduct an on-site evaluation of the proposed site before deciding whether to accept the site.

#### **3.4 Site Acceptance.**

**3.4.1** Within 60 days after our receipt of a complete (as determined by us) site review report, we will review that information, evaluate the proposed site and advise you in writing whether we have accepted the site; however, we have no obligation to review any site review report if you and/or your affiliates are not in full compliance with all agreements with us and/or our affiliates.

If we do not respond within that time period, we will be deemed to have rejected the site. Our acceptance or rejection of a site may be subject to reasonable conditions we determine in our sole discretion.

**3.4.2** You acknowledge that, in order to preserve and enhance the reputation and goodwill of the System, all Wahlburgers Restaurants and the goodwill of the Proprietary Marks and the Trade Dress, all Wahlburgers Restaurants must be properly developed, operated and maintained. Accordingly, you agree that we may refuse to accept a site for a proposed Subfranchised Restaurant unless you demonstrate sufficient financial capabilities, in our sole judgment, applying standards consistent with criteria that we use to establish restaurants in other comparable market areas, to properly develop, operate and maintain the proposed Subfranchised Restaurant. To that end, you must provide us with such financial statements and other information regarding you and the development and operation of the proposed Subfranchised Restaurant, including, without limitation, investment and financing plans for the proposed Subfranchised Restaurant, as we may reasonably require.

**3.4.3 Our acceptance of a site does not constitute a representation or warranty of any kind, express or implied, of the site's suitability for a Wahlburgers Restaurant or any other purpose. Our acceptance indicates only that we believe that the site meets our then-current site selection criteria. Applying criteria that have appeared effective with other sites might not accurately reflect the potential for all sites, and demographic and/or other factors included in or excluded from our criteria could change, altering the potential of a site. The uncertainty and instability of these criteria are beyond our control, and we are not responsible if a site we accept fails to meet your expectations. Your submission of a proposed site for our acceptance is based on your own independent investigation of the site's suitability for a Subfranchised Restaurant.**

**3.4.4** Upon our acceptance of a site in accordance with this Section 3, we will identify the Subfranchised Location on the cover page and in Exhibit A of this Agreement.

## **4 LEASE PROVISIONS**

**4.1 Required Lease Provisions.** You must obtain our consent to the proposed sublease, lease or purchase contract (collectively, "lease") for the Subfranchised Location prior to its execution. The lease must, in form and substance, be satisfactory to us and may not contain any covenants or other obligations that would prevent you from performing your obligations under this Agreement. In addition, the lease must contain the following provisions:

**4.1.1** The landlord agrees to provide us (at the same time as sent to you) a copy of any notices of default pertaining to the lease, and we will have the right, but not the obligation, to cure any default of yours under the lease within the time periods provided by the lease.

**4.1.2** The landlord agrees that, following the expiration or earlier termination of the lease or this Agreement, you will have the right to make those alterations and modifications (including removal and demolition of improvements installed by you if necessary) to the Subfranchised Location as may be necessary to clearly distinguish to the public the Subfranchised Location from a Wahlburgers Restaurant and also to make those specific additional changes as we reasonably may require for that purpose.

**4.1.3** You may assign the lease to us, our parent, affiliates or subsidiaries (without the landlord's consent) or to our designee (with the landlord's consent, which consent will not be unreasonably withheld) and without payment of any assignment fee or similar charge or increase in any rentals or other charges payable to the landlord.

Our consent to the lease does not constitute a warranty or representation of any kind, express or implied, as to its fairness or suitability or as to your ability to comply with its terms, and we do not assume any liability or responsibility to you or to any third parties due to such approval. You must deliver a copy of the fully signed lease to us within 7 days after its execution. You may not begin construction of the Subfranchised Restaurant until you have delivered a copy of the fully signed lease to us.

## **5 CONSTRUCTION OF SUBFRANCHISED RESTAURANT; OPENING DATE**

### **5.1 Restaurant Development.**

**5.1.1** You assume all cost, liability and expense for developing, constructing and equipping the Subfranchised Restaurant. We will provide you prototypical plans and specifications for a Wahlburgers Restaurant, which you must adapt, at your cost, to suit the shape and dimensions of the Subfranchised Location, and you must ensure that your proposed plans for the Subfranchised Restaurant ("Plans") comply with all applicable ordinances, building codes and permit requirements, lease requirements and restrictions and the Americans with Disabilities Act. You must use only registered architects, engineers and professional and licensed contractors, each of whom must be approved by us. You must submit the Plans to us and revise the Plans as we require. Once we consent to the Plans, you may not change them unless you again obtain our consent. You may not submit the Plans to your local government or tribal agency or begin site preparation or construction before we have notified you, in writing, that we have consented to the Plans. You may not commence construction until you have obtained all required permits and licenses. We have no obligation to visit the Subfranchised Location during the course of construction, but if we choose to do so, you must (and require your architect, engineer, contractors and subcontractors to) cooperate fully with us and our representatives.

**5.1.2** You acknowledge that you, and not we, will be constructing the Subfranchised Restaurant and that you will have the ability to keep track of the construction on a regular basis. We make no representation or warranty regarding the suitability of the prototypical plans and specifications that we may provide you, the construction of the Subfranchised Restaurant or compliance with those laws, ordinances and/or regulations that may be applicable to the Subfranchised Restaurant, the Plans and your construction of the Subfranchised Restaurant. If we provide you construction review or oversight services, we have the right to charge you a fee as we determine.

### **5.2 Opening Date.**

**5.2.1** You must open the Subfranchised Restaurant for business at the Subfranchised Location no later than 180 days after the last to occur of the Effective Date or the date we consented to the proposed site ("Opening Date"). By the Opening Date, you must: **(a)** obtain and maintain all required building, utility, sign, health, sanitation, liquor, business and other applicable permits and licenses; **(b)** construct all required improvements to the Subfranchised Location and decorate the exterior and interior of the Subfranchised Restaurant as required by the Plans to which we have consented; **(c)** purchase or lease and install all specified and required fixtures, equipment, furnishings and signs for the Subfranchised Restaurant from suppliers designated or consented to by us (which may include us or our affiliates); and **(d)** purchase an opening inventory for the Subfranchised Restaurant of only authorized products and other materials and supplies.

**5.2.2** You must notify us at least 60 days before the anticipated opening date and the date of issuance of the certificate of occupancy. Upon our request, you must submit a copy of the certificate of occupancy to us. We reserve the right to conduct a final inspection of the

Subfranchised Restaurant after receiving your notice to ensure that you have complied with this Agreement. You may not open for business without our prior written consent, which will not be granted unless you have satisfied the conditions in Section 5.3; however, our consent will not be unreasonably withheld. If you do not open the Subfranchised Restaurant for business by the Opening Date and we do not extend the deadline, we will have the right to terminate this Agreement under Section 19.1.2.

**5.3 Right to Open the Subfranchised Restaurant.** We will not authorize the opening of the Subfranchised Restaurant unless all of the following conditions have been met:

**5.3.1** You have provided us a fully-executed copy of your lease and you have obtained our consent to that lease.

**5.3.2** You are not in material default under this Agreement; you and your affiliates are not in material default of any other agreements with us; you and your affiliates are not in default beyond the applicable cure period under any equipment lease or financing instrument relating to the Subfranchised Restaurant; and you are not in material default beyond the applicable cure period with any vendor or supplier to the Subfranchised Restaurant.

**5.3.3** You and your 10% Owners are current on all obligations due to us and our affiliates.

**5.3.4** We are satisfied that the Subfranchised Restaurant was constructed substantially in accordance with the Plans accepted by us, this Agreement and applicable state, tribal and local codes and that you have hired and trained a staff as required by this Agreement and the System.

**5.3.5** You have obtained a certificate of occupancy and all other required building, utility, sign, health, safety, fire department, sanitation, business and liquor permits and licenses.

**5.3.6** You have certified to us, in writing, that all furnishings, fixtures, equipment, signage, computer terminals, artwork/wall graphics and related equipment, supplies and other items are in place and conform to our specifications.

**5.3.7** You (or your Operating Principal) and those of your employees designated by us have attended and successfully completed (as determined by us in our sole discretion) the ITP (as defined in Section 9.1.1).

**5.3.8** You have provided us with copies of all insurance policies required by Section 12.10 or other evidence of insurance coverage and payment of premiums as we may reasonably request.

**5.3.9** You have provided us a Grand Opening Plan (as defined in Section 8.1) at least 60 days prior to the opening of the Franchised Restaurant.

## **6 FEES**

**6.1 Initial Subfranchise Fee.** No later than the date you sign this Agreement, you must pay us an initial subfranchise fee in the amount of set forth in Exhibit A (“Initial Subfranchise Fee”). You acknowledge and agree that the Initial Subfranchise Fee is fully earned by us when paid and is not refundable.

## **6.2 Royalty Fee.**

**6.2.1** In addition to all other amounts that you will pay to us, you must pay to us a nonrefundable royalty fee ("Royalty") in an amount equal to 8% of your Fiscal Period Gross Sales (as defined below). As of the date of this Agreement, each Fiscal Period is a calendar week. We have the right, following written notice to you, to vary the time period that comprises each Fiscal Period. If, due to applicable law, you may not pay a Royalty on alcoholic beverage sales, you will pay us a Royalty on all Gross Sales (except alcoholic beverage sales) in the same dollar amount as would have been paid if alcoholic beverage sales were included.

**6.2.2** The term "Gross Sales" includes all revenue from the sale of all services and products (including, but not limited to, Branded Merchandise) and all other income of every kind and nature (including stored value gift cards and gift certificates when redeemed, on-premise sales, other sales made or sold, at, in, upon or from the Subfranchised Location, and any other type of sale) related to the Subfranchised Restaurant, whether for cash or credit and regardless of collection in the case of credit. Gross Sales also includes all ancillary charges or fees, including delivery fees and other service charges, that are paid to you by a customer or by a third-party delivery or catering service (e.g., Uber Eats, Postmates, Grubhub, exCater, or DoorDash) ("Third-Party Service") in connection with delivery or catering services related to the Subfranchised Restaurant (recognizing that though the Third-Party Service may pay you an amount equal to the purchase price charged to the customer less a commission, other fees, and any discounts, credits, or coupons applied to the order, such commission, fees, discounts, credits, and coupons will not be deducted from the Subfranchised Restaurant's Gross Sales). Gross Sales will not include: **(a)** any bona fide documented federal, state, tribal or municipal sales taxes collected by you from customers and paid by you to the appropriate taxing authority; **(b)** the sale of food, beverage or merchandise for which refunds have been made in good faith to customers; **(c)** the sale of equipment used in the operation of the Subfranchised Restaurant; **(d)** authorized customer promotional discounts; and **(e)** employee meal discounts.

**6.3 Brand Fund.** You must contribute to the Brand Fund 0.5% of your Fiscal Period Gross Sales ("Brand Fund Obligation").

**6.4 Sales Reports.** By 5:00 p.m. on the day after the end of each Fiscal Period, you must submit to us, in writing, by email, polling by computer or such other form or method as we may designate, the amount of Gross Sales of the Subfranchised Restaurant during the preceding Fiscal Period and any other data or information as we may require.

**6.5 Payment of Fees.** You must participate in our electronic funds transfer program, which authorizes us to use a pre-authorized bank draft system. You agree to sign and complete such documents as we may require from time to time to authorize and direct your bank or financial institution to pay and deposit directly to our account. Your Royalty and Brand Fund Obligation and other amounts owed under this Agreement, including any interest charges, must be received by us or credited to our account by pre-authorized bank debit before 5:00 p.m. on the 10th day after the end of each Fiscal Period or at a later point periodically specified by us ("Due Date"). You must furnish to us and your bank all authorizations necessary to effect payment by the methods we specify. We reserve the right to modify, at our option, the method by which you must pay the Royalty, Brand Fund Obligation and other amounts owed under this Agreement upon receipt of written notice from us. You may not, under any circumstances, set off, deduct or otherwise withhold any Royalties, Brand Fund Obligation, interest charges or any other monies payable under this Agreement on grounds of our alleged non-performance of any obligations. Following written notice from us, you also must make all payments to our affiliates through our electronic funds transfer program unless otherwise specified.

**6.6 Interest and Late Fee.** If any payments by you due to us are not received in full by the Due Date, in addition to paying the amount owed, you must pay to us interest on the amount owed from the Due Date until paid at the lesser of the maximum rate permitted for indebtedness of this nature in the jurisdiction in which the Subfranchised Restaurant is located or 18% per annum. In addition, a late fee of \$100 may be assessed at our discretion on all payments by you due to us and not received by us by the Due Date. Payment of a late fee and/or interest by you on past due obligations is in addition to all other remedies and rights available to us pursuant to this Agreement or under applicable law.

**6.7 Partial Payments.** No payment by you of a lesser amount than due will be treated as anything other than a partial payment on account, regardless of whether you include an endorsement, statement or accompanying letter to the effect that payment of the lesser amount constitutes full payment. We have sole discretion to apply any payments by you to any past due indebtedness and we have the right to accept payment from any other entity as payment by you without that entity being substituted for you.

**6.8 Collection Costs and Expenses.** You agree to pay us on demand any and all costs and expenses we incur in enforcing the terms of this Agreement, including costs and commissions due a collection agency, attorneys' fees (including attorneys' fees for in-house counsel employed by us), costs incurred in creating or replicating reports demonstrating Gross Sales of the Subfranchised Restaurant, court costs, expert witness fees, discovery costs and reasonable attorneys' fees and costs on appeal, together with interest charges on all of the foregoing.

## **7 COMMUNICATIONS, ACCOUNTING AND RECORDS**

**7.1 Recordkeeping.** You will keep complete and accurate books, records and accounts related to the Subfranchised Restaurant in the form and manner prescribed in the Manual. You must preserve these books and records in electronic form for at least 7 years from the date of preparation, or longer as required by government regulations, and make them available to us within 5 days after our written request.

**7.2 Computer System.** You must obtain and install, at your expense, the hardware, software, and network connections that we specify from time to time. We reserve the right to specify a vendor or supplier and, if acquired through us, charge you for such hardware, software, support, and other related services ourselves. You agree to: **(a)** maintain on the computer system only the financial and operating data specified in the Manual; **(b)** transmit data to us in the form and at the times required by the Manual; **(c)** give Wahlburgers and us unrestricted access to your computer system at all times (including user IDs and passwords, if necessary) to download and transfer data via modem or other connection as we determine; **(d)** maintain the computer system in good working order at your own expense; **(e)** replace or upgrade the computer system as we require (but not more than once every 24 months); **(f)** install high speed Internet and/or communications connections; **(g)** ensure that your employees are adequately trained in the use of the computer system and our related policies and procedures; **(h)** comply with the Payment Card Industry Data Security Standard ("PCI DSS") at all times; **(i)** engage any vendor we designate to ensure the security of your data and compliance with the PCI DSS; and **(j)** use any proprietary software or support service and other proprietary materials that we provide to you in connection with the operation of the Subfranchised Restaurant and, if we so require, execute a license agreement and pay to us a reasonable license fee for the use of such proprietary software. You may not install any software other than authorized upgrades or make any hardware modifications to the computer system without our express written consent. You acknowledge that computer designs and functions change periodically and that we may make substantial modifications to our computer specifications or to require installation of entirely different systems during the Term.

**7.3 Reports and Financial Statements.** You must, at your expense, submit to us, in the form prescribed by us, the following reports for the Subfranchised Restaurant: **(a)** a monthly profit and loss and balance sheet (both of which may be unaudited) within 20 days after the end of each calendar month; **(b)** a year to date quarterly profit and loss statement and balance sheet (both of which may be unaudited) within 30 days after the end of each fiscal quarter (as defined by us) during each fiscal year (as defined by us); **(c)** a fiscal year profit and loss statement and balance sheet (both of which may be unaudited) within 60 days after the end of each fiscal year (as defined by us). We will have the right, to be exercised in our sole discretion, to require that you provide us profit and loss statements and balance sheets, or other reports and information relating to the Subfranchised Restaurant at other times that we request. We also reserve the right, in our reasonable discretion, to require that you, at your expense, submit audited financial statements prepared by a certified public accounting firm acceptable to us for any fiscal years. You or your treasurer or chief financial officer must sign each statement and balance sheet, attesting that it is correct and complete and uses accounting principles applied on a consistent basis that accurately and completely reflect your financial condition.

**7.4 Audit Rights.** During and after the Term, we have the right to inspect, copy and audit your books and records, your federal, state and local tax returns, and any other forms, reports, information or data related to the Subfranchised Restaurant that we may reasonably designate. We will provide you 10 days' written notice before conducting an in-person financial examination or audit. We (or our designees) may conduct the examination or audit at our offices or those of a third party, in which case we may require you to send us your records. If the examination or audit reveals an understatement of Gross Sales, you must immediately pay to us any Royalty, Brand Fund Obligation or other amounts owed, plus interest (and a late fee at our discretion) as provided in Section 6.6. If an inspection or audit is made necessary by your failure to provide reports or supporting records as required under this Agreement, or to provide such reports or records on a timely basis, or if the audit or inspection reveals an understatement of Gross Sales of greater than 2% for the audit period, you must reimburse us for the full cost of the inspection or audit, including travel, lodging, meals and wages of our representatives and the reasonable charges of any attorneys or independent accountants we use for the inspection or audit and, upon our request, you must thereafter provide us with periodic audited financial statements. The remedies set forth in this Section are in addition to any other remedies and rights available to us under this Agreement or applicable law.

**7.5 Ownership of Data.** You agree that all data that you collect from customers or others in connection with the Subfranchised Restaurant, including customer lists, is deemed to be owned by us. You have the right to use the customer data while this Agreement or a Successor Subfranchise Agreement is in effect, but only in accordance with any privacy policy that we may establish from time to time.

**7.6 Data Protection.** You agree and undertake that you will:

**7.6.1** Comply with the provisions of all applicable laws, regulations and best practices relating to privacy and data protection ("Data Protection Laws") in the use and processing of any personal data, including customer contact information (such as name, telephone numbers, e-mail and postal addresses), and transactional information collected by you from customers and prospective customers of the Subfranchised Restaurant ("Customer Personal Data").

**7.6.2** Refrain from otherwise modifying, amending or altering the contents of the Customer Personal Data or disclosing or permitting the disclosure of any of the Customer Personal Data to any third party unless required by applicable law or specifically authorized in writing by us.

**7.6.3** Implement and maintain throughout the Term appropriate technical and organizational measures to protect Customer Personal Data against unauthorized or unlawful



processing, access or use and/or accidental loss, destruction, damage, alteration or disclosure ("Data Breach").

**7.6.4** Promptly notify us in writing if you suspect there has been a Data Breach, in which event you will do all such acts and things (at your own expense) as we may require in order to remedy or mitigate the effects of the Data Breach.

**7.6.5** Promptly notify us of any complaint, communication or request relating to the applicable Data Protection Laws.

## **8 BRAND FUND AND MARKETING**

### **8.1 Brand Fund.**

**8.1.1** Wahlburgers has established a brand fund ("Brand Fund") to which your Brand Fund Obligation will be contributed. Wahlburgers may use Brand Fund contributions and any earnings of the Brand Fund for any costs associated with advertising, marketing, public relations, promotional programs and materials (which may be national or regional in scope) and/or any other activities that Wahlburgers believes would benefit the System, including the following: advertising campaigns in various media; point-of-purchase materials; review of locally-produced ads; free standing inserts; brochures; purchasing and/or developing promotional materials; market research, including secret shoppers; sponsorships; design and maintenance of a web site; celebrity endorsements; trade shows; association dues; search engine optimization costs; establishment of a third party facility for customizing local advertising; accounting costs; and holding an annual franchise convention. Wahlburgers will not use the Brand Fund for any activity whose sole purpose is the marketing of franchises; however, you acknowledge that the Wahlburgers web site, public relations activities, community involvement activities and other activities that may be supported by the Brand Fund may contain information about franchising opportunities. Wahlburgers has the right to direct all programs supported by the Brand Fund, with final discretion over creative concepts, the materials and media used in the programs and their placement. Neither we nor Wahlburgers guarantee that you will benefit from the Brand Fund in proportion to your contributions to the Brand Fund. You agree to participate in all advertising, marketing, promotions, research, public relations and other programs instituted by the Brand Fund.

**8.1.2** Wahlburgers Restaurants operated by our affiliates or Wahlburgers and its affiliates will contribute to the Brand Fund on the same basis as comparable franchisees and subfranchisees. If Wahlburgers reduces the Brand Fund contribution for franchisees, we and/or our affiliates and/or Wahlburgers and its affiliates will have the right to reduce the required contribution for applicable Wahlburgers Restaurants operated by us and/or our affiliates and/or Wahlburgers and its affiliates by the same amount.

**8.1.3** Wahlburgers will not use any contributions to the Brand Fund to defray any of its general operating expenses, except for reasonable administrative costs and overhead that it incurs in activities reasonably related to the administration of the Brand Fund or the management of Brand Fund-supported programs (including salaries of its personnel who devote time to Brand Fund activities). Wahlburgers will separately account for the Brand Fund, but Wahlburgers does not need to segregate Brand Fund monies from its other monies.

**8.1.4** Any point-of-sale materials produced with Brand Fund monies will be made available to you at a reasonable cost, and the proceeds of such sales will be credited to the Brand Fund. Wahlburgers is not required to have an independent audit of the Brand Fund completed. Wahlburgers may spend in any fiscal year an amount greater or less than the aggregate contribution of all Wahlburgers Restaurants to the Brand Fund during that year or cause the Brand Fund to invest

any surplus for its future use or distribute any surplus to then-current franchisees and subfranchisees who contributed to the Brand Fund in accordance with their contributions and restaurants operated by our affiliates or Wahlburgers and its affiliates. (The Brand Fund will reimburse Wahlburgers for any monies it advances.) Wahlburgers will make available an unaudited statement of contributions and expenditures for the Brand Fund no sooner than 90 days after the close of its fiscal year to franchisees who make a written request for a copy.

**8.2 Local Marketing.** You will, at all times throughout the Term, use your best efforts to advance the reputation of Wahlburgers Restaurants and the products sold under the Marks and to develop awareness of Wahlburgers Restaurants among consumers in order to increase the goodwill of the Marks and the System. You agree to conduct all marketing in a dignified manner and in accordance with the standards and requirements we specify periodically. You agree that all advertising and promotional materials must bear the Proprietary Marks in the form, color, location and manner that we prescribe. Wahlburgers will have the final decision on all creative development of advertising and promotional messages. Prior to use, you must submit all advertising materials to us for Wahlburgers' and our approval, which approval will not be unreasonably withheld. You agree that Wahlburgers owns all advertising and promotional materials developed by you, and you will take all actions we and/or Wahlburgers specify to vest ownership in Wahlburgers.

**8.3 Point of Sale Materials.** If Wahlburgers or we develop any point-of-sale materials (other than through the use of Brand Fund monies), Wahlburgers or we, as applicable, may offer to sell those to you.

**8.4 Social Media.** You agree not to promote, offer or sell any products or services relating to the Subfranchised Restaurant through, or use any of the Proprietary Marks in, any form of electronic communications, including Internet web sites, social networking sites, applications or other future technological avenues that enable users to create and share content or to participate in social networking (collectively, "Social Media"), without Wahlburgers' and/or our prior written consent, which may be withheld for any or no reason. Wahlburgers and/or we may establish a Social Media policy, and you must comply with any such Social Media policy, as modified periodically, and any additional policies that Wahlburgers and/or we issue. Any copyright in your sites or pages on any Social Media are owned by Wahlburgers, and you must sign any documents that Wahlburgers or we reasonably deem necessary to affirm Wahlburgers' ownership of the copyright. You acknowledge that any use of Social Media by you with respect to the Subfranchised Restaurant constitutes advertising and promotion subject to this Section 8, and you agree to comply with any additional policies and standards we and/or Wahlburgers issue from time to time with respect to Social Media.

**8.5 Public and Media Relations.** You agree that you will not issue any press or other media releases or other communications without our and Wahlburgers' prior written consent. As a subfranchisee of the System, you agree to only participate in internal and external communications activities that create goodwill, enhance Wahlburgers' public image and build the Wahlburgers brand.

**8.6 Grand Opening Plan.** You must conduct initial marketing for the Franchised Restaurant in accordance with a grand opening plan that you have prepared and to which we have consented ("Grand Opening Plan"). Under the Grand Opening Plan, you will be required to spend a minimum of \$15,000 on grand opening activities over the period beginning one month prior to opening and continuing through the second month after opening. Within 10 days after the end of the period in which you conduct this initial marketing, you must submit appropriate documentation to verify compliance with the grand opening expenditure obligation. As part of your Grand Opening Plan spending, provided you use Wahlburgers' prototypes, we will provide website, menu and other design services (as we deem appropriate) for which you will pay us \$5,000 of the amount you are

required to spend. The \$5,000 that you may pay to us in connection with the Grand Opening Plan, if applicable, is nonrefundable and will not be credited against any other fees paid to us.

## **9 TRAINING**

### **9.1 Initial Training Program.**

**9.1.1** Before the Subfranchised Restaurant opens for business, your Operating Principal, the Subfranchised Restaurant's general manager, and at least 3 other managerial personnel whom we designate must attend, and become certified in, the Initial Training Program ("ITP"). We will provide the ITP at a Wahlburgers Restaurant and/or at designated training facilities operated by our affiliates or Wahlburgers or its affiliates. We will not authorize the Subfranchised Restaurant to open until those employees whom we designate have attended and successfully completed (as determined by us in our sole discretion) the ITP.

**9.1.2** Upon our request, as a prerequisite to the ITP, attendees must successfully complete (as determined by us in our sole discretion), at your cost, a ServSafe food safety training and certification program administered by the National Restaurant Association Educational Foundation.

**9.1.3** You must pay all salaries, benefits, travel, living and other expenses incurred by you and your employees while attending the ITP. We have the right to dismiss from the ITP any person whom we believe will not perform acceptably in the position for which he/she has been hired, and you must provide a suitable replacement within 30 days of dismissal. Additional employees who desire to attend the ITP may do so, subject to space availability and your payment of a training fee as determined by us.

**9.1.4** If you (or your Operating Principal) fail to complete the ITP to our satisfaction, we may terminate this Agreement pursuant to Section 19.1.1 or permit you (or your Operating Principal) to repeat the ITP at the next available scheduled training session. We may charge a fee as determined by us if you (or your Operating Principal) is required to repeat the ITP.

### **9.2 Ongoing Training; Training of Replacement Personnel.**

**9.2.1** We may require you (or your Operating Principal), your managerial personnel, training personnel and/or other previously trained and experienced staff members to attend and complete satisfactorily various training courses that we periodically choose to provide at the times and locations that we designate, as well as periodic conventions, regional meetings, and conferences that we specify. We may charge a fee as determined by us for these courses. You will be required to pay all salaries, benefits, travel, living and other expenses incurred by you and your employees during all training courses and programs.

**9.2.2** We require that, subject to space availability, your replacement managerial and training personnel satisfactorily complete our training programs within the time period required by the Manual after being designated as managerial or training personnel. We may charge a fee for these training programs as determined by us.

**9.2.3** You understand and agree that any specific ongoing training or advice we provide does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which we may discontinue and modify from time to time.

**9.3 Training Materials and Methods.** All training materials that we provide to you remain our property. We have the right to provide training programs in person, on DVD, via the Internet and/or an Intranet, in printed or other electronic format or by other means, as we determine.

## **10 ADDITIONAL SERVICES OFFERED BY US**

**10.1 Pre-Opening Assistance.** We may provide consultation and advice to you, as we deem appropriate, with regard to construction or renovation and operation of the Subfranchised Restaurant, building layout, furnishings, fixtures and equipment plans and specifications, employee selection and training, purchasing and inventory control and those other matters that we deem appropriate.

**10.2 Opening Assistance.** If we elect to provide assistance in opening the Subfranchised Restaurant and in training your employees, we have the right to charge you a fee for the opening training support team as determined by us, and you must pay all travel, living and other expenses incurred by our training personnel and representatives while providing this assistance.

**10.3 Post-Opening Assistance.** We periodically, as we deem appropriate, will advise and consult with you regarding the operation of the Subfranchised Restaurant. We, as we believe appropriate, will make available to you information regarding the System and new developments, techniques and improvements in the areas of restaurant design, operations, management, menu-development, sales and customer service, marketing and other areas. We may provide these services through visits by our representatives to the Subfranchised Restaurant or your offices (although we are not obligated to make any visits), the distribution of printed or filmed material, via the Internet or an Intranet or other electronic format, meetings or seminars, training programs, telephone communications or other forms of communications.

## **11 MANUAL**

**11.1** We will furnish you with one copy of, or provide electronic access to, the Manual, on loan, for the Term. (As used in this Agreement, the term "Manual" also includes all written and electronic correspondence from us regarding the System, other publications, materials, drawings, memoranda, videotapes, CDs, DVDs, audio tapes, and electronic media that we from time to time may provide to you.) The Manual contains detailed standards, specifications, instructions, forms, reports and procedures for management and operation of the Subfranchised Restaurant. All or part of the Manual may be furnished to you in electronic form or online (including via an Intranet) and we or Wahlburgers may establish terms of use for access to any restricted portion of such website.

**11.2** You acknowledge that Wahlburgers owns the copyright in the Manual and that all copies of the Manual in your possession remain Wahlburgers' property. You agree to treat the Manual, training materials and any other manuals or materials created or authorized by us or Wahlburgers for use with the System as secret and confidential. You agree not to copy, duplicate, record or otherwise reproduce the Manual or other materials provided by us or Wahlburgers, in whole or in part. In addition, you agree not to make any confidential information or materials supplied by us or Wahlburgers available to any unauthorized person without our and Wahlburgers' prior written consent.

**11.3** Wahlburgers and we periodically may amend the Manual and Wahlburgers and we reserve the right to replace the entire Manual with an updated version at Wahlburgers' and our sole discretion. You agree to keep your copy of the Manual up-to-date to acquire all equipment and related services to do so and to comply with each new or changed standard promptly upon receipt of notice from us or Wahlburgers. If a dispute relating to the contents of the Manual develops, the

copy of the Manual maintained at our and/or Wahlburgers' principal office controls. You agree to operate the Subfranchised Restaurant at all times in strict conformity with the Manual.

## **12 OPERATIONS**

**12.1 Compliance with Standards.** In recognition of the mutual benefits that come from maintaining the System's reputation for quality, you agree to comply with all mandatory specifications and procedures set forth periodically in the Manual or otherwise in writing. You acknowledge that the appearance, Trade Dress, services and operation of the Subfranchised Restaurant are important to us, our affiliates, Wahlburgers, Wahlburgers' affiliates and all Wahlburgers franchisees and subfranchisees.

**12.2 System Modifications.** Wahlburgers may periodically change the System, including modifications to the Manual, the menu, the required equipment, the signage, the Proprietary Marks and the Trade Dress. You must accept, use or display in the Subfranchised Restaurant any such System changes and make such expenditures as the System changes require. Wahlburgers also has the right to vary System standards in particular instances as Wahlburgers may require.

**12.3 Authorized Products and Services.** You may offer for sale and sell in the Subfranchised Restaurant only the products (including, but not limited to, Branded Merchandise), services and brands that are designated in the Manual or otherwise in writing. You must offer all items that are designated as mandatory for the service format utilized in your Subfranchised Restaurant. Some items may also be designated as optional. The mandatory and optional menu items, recipes, ingredients and other products and services may be changed in Wahlburgers' sole discretion. You may be required to sell certain brands and be prohibited from selling other brands. You may sell products only in the varieties, weights, sizes, forms and packages that are designated. You must use only authorized ingredients and follow the designated recipes in the preparation of menu items. You may not use the Subfranchised Location for the sale or display of items not authorized by us. Within 15 days after we provide written notice to you, you must begin selling any newly authorized menu items (or using any newly authorized ingredients) or Branded Merchandise and cease selling any menu item or Branded Merchandise that is no longer authorized (or using any ingredient that is no longer authorized); however, if the discontinued menu item, ingredient or Branded Merchandise could pose a hazard to the public or prove detrimental to the system, you must cease selling or using that item, ingredient or Branded Merchandise immediately. All food and beverages authorized for sale at the Subfranchised Restaurant must be offered for sale under the name that we specify. The design of the menu used in the Subfranchised Restaurant must conform with the Wahlburgers' specifications and be approved by us in writing. We periodically will provide you suggested retail prices for the products and services offered at the Subfranchised Restaurant and, to the extent permitted by applicable law, we may require that you adhere to our suggested prices, including maximum prices. If you have a suggestion for a new menu item or ingredient (or for a change to an authorized menu item or ingredient) or new Branded Merchandise or you wish to participate in a test market program, you must notify us before you implement any such change or commence any such program. You may not add or modify any menu item or participate in a test market program without first obtaining our prior written approval.

**12.4 Your Development of System Improvements.** If you develop any new concepts, processes or improvements (including new menu items or ingredients) relating to the System or any other development or material relating to the System, you must promptly notify us and provide us with all information regarding the new concept, process, improvement, development or material, all of which will become Wahlburgers' property and may be incorporated into the System without any payment to you. You, at your expense, promptly must take all actions deemed necessary or desirable by us and/or Wahlburgers to vest in Wahlburgers all ownership of such concepts, processes or improvements.

## **12.5 Sourcing of Products and Services.**

**12.5.1** We have the right to require that all food and non-food products (including, but not limited to, Branded Merchandise), supplies, equipment and services that you purchase for use, sale or resale in the Subfranchised Restaurant: **(a)** meet specifications that Wahlburgers establishes from time to time; **(b)** be purchased only from suppliers to whom we have consented (which may include Wahlburgers and/or its affiliates); and/or **(c)** be purchased only from a single source or from a limited number of designated sources (which may include Wahlburgers and/or its affiliates). To the extent that Wahlburgers establishes specifications, requires its consent to suppliers or designates specific suppliers for particular items, we will make those requirements available to you in the Manual or otherwise in writing. Wahlburgers has developed and may continue to develop certain proprietary food products that will be prepared by or for Wahlburgers according to Wahlburgers' proprietary special recipes and formulas, and you agree to purchase those food products developed by Wahlburgers pursuant to a special recipe or formula only from Wahlburgers, Wahlburgers' affiliates or a third party designated and licensed by Wahlburgers to prepare and sell such products. Wahlburgers may create purchasing restrictions to control the quality and selection, and ensure the consistency, of menu items, ingredients, Branded Merchandise and other merchandise; to consolidate System purchases to reduce costs or ensure availability of products; or for other valid business reasons.

**12.5.2** You may not engage in "grey market" activities, in which you take advantage of any group purchasing arrangements for Wahlburgers Restaurants to purchase products that you then resell to purchasers outside of the System or use in a business outside of the System.

**12.5.3** Wahlburgers and its affiliates may earn income on sales of products (including, but not limited to, Branded Merchandise), ingredients and/or supplies to you. If Wahlburgers or its affiliates receive any rebates, commissions or other payments from third-party suppliers based on your purchases from them, Wahlburgers may retain the rebates, commissions or other payments. You agree that Wahlburgers is entitled to such income and consideration.

**12.5.4** Branded Merchandise must be purchased from Wahlburgers or a source designated by Wahlburgers. If you would like to purchase other products or services from a supplier who we have not consented to, you must submit a written request for consent. We, Wahlburgers and our and its designees have the right to inspect the proposed supplier's facilities and test samples of the proposed products. You agree to pay a reasonable fee, not to exceed the actual cost of the inspection and testing the proposed product or evaluating the proposed supplier, including personnel and travel costs, whether or not the product or supplier is accepted. We and Wahlburgers have the right to grant, deny or revoke consent to products, services and suppliers in our or its sole discretion. We will notify you of the decision as soon as practicable following the evaluation. We, Wahlburgers and our or its designees reserve the right to reinspect the facilities and products of any accepted supplier and revoke acceptance upon the supplier's failure to meet any of Wahlburgers' then-current criteria.

**12.6 Upkeep of the Subfranchised Restaurant.** You must maintain the interior and exterior of the Subfranchised Restaurant and all fixtures, furnishings, signs and equipment in first-class condition and in the highest degree of cleanliness, orderliness, sanitation and repair in accordance with the requirements of the System and the Manual or lease for the Subfranchised Location. Expenditures in connection with signage (including point of sale, exterior and interior signage) and equipment (including equipment needed to prepare new menu items) are considered a maintenance expenditure (whether for repair or replacement) under this Section rather than a remodeling expenditure under Section 12.7. There is no limitation on the amount that you may be required to spend for repairs and maintenance. You may not make any alteration, addition,

replacement or improvement in, or to, the interior or exterior of the Subfranchised Restaurant without our prior written consent.

**12.7 Remodeling.** In addition to ordinary maintenance and upkeep, we have the right to require you to undertake structural changes, remodeling and renovations and other modifications to the Subfranchised Restaurant to conform to the design, Trade Dress, color schemes and presentation of the Proprietary Marks that we are then requiring of new Wahlburgers Restaurants. You must undertake such a remodel of the Subfranchised Restaurant no later than 5 years after you last remodeled or 5 years after the date the Subfranchised Restaurant first opened for business if you have not yet remodeled.

## **12.8 Maximum Operation of the Subfranchised Restaurant.**

**12.8.1** During the Term, you must use the Subfranchised Location solely for the operation of a Wahlburgers Restaurant and maintain sufficient inventories, adequately staff each shift with qualified employees and continuously operate the Subfranchised Restaurant at its maximum capacity and efficiency for the minimum number of days and hours set forth in the Manual or as we otherwise specify in writing (subject to the requirements of local laws and licensing requirements).

**12.8.2** You must immediately resolve any customer complaints regarding the quality of food or beverages, service and/or cleanliness of the Subfranchised Restaurant or any similar complaints. When any customer complaints cannot be immediately resolved, you must use your best efforts to resolve the customer complaints as soon as practical and, whenever feasible, give the customer the benefit of the doubt. If we, in our sole discretion, determine that our intervention is necessary or desirable to protect the System or the goodwill associated with the System, or if we, in our sole discretion, believe that you have failed adequately to address or resolve any customer complaints, we may, without your consent, resolve any complaints and charge you an amount sufficient to cover our reasonable costs and expenses in resolving the customer complaints, which amount you must pay to us immediately on demand.

## **12.9 Personnel.**

**12.9.1** The Subfranchised Restaurant must at all times be under the personal, on-premises supervision of the Operating Principal, a general manager or an assistant manager. At all times that the Subfranchised Restaurant is open for business, at least one person must be on site who has been trained in ServSafe as required by Section 9.1.2 and completed any other locally-required safety or health training.

**12.9.2** The Subfranchised Restaurant must employ 1 general manager and at least 3 assistant managers each of whom have met our training requirements for their position. Prior to participation in the ITP, you must provide us that information we request regarding your initial (and any subsequent) general manager, who must be accepted by us before he can assume that position and who must devote full-time and best efforts to supervising the operation of the Subfranchised Restaurant. You must also provide to us, prior to participation in the ITP, that information we request regarding your initial (and all subsequent) assistant managers, each of whom must be accepted by us before he can assume that position.

You must appoint an individual to serve as your "Operating Principal". The Operating Principal: **(a)** must be accepted by us, **(b)** must live within a reasonable driving distance of the Subfranchised Restaurant; and **(c)** must devote full-time and best efforts to supervising the operation of the Subfranchised Restaurant. The Operating Principal must remain active in overseeing the operations of the Subfranchised Restaurant, including without limitation, regular, periodic visits to

the Subfranchised Restaurant and sufficient communications with us to ensure that the Subfranchised Restaurant's operations comply with the operating standards as promulgated by us from time to time, in the Manual or otherwise in written or oral communications. The Operating Principal as of the Effective Date is identified in Exhibit A. The Operating Principal must complete the ITP, have authority over all business decisions related to the Subfranchised Restaurant and have the authority to bind you in your dealings with us. We will provide all services to, and communicate primarily with, the Operating Principal.

You must obtain our prior written consent before you change the Operating Principal. If the Operating Principal no longer qualifies as such, you must designate another qualified person to act as the Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified. We will advise you whether we have consented to the new Operating Principal within a reasonable time after receipt of your notice. If we do not consent, you will have 15 days from your receipt of our decision to designate another person to act as Operating Principal who satisfies the preceding qualifications.

**12.9.3** You have sole responsibility for all employment decisions and functions related to the Subfranchised Restaurant, including hiring, firing, compensation, benefits, work hours, work rules, training, recordkeeping, supervision and discipline of employees. You must enforce all dress and appearance standards for employees that we may establish. We may, from time to time, based upon our experience, provide you guidance in human resource matters such as hiring and scheduling. This guidance is provided as a resource only, and you will be entirely free to not adopt our suggestions, in your sole discretion. You must maintain a competent, conscientious, trained staff with enough members to operate the Subfranchised Restaurant in compliance with our standards. You must verify that your employees meet all federal, state, tribal and local requirements for certification and meet all prerequisites for employment in the United States.

**12.10 Insurance.** You must maintain in full force and effect that insurance which you determine to be necessary, which must include at least the types of insurance and the minimum policy limits specified in the Manual or otherwise in writing. Each insurance policy must be written by an insurance company that maintains an "A+" or better rating by the latest edition of Best's Insurance Rating Service (or another rating service designated by us). The insurance policy or policies must be in effect when you take possession of the Subfranchised Location. The insurance policy or policies must protect you, us and our respective past, present and future officers, directors, managers, members, owners, employees, representatives, consultants, attorneys and agents. Wahlburgers, we and any entity with an insurable interest designated by Wahlburgers or us must be named as additional insureds in the policy or policies (statutory policies excepted). Each policy must include a waiver of subrogation in Wahlburgers' and our favor. We may require additional types of coverage or increase the required minimum amount of coverage upon reasonable notice. Your obligation to obtain coverage is not limited in any way by insurance that we maintain. You must provide us with certificates of insurance evidencing the required coverage and proof of payment therefor no later than the date you sign this Agreement. The evidence of insurance must include a statement by the insurer that the policy or policies will not be canceled or materially altered without at least 30 days' prior written notice to us. If you fail to obtain and maintain insurance coverage as required by this Agreement, we have the right, but not the obligation, to obtain the required insurance on your behalf and to charge you for the cost of the insurance, plus a reasonable fee for our services in procuring the insurance.

**12.11 Inspections.** We, Wahlburgers and our or its designees have the right, but not the obligation, at any time during normal business hours to: **(a)** enter on the premises of the Subfranchised Restaurant; **(b)** inspect the Subfranchised Restaurant; **(c)** observe, photograph and videotape the operations of the Subfranchised Restaurant for such consecutive or intermittent periods as deemed necessary (subject to applicable privacy laws); **(d)** remove samples of any food



or beverage product, material or other products from the Subfranchised Restaurant for testing and analysis (without paying for samples); **(e)** interview your employees, suppliers and customers; **(f)** remove any marketing materials or samples of marketing materials (without paying for such materials or samples); and **(g)** review your business records, including those maintained electronically or off-premises. These actions (collectively, "QA Audits") may be initiated with or without prior notice to you, except that prior notice is required for a financial examination or audit as provided in Section 7.4. You must cooperate by giving our representatives unrestricted access and rendering such assistance as they may reasonably request. If we notify you of any deficiencies after a QA Audit, you must promptly take steps to correct them. If you fail to obtain a passing score on any QA Audit, you will reimburse us for all costs and expenses incurred in connection with the next QA Audit.

You agree to participate in programs initiated to verify customer satisfaction and/or your compliance with all operational and other aspects of the System, including (but not limited to) an 800 number, secret shoppers or other programs as we may require. We will share the results of these programs, as they pertain to the Subfranchised Restaurant, with you. You will reimburse us for all costs related to the Subfranchised Restaurant associated with any and all of these programs.

## **12.12 Taxes.**

**12.12.1** You must promptly pay when due all taxes levied or assessed (including, without limitation, unemployment and sales taxes) and all accounts and other indebtedness of every kind incurred by you in the conduct of the Subfranchised Restaurant under this Agreement.

**12.12.2** In the event of any bona fide dispute as to your liability for taxes assessed or other indebtedness, you may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law; however, in no event will you permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the Subfranchised Restaurant and/or the Subfranchised Location (or any improvements thereon).

**12.13 Compliance with Laws and Good Business Practices.** You must secure and maintain in force in your name all required licenses, permits and certificates relating to the operation of the Subfranchised Restaurant, including, but not limited to, liquor licenses. You must operate the Subfranchised Restaurant in full compliance with all applicable laws, ordinances and regulations, including those governing or relating to the handling of food products, immigration and discrimination, occupational hazards and health insurance, employment laws, including workers' compensation insurance, unemployment insurance and the withholding and payment of federal and state income taxes, social security taxes and sales taxes. You must notify us, in writing, within 5 days after: **(a)** the commencement of any proceeding or the issuance of any decree of any court or government agency that may adversely affect the operation or financial condition of you or the Subfranchised Restaurant; or **(b)** receiving any notice of violation of any law, ordinance or regulation relating to health or sanitation at the Subfranchised Restaurant. In your dealings with customers, suppliers and the public, you will adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct and you will refrain from any business or advertising practice that may harm the goodwill associated with the Proprietary Marks or the System.

**12.14 Adoption of Quality and Assurance Programs.** You must adopt, at your expense, those customer quality and assurance programs that we specify, including, but not limited to, participation in programs associated with guest satisfaction.

**12.15 Non-Cash Payment Systems.** You must accept debit cards, credit cards, stored value gift cards or other non-cash payment systems specified by us to enable customers to purchase

authorized products and you must obtain all necessary hardware and/or software used in connection with these non-cash payment systems. You will reimburse us for all costs associated with such non-cash payment systems as they pertain to the Subfranchised Restaurant.

**12.16 Amusement Equipment.** You will not permit at the Subfranchised Restaurant any juke box, vending or game machine, gum machine, game, ride, or lottery device, coin or token operated machine, or any other music, film or video device not authorized by us; provided, however this provision will not restrict or prohibit gaming machines or devices within the Subfranchised Restaurant where otherwise permitted by applicable law.

## **13 PROPRIETARY MARKS AND TRADE DRESS**

**13.1 Limited Right to Use.** Your right to use the Proprietary Marks and Trade Dress applies only to the Subfranchised Restaurant operated at the Subfranchised Location as expressly provided in this Agreement. We will provide you guidelines for the use of the Proprietary Marks and Trade Dress. Both during and after the Term, you agree not to take any action detrimental to the rights of Wahlburgers and its affiliates in the Proprietary Marks and Trade Dress.

**13.2 Ownership Interests.** You acknowledge and agree that nothing in this Agreement gives you any right, title or interest in the Proprietary Marks (except the right to use the Proprietary Marks in accordance with the terms of this Agreement), that the Proprietary Marks are and will remain the sole property of Wahlburgers and Wahlburgers' affiliates, that you will not directly or indirectly contest the validity or ownership of the Proprietary Marks, the right of Wahlburgers to license the Proprietary Marks or our right to subfranchise the Proprietary Marks and that all uses by you of the Proprietary Marks and any goodwill arising therefrom will inure exclusively to the benefit of Wahlburgers and Wahlburgers' affiliates. Any unauthorized use of the Proprietary Marks by you or attempt by you, directly or indirectly, to register the Proprietary Marks in any jurisdiction will constitute a breach of this Agreement and an infringement of the rights of Wahlburgers and Wahlburgers' affiliates in and to the Proprietary Marks.

**13.3 Specific Restrictions on Use.** You agree: **(a)** to use only the Proprietary Marks and Trade Dress that we or Wahlburgers designate, and only in the manner we or Wahlburgers authorize; **(b)** to use the Proprietary Marks and Trade Dress only for the operation of the Subfranchised Restaurant at the Subfranchised Location and in authorized advertising for the Subfranchised Restaurant; **(c)** to operate and advertise the Subfranchised Restaurant only under the name "Wahlburgers" without prefix or suffix; **(d)** to display the Proprietary Marks in the Subfranchised Restaurant, at the Subfranchised Location, and on brochures and other printed materials, employee uniforms and vehicles only in the manner that we or Wahlburgers authorize; **(e)** not to use the Proprietary Marks or any names confusingly similar to the Proprietary Marks as part of your entity or legal name; **(f)** to permit our and/or Wahlburgers' representatives to inspect your operations to verify that you are properly using the Proprietary Marks and Trade Dress; **(g)** to use the Proprietary Marks to promote and to offer for sale only the products and services that have been authorized, and not use any of the Proprietary Marks or Trade Dress in association with any other products, materials or services; **(h)** not to use or permit the use of the Proprietary Marks or any names confusingly similar to the Proprietary Marks as part of any Internet domain name or e-mail address or in the operation of any Internet web site without our or Wahlburgers prior written consent; **(i)** not to use the Proprietary Marks to incur any obligation or indebtedness on our or Wahlburgers' behalf; and **(j)** to ensure that the Proprietary Marks bear the "®", "™", or "SM" symbol, as we or Wahlburgers prescribe from time to time.

**13.4 Changes to the Proprietary Marks.** Wahlburgers has the absolute right to change, discontinue, or substitute for any of the Proprietary Marks and to adopt new Proprietary Marks for use with the System without any liability for any impact to the System. You agree to implement any

such change at your own expense, regardless of the reason for the change, within the time that we or Wahlburgers' reasonably specify.

**13.5 Third-Party Challenges.** You agree to notify us promptly of any unauthorized use of the Proprietary Marks or Trade Dress that you suspect or of which you have knowledge. You also agree to inform us promptly of any challenge by any person or entity to the validity of, or Wahlburgers' or Wahlburgers' affiliates' ownership of, or of Wahlburgers, Wahlburgers' affiliates or our right to license others to use, any of the Proprietary Marks or Trade Dress. You acknowledge and agree that Wahlburgers and we have the right, but not the obligation, to initiate, direct and control any litigation or administrative proceeding relating to the Proprietary Marks or Trade Dress, including, but not limited to, any settlement. You agree to sign all documents and render any other assistance Wahlburgers and/or we, as applicable, may deem necessary to the defense or prosecution of any such proceeding.

## **14 YOUR ORGANIZATION**

**14.1 Governing Documents.** Your governing documents must provide that no Transfer (as defined in Section 16.1) of an ownership interest may be made except in accordance with Section 16. Any stock or other ownership certificates that you issue must bear a conspicuous printed legend to that effect.

**14.2 Original Owners.** You represent that you have furnished us with a list of all holders of direct or indirect equity interests in you and their respective percentage interests, as well as copies of your governing documents (and any amendments thereto) and any other corporate documents, books or records that we may request, and that all such information is current as of the date on which you sign this Agreement. Your direct and indirect owners and their respective equity interests as of the Effective Date are identified in Exhibit A. You must promptly update this information as changes occur.

**14.3 Guarantees.** All holders of direct or indirect equity interests in you of 10% or more ("10% Owners"), if such holders exist and are not a tribal sovereign nation or sovereign affiliate, must jointly and severally guarantee your payment and performance under this Agreement and must bind themselves to the terms of this Agreement pursuant to the Guarantee and Assumption of Subfranchisee's Obligations attached as Exhibit C ("Guarantee"). Notwithstanding the foregoing, we reserve the right, in our sole discretion, to waive the requirement that some or all of the 10% Owners execute the Guarantee and/or to limit the scope of the Guarantee. We reserve the right to require any guarantor to provide personal financial statements to us from time to time.

You acknowledge that, unless otherwise agreed to in writing by us, it is our intent to have individuals (and not corporations, limited liability companies or other entities) execute the Guarantee. Accordingly, if any 10% Owner is not an individual, we will have the right to have the Guarantee executed by individuals who have only an indirect ownership interest in you. (By way of example, if a 10% Owner is a corporation, we have the right to require that the Guarantee be executed by individuals who have an ownership interest in that corporation.)

If you, any guarantor or any parent, subsidiary or affiliate of yours holds any interest in other businesses that are franchised by us, at our request, the party who owns that interest will execute, concurrently with this Agreement, a form of cross-guarantee to us for the payment of all obligations for such businesses, unless waived in writing by us in our sole discretion. For purposes of this Agreement, an affiliate of yours is any company controlled, directly or indirectly, by you, your owners or your parent or subsidiary.

**14.4 Commitment.** You will cause each 10% Owner simultaneously with your execution of this Agreement to execute and deliver to us an executed original of the Commitment To Be Bound By Certain Obligations ("Commitment") attached as Exhibit D to the Agreement. During the Term, you will on a continuing basis cause each person who becomes a 10% Owner to execute and deliver to us an executed original of the Commitment.

## **15 TRANSFERS BY US**

We have the unrestricted right to transfer or assign ownership interests in us and all or any part of our interest in this Agreement to any person or legal entity without your consent. You agree that we will have no liability after the effective date of transfer or assignment for the performance of, or any failure to perform, any obligations transferred. We also have the right to delegate to others the performance of any of our duties under this Agreement.

## **16 TRANSFERS BY YOU**

**16.1 Definition of Transfer.** For purposes of this Agreement, "Transfer" means any sale, assignment, transfer, merger, conveyance, give away, pledge, mortgage or other encumbrance, either voluntarily or by operation of law (such as through divorce or bankruptcy proceedings) of: **(a)** any interest in this Agreement; **(b)** any interest in the Subfranchised Location; **(c)** your lease for the Subfranchised Location; **(d)** any direct or indirect ownership interests in you; **(e)** substantially all of the assets of the Subfranchised Restaurant; or **(f)** substantially all of your other assets pertaining to your operations under this Agreement.

**16.2 No Transfer Without Our Consent.** You acknowledge that this Agreement is personal to you, and we have selected you as a franchisee based on our reliance on your (and your direct and indirect owners') character, skill, aptitude and business and financial capacity. Neither you nor any of your direct or indirect owners may undertake any Transfer or permit any Transfer to occur without obtaining our prior written consent. The decision as to whether to consent to a Transfer will be made in the exercise of our business judgment, but our consent will not be unreasonably withheld. We have the right to communicate with and counsel you, your direct and indirect owners and the proposed transferee on any aspect of a proposed Transfer. You agree to provide any information and documentation relating to the proposed Transfer that we reasonably require, including, but not limited to, a copy of the proposed offer. Unless otherwise agreed, we do not waive any claims against the transferring party if we consent to the Transfer.

**16.3 Transfer Generally.** Except as otherwise provided in this Section 16, if you or your direct or indirect owners propose to undertake a Transfer, the following conditions apply (unless waived by us):

**16.3.1** You and your direct and indirect owners must:

**(a)** Be in compliance with all obligations to us under this Agreement and any other agreements you have with us, our affiliates, any lenders that have provided financing to you and your major suppliers as of the date of the request for our consent to the Transfer.

**(b)** Pay to us a transfer fee equal to \$5,000 to reimburse us for our reasonable costs and expenses incurred in reviewing and documenting the Transfer, including legal and accounting fees, provided that you will not be required to pay us a Transfer fee in connection with a Transfer undertaken in accordance with Section 16.5.

**(c)** Advise us in writing of any proposed Transfer, submit (or cause the proposed transferee to submit) a franchise application for the proposed transferee, submit a copy of

all contracts and all other agreements or proposals and submit all other information requested by us relating to the proposed Transfer.

**16.3.2** The proposed transferee (and, if the proposed transferee is a business entity, all persons that have any direct or indirect ownership interest in the transferee as we may require) must demonstrate to our satisfaction extensive experience in high quality restaurant operations of a character and complexity similar to Wahlburgers Restaurants; must meet the managerial, operational, experience, quality, character and business standards for a franchisee promulgated by us from time to time; must possess a good character, business reputation and credit rating; must have an organization whose management culture is compatible with our management culture; and must have adequate financial resources and working capital to meet the obligations under this Agreement. If the proposed transferee is an existing Wahlburgers franchisee, the transferee and its direct and indirect owners must not be in default under their agreements with us and must have substantially complied with our operating standards.

**16.3.3** An assignment agreement and/or any other agreements that we require to reflect the Transfer that do not violate tribal sovereignty must be signed by the transferor and the proposed transferee. In addition, we may require, at our option, that amendments to this Agreement and/or our then-current standard form of subfranchise agreement for tribal locations that in each such case do not violate tribal sovereignty (for an initial term ending on the expiration date of the Term) be signed which may provide for a different Royalty, Brand Fund Obligation, local marketing requirements and other rights and obligations than those provided in this Agreement. There is no limitation on the extent to which the terms of the amended or new franchise agreement may differ from the terms of this Agreement provided that they do not violate tribal sovereignty.

**16.3.4** We may require that the proposed transferee make arrangements to modernize and upgrade the Subfranchised Restaurant, at the transferee's expense, to comply with our standards and specifications for new Wahlburgers Restaurants.

**16.3.5** You, all 10% Owners (if any), all of your guarantors under this Agreement (if any) and the transferee must execute a general release, in a form prescribed by us that does not violate tribal sovereignty, of all claims against us and our past, present and future affiliates, officers, directors, members, managers, shareholders, agents and employees. You, all 10% Owners, and all of your guarantors under this Agreement will remain liable to us for all obligations arising before the effective date of the Transfer.

**16.3.6** The price and other proposed terms of the Transfer must not, in our reasonable business judgment, have the effect of negatively impacting the future viability of the Subfranchised Restaurant.

**16.3.7** Unless waived by us in our sole discretion, the transferee and those employees of the transferee designated by us will complete the ITP in accordance with Section 9.1. We may charge a fee to provide this training.

**16.3.8** If the transferee is a business entity, those persons or entities designated by us, which may include, but are not limited to, those with a direct or indirect ownership interest of 10% or more in the transferee, must execute our then-current form of Guarantee.

**16.4** **Transfer of Partial Ownership Interest.** If you propose to admit a new owner who will have less than a 10% ownership interest in you, remove an existing owner or change the distribution of ownership interests among the owners shown on Exhibit A, you must give us advance notice and submit a copy of all proposed contracts and other information concerning the Transfer that we may request. You must also pay to us a Transfer fee as provided in Section 16.3.1.(b). We

may withhold our consent on any reasonable grounds or give our consent subject to reasonable conditions, including the conditions in Sections 16.3.1(a), 16.3.3, 16.3.5, and 14.1. Any new owner must submit a franchise application and, if applicable, execute our then-current form of Guarantee that does not violate tribal sovereignty.

**16.5 Transfer upon Death or Permanent Incapacity.** If the Transfer is a transfer of direct or indirect ownership interests in you following the death or permanent incapacity (as reasonably determined by us) of a person that has a direct or indirect ownership interest in you, that person's executor, administrator or personal representative must apply to us in writing within 3 months after the death or declaration of permanent incapacity for consent to Transfer the person's interest. The Transfer will be subject to the provisions of Sections 16.3 and 16.4, as applicable. In the case of Transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of Section 16.3 or 16.4, the executor may transfer the decedent's interest to another successor that we have accepted, subject to all of the terms and conditions for Transfers contained in this Agreement. If an interest is not disposed of under this Section 16.5 within 6 months after the date of death or appointment of a personal representative, we may terminate this Agreement under Section 19.1.

**16.6 Securities Offerings.** Ownership interests in you may be sold, by private or public offering, only with our prior written consent (whether or not our written consent is required under any other provision of this Section), which consent will not be unreasonably withheld. In addition to the requirements of Section 16.3, prior to the time that any public offering or private placement of securities or partnership interests in you is made available to potential investors, you, at your expense, must deliver to us a copy of the offering documents. You, at your expense, also must deliver to us an opinion of your legal counsel (addressed to us and in a form acceptable to us) that the offering documents properly use the Proprietary Marks and accurately describe your relationship with Wahlburgers, us and/or our respective affiliates. The indemnification provisions of Section 21 will also include any losses or expenses incurred by us and/or our affiliates in connection with any statements made by or on behalf of you in any public or private offering of your securities.

**16.7 Non-Conforming Transfers.** Any purported Transfer that is not in compliance with this Section 16 is null and void and constitutes a material breach of this Agreement, for which we may terminate this Agreement without opportunity to cure. Our consent to a Transfer does not constitute a waiver of any claims that we have against the transferor, nor is it a waiver of our right to demand exact compliance with the terms of this Agreement.

## **17 GENERAL RELEASE**

You (on behalf of yourself and your parent, subsidiaries and affiliates) (collectively, "Releasers") freely and without any influence forever release and covenant not to sue Wahlburgers and us, and our respective parents, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, members, managers, agents and employees, in their corporate and individual capacities (collectively, "Releasees"), with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, "Claims"), that any Releaser now owns, has or claims to have or holds, or may in the future own or hold, or at any prior time owned, held, had or claimed to have, based on, arising out of or relating to, in whole or in part any fact, event, conduct or omission occurring on or before the date of this Agreement, including, without limitation, Claims arising under federal, state, tribal and local laws, rules and ordinances and claims arising out of, or relating to this Agreement and all other agreements between any Releaser and any Releasee, the sale of any franchise to any Releaser, the development and operation of the Subfranchised Restaurant and the development and operation of all other restaurants operated by any Releaser that are franchised by any Releasee. Releasers expressly agree that fair consideration has been

given by us for this release, and they fully understand that this is a negotiated, complete and final release of all claims.

Notwithstanding the foregoing, claims arising from representations in our Franchise Disclosure Document, or its exhibits or amendments, are expressly excluded from this release.

## **18 COVENANTS**

### **18.1 Confidentiality Obligations.**

**18.1.1 Acknowledgments.** You acknowledge and agree that: **(a)** Wahlburgers and Wahlburgers' affiliates exclusively own all right, title and interest in and to the System, including, without limitation, the Proprietary Marks and all confidential information, knowledge, trade secrets or know-how (collectively, "Confidential Information"); **(b)** the System, including without limitation the Proprietary Marks and the Confidential Information, gives Wahlburgers and Wahlburgers' affiliates a significant competitive advantage and is of substantial and material value to Wahlburgers and Wahlburgers' affiliates and to us and our affiliates; **(c)** in developing the System, including without limitation the Proprietary Marks and the Confidential Information, Wahlburgers and Wahlburgers' affiliates have made and continue to make substantial investments of time, technical and commercial research and money; **(d)** Wahlburgers, Wahlburgers' affiliates, we and our affiliates have taken and continue to take appropriate and valuable measures necessary to protect the System, including, without limitation, the Proprietary Marks and the Confidential Information; and **(e)** all materials or information previously, now or hereafter provided to, disclosed to, or obtained by or learned by you in connection with the System (including, without limitation, the Proprietary Marks and the Confidential Information) or the opening or operation of Wahlburgers Restaurants will be deemed Confidential Information disclosed to you in confidence by or for Wahlburgers or us under this Agreement.

**18.1.2 Covenants.** Accordingly, you covenant and agree that during the Term and following the expiration or termination of the Term, neither you, nor any affiliate yours, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with, any third party, will, without the approval of Wahlburgers and us: **(a)** disclose any aspect or part of the System or the Confidential Information to anyone who is not your employee; **(b)** disclose to your employees more information about any aspect or part of the System or the Confidential Information than such employee has a need to know at the time of disclosure; **(c)** fail to have an adequate system in place to ensure that your employees keep secret and maintain the strict confidentiality of all Confidential Information (if requested by us, you will obtain from those of your employees designated by us an executed Non-Disclosure Agreement in the form prescribed by us); **(d)** acquire or purport to have acquired any interest of any kind in the System, including, without limitation, the Proprietary Marks and the Confidential Information; or **(e)** undertake any unauthorized or unlicensed use, disclosure, dissemination, duplication or publication, in whole or in part, of the System, including, without limitation, the Proprietary Marks and the Confidential Information, to or for the benefit of any Competitive Business or third party. You acknowledge and agree that any such use, disclosure, dissemination, duplication or publication constitutes an unfair method of competition by reason of which Wahlburgers and we will be entitled to all legal and equitable remedies, including without limitation, temporary and permanent injunctive relief and specific performance without posting a bond, subject to Section 28 respecting tribal sovereignty and cultural considerations.

### **18.2 Restrictions.**

**18.2.1 Acknowledgements.** You acknowledge and agree that: **(a)** pursuant to this Agreement, you will have access to valuable trade secrets, specialized training and confidential information from us and/or Wahlburgers regarding the development, operation, management,

purchasing, sales and marketing methods and techniques of the System; **(b)** the System and the opportunities, associations and experience established by Wahlburgers' and Wahlburgers' affiliates and acquired by you under this Agreement are of substantial and material value; **(c)** in developing the System, Wahlburgers and its affiliates have made and continue to make substantial investments of time, technical and commercial research, and money; **(d)** neither we nor Wahlburgers nor Wahlburgers' affiliates would be able to adequately protect the System, trade secrets and confidential information against unauthorized use or disclosure and would be unable to adequately encourage a free exchange of ideas and information among Wahlburgers Restaurants if franchisees and/or subfranchisees were permitted to hold interests in competitive businesses; and **(e)** restrictions on your right to hold interests in, or perform services for, competitive businesses will not hinder your activities.

**18.2.2 Restrictions During Term.** Accordingly, you agree that, during the Term, you will not, without our and Wahlburgers' prior written consent, either directly or indirectly through any other person or entity:

**(a)** Own, manage, engage in, advise, make loans to, be employed by, assist or have any interest in any Competitive Business (as defined in subsection (c) below).

**(b)** During the Term, there is no geographical limitation on these restrictions.

**(c)** As used in this Agreement, the term "Competitive Business" means any business, store, restaurant or location whose sales of hamburgers are reasonably likely to account for 10% or more of the food sales of the business in any calendar month. Notwithstanding the foregoing, the term "Competitive Business" does not include those businesses in which any of your owners or you have a direct or indirect, legal or beneficial interest and **(i)** that had been in operation prior to the date of the first franchise-related agreement between you and us; or **(ii)** that your owners or you had contracted to develop prior to the date of the first franchise-related agreement between you and us, provided those businesses are listed in Exhibit A ("Existing Businesses").

**18.2.3 Restrictions After Termination, Expiration or Transfer.** In light of your acknowledgments and agreements as set forth above, you agree as follows:

**(a)** For a period of 2 years following the expiration, termination or Transfer of this Agreement, you covenant and agree that you will not own, manage, engage in, advise, make loans to, be employed by, assist or have any interest in any Competitive Business that is (or is intended to be) located at or within 2 miles of the Subfranchised Location or within 2 miles of any other Wahlburgers Restaurant.

**(b)** For a period of 2 years following the expiration or termination of this Agreement or a Transfer, you further covenant and agree that you will not, either directly or indirectly, for yourself, or through, on behalf of, or in conjunction with any person, firm, partnership, corporation, or other entity, sell, assign, lease or transfer the Subfranchised Location to any person, firm, partnership, corporation, or other entity which you know, or have reason to know, intends to operate a Competitive Business at the Subfranchised Location. You, by the terms of any conveyance selling, assigning, leasing or transferring your interest in the Subfranchised Location, must include restrictive covenants as are necessary to ensure that a Competitive Business that would violate this Section is not operated at the Subfranchised Location for this 2-year period, and you must take all steps necessary to ensure that these restrictive covenants become a matter of public record.

**18.3 Modification.** We and Wahlburgers have the right, in our or its sole discretion, to reduce the scope of any covenant in this Section 18 effective immediately upon your receipt of written notice, and you agree that you will comply forthwith with any covenant as so modified, which will be



fully enforceable notwithstanding the provisions of Section 26. Subject to tribal sovereignty considerations, if any part of these restrictions is found to be unreasonable in time or distance, each month of time or mile of distance may be deemed a separate unit so that the time or distance may be reduced by appropriate order of the court to that deemed reasonable. If, at any time during the 2-year period following termination of this Agreement prior to the expiration of the Term, you fail to comply with your obligations under this Section, that period of noncompliance will not be credited toward your satisfaction of the 2-year obligation. Following the resolution of any dispute regarding the enforceability of this Section that is resolved in our and/or Wahlburgers' favor, the 2-year period (or such other period as may be deemed reasonable by the court) will run from the date of the resolution.

**18.4 Applicability.** The restrictions contained in this Section 18 apply to you, all 10% Owners and all guarantors under this Agreement. This Section 18 does not prohibit you, any 10% Owner or any guarantor under this Agreement from having: **(a)** interests in any other franchise-related agreement with us or our affiliates that remains in effect; or **(b)** ownership of less than 5% of the outstanding equity securities of any publicly-held corporation, as defined in the Securities and Exchange Act of 1934.

**18.5 Enforcement.** You agree that the existence of any claim you may have against us, our affiliates, Wahlburgers or its affiliates, whether or not arising from this Agreement, will not constitute a defense to our or Wahlburgers' enforcement of this Section 18. You agree to pay all costs and expenses that we and/or Wahlburgers reasonably incurs in enforcing this Section 18, including reasonable attorneys' fees. You acknowledge that a violation of the terms of this Section 18 would result in irreparable injury to us and Wahlburgers for which no adequate remedy at law may be available. Accordingly, you consent to the issuance of an injunction prohibiting any conduct in violation of the terms of this Section 18, subject to Section 28 respecting tribal sovereignty and cultural considerations. Such injunctive relief will be in addition to any other remedies that we and/or Wahlburgers may have.

**18.6 Survival.** The terms of this Section 18 will survive the termination, expiration, or any Transfer of this Agreement. The parties agree this Section 18 will be construed as independent of any other provision of this Agreement.

## **19 DEFAULT AND TERMINATION**

**19.1 Grounds for Termination.** In addition to the grounds for termination stated elsewhere in this Agreement, we may terminate this Agreement, and the rights granted by this Agreement, by written notice to you, without giving you an opportunity to cure, upon the occurrence of any of the following events:

**19.1.1** You fail to open the Subfranchised Restaurant for business by the Opening Date, unless we, in our sole discretion, extend this period to address unforeseen construction delays that are not within your control.

**19.1.2** You are insolvent or unable to pay your creditors (including us); file a petition in bankruptcy, an arrangement for the benefit of creditors or a petition for reorganization; there is filed against you a petition in bankruptcy, an arrangement for the benefit of creditors or petition for reorganization that is not dismissed within 60 days of the filing; you make an assignment for the benefit of creditors; or a receiver or trustee is appointed for you and not dismissed within 60 days of the appointment.

**19.1.3** Execution is levied against your business or property; suit to foreclose any lien or mortgage against the equipment of the Subfranchised Restaurant is instituted against you and is

not dismissed within 60 days; or the real or personal property of the Subfranchised Restaurant is sold after levy thereupon by any sheriff, marshal or constable.

**19.1.4** There is a material breach of any obligation under Section 13 or 18.

**19.1.5** We discover that you made a material misrepresentation or omitted a material fact in the information that you furnished to us in connection with our decision to enter into this Agreement.

**19.1.6** You knowingly falsify any report required to be furnished to us or make any material misrepresentation in your dealings with us or fail to disclose any material facts to us.

**19.1.7** You, any 10% Owner, any guarantor under this Agreement, your Operating Principal or any of your managers, members, officers or directors is convicted of, or pleads no contest to, a crime that we reasonably believe is likely to harm the reputation of the System or our goodwill.

**19.1.8** Any Transfer that requires our prior written consent occurs without your having obtained that prior written consent.

**19.1.9** You remain in default beyond the applicable cure period under your lease for the Subfranchised Location or any equipment lease or financing instrument relating to the Subfranchised Restaurant; or you remain in material default beyond the applicable cure period under any agreement with any vendor or supplier to the Subfranchised Restaurant.

**19.1.10** You, your Operating Principal, any 10% Owner or any other entity that is a Wahlburgers franchisee and in which you, your Operating Principal or 10% Owner have a direct or indirect ownership interest remain in default beyond the applicable cure period under any other agreement with us or our affiliates; provided that if the default is not by you, you are given written notice of the default and 10 days to cure the default.

**19.1.11** You refuse to permit, or try to hinder, an examination or audit of your books and records or inspection of the Subfranchised Restaurant as permitted by this Agreement.

**19.1.12** Any condition exists with respect to the Subfranchised Restaurant that, in our reasonable judgment, seriously jeopardizes public health or safety.

**19.1.13** You lose the right to operate at the Subfranchised Location and, if applicable, fail to secure our acceptance of another site within the time permitted by Section 2.1.

**19.1.14** During any 12-month period, you fail to operate the Subfranchised Restaurant for 3 or more consecutive days, or 5 total days, that you were required to operate the Subfranchised Restaurant, unless we determine, in our sole discretion, that such failure was beyond your control.

**19.1.15** An entity that is not a party to this Agreement is operating the Subfranchised Restaurant without our prior written consent.

## **19.2 Termination Following Expiration of Cure Period.**

**19.2.1** Except for those items listed in Sections 19.1, 19.2.3 and 19.2.4, you will have 30 days after written notice of default from us within which to remedy the default and provide evidence of that remedy to us. If any such default is not cured within that time, this Agreement will terminate without further notice to you effective immediately upon expiration of that time, unless we

notify you otherwise in writing. Notwithstanding the foregoing, if the default cannot be corrected within 30 days, you will have such additional time to correct the default as we believe to be reasonably required (not to exceed 90 days) provided that you begin taking the actions necessary to correct the default during the 30-day cure period and diligently and in good faith pursue those actions to completion. You will be in default under this Section 19.2.1 for any failure to materially comply with any of the requirements imposed by this Agreement or otherwise in writing, or to carry out the terms of this Agreement in good faith.

**19.2.2** You (or your Operating Principal), the Subfranchised Restaurant's general manager, and/or any managerial personnel that we designate under Section 9.1.1 fail to complete the ITP after one opportunity to repeat such ITP or provide an alternative ITP trainee for any such position; provided, however we may charge a fee for any additional ITP training for such purposes and any such additional training will not extend the required Opening Date of your Subfranchised Restaurant.

**19.2.3** Notwithstanding the provisions of Section 19.2.1, if you fail to pay any monies owed to us or our affiliates when those monies become due and payable and you fail to pay those monies within 10 days after receiving written notice of default, this Agreement will terminate effective immediately upon expiration of that time, unless we notify you otherwise in writing.

**19.2.4** If you have received 2 or more notices of default under this Agreement within the previous 12 months, we will be entitled to send you a notice of termination upon your next default under this Agreement in that 12-month period without providing you an opportunity to remedy that default.

**19.3 Statutory Limitations.** If any valid, applicable law or regulation of a competent governmental authority with jurisdiction over this Agreement requires a notice or cure period prior to termination longer than set forth in this Agreement, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

**19.4 Lost Revenue Damages.** If we terminate this Agreement because of your breach or if you terminate this Agreement without cause, you and we agree that it would be difficult, if not impossible, to determine the amount of damages that we would suffer due to the loss or interruption of the revenue stream we otherwise would have derived from your continued payment of the Royalty Fee and the Brand Fund contribution through the remainder of the term of this Agreement. Therefore, you and we agree that a reasonable estimate of such damages, less any cost savings we might have experienced ("Lost Revenue Damages"), is an amount equal to the net present value of the Royalty Fee and the Brand Fund contribution that would have been paid had this Agreement not been terminated, from the date of termination to the earlier of the following: **(a)** five years following the date of termination; or **(b)** the scheduled expiration of the Term of this Agreement (as the case may be, the "Measurement Period").

For the purposes of this Section, Lost Revenue Damages will be calculated as follows: **(1)** the aggregate of the Royalty Fee and the Brand Fund contribution percentages multiplied by the average monthly Gross Sales of your Subfranchised Restaurant during the 12 full calendar months immediately preceding the termination date (or, if as of the effective date of termination, your Subfranchised Restaurant has not been operating for at least 12 full calendar months, we will use the average monthly gross sales of all Wahlburgers Restaurants operating during that 12 month period); **(2)** multiplied by the number of calendar months in the Measurement Period.

You agree to pay us Lost Revenue Damages, as damages and not as a penalty, as calculated in accordance with this Section, within 15 days after the effective date of termination, or on any later date that we determine. You and we agree that the calculation described in this Section is a

calculation only of the Lost Revenue Damages and that nothing will preclude or limit us from proving and recovering any other damages caused by your breach of this Agreement.

## **20 OBLIGATIONS ON TERMINATION OR EXPIRATION**

**20.1 Your Obligations.** Upon termination or expiration of this Agreement for any reason, unless we direct you otherwise:

**20.1.1** All rights and licenses granted to you under this Agreement (including, without limitation, rights to use the System, the Manual and the Proprietary Marks) will immediately terminate and any right, title, and interest claimed by you to any such matters will immediately revert to us without further notice or documentation.

**20.1.2** You must immediately cease to operate the Subfranchised Restaurant and may not thereafter, directly or indirectly, represent to the public or hold yourself out as a present or former franchisee of the System.

**20.1.3** You will immediately and permanently cease to use, in any manner whatsoever, the System, the Proprietary Marks and the Manual.

**20.1.4** You must promptly pay all sums owing to us, our affiliates, Wahlburgers', Wahlburgers' affiliates and your suppliers. These sums include, but are not limited to, the Royalty, Brand Fund Obligation, interest or other fees, damages, expenses and attorneys' fees incurred as a result of your default.

**20.1.5** You must cease to use in advertising or in any manner the confidential methods, procedures and techniques associated with the System, including all proprietary recipes, ingredients, and processes.

**20.1.6** You and all persons and entities subject to the restrictions contained in Section 18 will continue to abide by the restrictions contained in Section 18 and will not, directly or indirectly, take any action that violates those restrictions.

**20.1.7** You must immediately cease to use, by advertising or in any other manner, the name "Wahlburgers," all other Proprietary Marks and all other distinctive forms, slogans, signs, symbols, web sites, domain names, email addresses, and devices associated with the System. If you subsequently begin to operate another business, you must not use any reproduction, counterfeit, copy, or colorable imitation of the Proprietary Marks in connection with that business that is likely to cause confusion, mistake or deception, or which is likely to dilute Wahlburgers' exclusive rights in and to the Proprietary Marks, nor any trade dress or designation of origin or description or representation that falsely suggests or represents an association or connection with us or Wahlburgers. Within 15 days, you must promptly take such action as may be necessary to cancel any assumed name registration or equivalent registration, and any domain name registration that contains the name "Wahlburgers" or any other Proprietary Marks.

**20.1.8** You must make modifications or alterations to the Subfranchised Location and the Subfranchised Restaurant immediately upon termination or expiration of this Agreement as necessary to prevent the operation of any business in violation of this Section 20 and any specific additional changes we reasonably request for that purpose. Upon our request, you must return to us, at our cost, any signage that we specify. If you fail to comply with this Section within 30 days following termination or expiration of this Agreement, we have the right to enter the premises, without being guilty of trespass or any other tort, for the purpose of removing signs and any other articles

that display the Proprietary Marks or Trade Dress. You agree to reimburse us on demand for our expenses in making such changes.

**20.1.9** You must immediately deliver to us all hard copies, and delete all electronic copies, of the Manual and all training materials, marketing materials, records, files, instructions, and correspondence in your possession or control that contain confidential information (as described in Section 18.1). You also must deliver to us all hard copies, and delete all electronic copies, of customer information and customer lists that you have compiled and uninstall any software that we have provided.

**20.1.10** Unless you operate another Subfranchised Restaurant, within 15 days after termination, you must sell to us, and we will buy, all Branded Merchandise which you purchased from a designated supplier, Wahlburgers or us. You will pay all freight charges incurred in shipping these items to us or Wahlburgers and, except as described below, the purchase price for the Branded Merchandise will be the price paid by you less 10% for handling and restocking costs. We are not obligated to purchase, although we may purchase, Branded Merchandise that is no longer authorized for sale in Wahlburgers Restaurants or Branded Merchandise that is not in saleable and useable condition (as we determine). The purchase price for that Branded Merchandise will be separately negotiated. We may deduct from the monies to be paid to you for repurchase of the Branded Merchandise all monies that you owe to us.

**20.2 Evidence of Compliance.** You will furnish to us, within 30 days after the effective date of termination or expiration, evidence (certified to be true, correct and complete, by an officer, manager or 10% Owner) satisfactory to us of your compliance with Section 20.1.

**20.3 Other Business Operations.** You will not, except with respect to a Wahlburgers Restaurant franchised by Wahlburgers or us that is then open and operating pursuant to an effective agreement: **(a)** operate or do business under any name or in any manner that might tend to give the public the impression that you are connected in any way with us or our affiliates or have any right to use the System or the Proprietary Marks; **(b)** make, use or avail yourself of any of the materials or information furnished or disclosed by us or our affiliates under this Agreement or disclose or reveal any such materials or information or any portion thereof to anyone else; or **(c)** assist anyone not licensed by us to construct or equip a restaurant substantially similar to a Wahlburgers Restaurant.

## **21 FORCE MAJEURE**

If the performance of any obligation by you or us under this Agreement is prevented, hindered or delayed by reason of Force Majeure, which cannot be overcome by reasonable commercial measures, you and we will be relieved of your and our obligations (to the extent that you and we, having exercised best efforts, are prevented, hindered or delayed in such performance) during the period of the Force Majeure event. The party whose performance is affected by an event of Force Majeure will give prompt written notice of the Force Majeure event to the other party of the Force Majeure event and an estimate as to its duration.

As used in this Agreement, "Force Majeure" means any act of God, strike, lock-out or other industrial disturbance, war (declared or undeclared), riot, epidemic, pandemic, fire or other catastrophe, act of any government or a third party and any other cause not within the control of the affected party affected (including, without limitation, any act of terrorism). The existence of Force Majeure will not affect your obligation to pay us any monies owed to us when due. Your inability to obtain financing or pay us any monies owed to us (regardless of the reason) will not constitute Force Majeure.

## 22 RELATIONSHIP OF THE PARTIES

This Agreement does not create a fiduciary or other special relationship or make you or us an agent, legal representative, joint venturer, joint employer, partner, employee or servant of each other for any purpose. You are not authorized to make any contract, agreement, warranty or representation on our behalf, or to create any obligation, express or implied, on our behalf. During the Term, you agree to hold yourself out to the public as an independent contractor operating the Subfranchised Restaurant under license from us, and you agree to exhibit a notice to that effect (the location and content of which we reserve the right to specify) in a conspicuous place at the Subfranchised Restaurant.

## 23 INDEMNIFICATION

You agree to defend, indemnify, and hold harmless (to the fullest extent permitted by law and up to the assets including insurance coverages of the Subfranchisee) Wahlburgers and us and its and our respective past, present, and future affiliates, officers, directors, managers, members, shareholders, agents, attorneys, consultants, and employees against any claims, losses, costs, expenses, liabilities and damages (collectively, "Claims") arising directly or indirectly from, as a result of, or in connection with the Subfranchised Restaurant, as well as the costs of defending against such Claims (including, but not limited to, reasonable attorneys' fees, costs of investigation, settlement costs and interest). You promptly will give us written notice of any litigation, proceeding, or dispute filed or instituted against you that could directly or indirectly affect us or any of the other indemnitees under this Section and, upon request, you will furnish us with copies of any documents from such matters as we may request.

With respect to any threatened or actual litigation, proceeding, or dispute that could directly or indirectly affect Wahlburgers or us or any of the other indemnitees under this Section, Wahlburgers and we will have the right, but not the obligation, to: **(a)** choose counsel; **(b)** direct and control the handling of the matter; and/or **(c)** settle any claim against the indemnitees. The exercise of these rights does not affect your obligation to indemnify and hold Wahlburgers and us harmless in accordance with this Section. This Section will survive the expiration or termination of this Agreement, and applies to Claims even if they exceed the limits of your insurance coverage. You will cooperate with Wahlburgers and us regarding any threatened or actual litigation, regardless of which party directs and controls the matter. Such cooperation will include, but is not limited to, seeking and providing any relevant evidence to the party directing or controlling the matter and making or supporting any relevant legal motions or filings in conjunction with the defense of Wahlburgers and us.

## 24 CONSENTS, WAIVERS, NO WARRANTIES AND DISCRETION

**24.1 Consents.** Whenever our prior written approval, acceptance or consent is required under this Agreement, you agree to make a timely written request to us for such consent. Our approval, acceptance or consent must be in writing and signed by an authorized officer or manager to be effective.

**24.2 Waivers.** No delay or failure to exercise any right under this Agreement or to insist upon your strict compliance with any obligation or condition, and no custom or practice that differs from the terms of this Agreement, will constitute a waiver of Wahlburgers' or our right to exercise the contractual right or demand your strict compliance with the terms of this Agreement. Wahlburgers' or our waiver of any particular default does not affect or impair our rights with respect to any subsequent default you may commit. Wahlburgers' or our waiver of a default by another franchisee does not affect or impair our right to demand your strict compliance with the terms of this Agreement. Wahlburgers' or our acceptance of any payments due from you does not waive any prior defaults.

**24.3 No Warranties.** Neither Wahlburgers nor we make any warranties or guarantees upon which you may rely by providing any waiver, approval, consent or suggestion to you in connection with this Agreement and assume no liability or obligation to you therefor, or by reason of any neglect, delay, or denial of any request therefor. Neither Wahlburgers nor we will, by virtue of any waivers, approvals, consents, advice or services provided to you, assume responsibility or liability to you or to any third parties to which we would not otherwise be subject.

**24.4 Approvals.** Whenever this Agreement requires the approval, agreement, consent or release of Wahlburgers and/or us, you will make a timely written request to Wahlburgers and us for such approval, agreement, consent or release. To be effective and binding, any purported approval, agreement, consent or release must be recorded in a writing, obtained in advance of each event, action or circumstance that is a subject of the purported approval, agreement, consent or release and signed by our duly authorized officer (or, where applicable, Wahlburgers' duly authorized officer).

**24.5 Discretion.** Whenever Wahlburgers and/or we have a right and/or the discretion to take or withhold an action, or to grant or decline to grant you a right to take or withhold an action, except as otherwise expressly and specifically provided in this Agreement, Wahlburgers and/or we may make such decision or exercise the right and/or discretion on the basis of Wahlburgers' and/or our judgment of what is in the best interests of the System. Wahlburgers' and/or our judgment of what is in the best interests of the System, at the time the decision is made or the right or discretion is exercised, can be made without regard to whether: **(a)** other reasonable alternative decisions or actions, or even arguably preferable alternative decisions or actions, could have been made by Wahlburgers and/or us; **(b)** Wahlburgers' and/or our decision or the action taken promotes our financial or other individual interest; **(c)** the decision or the action taken applies differently to you and one or more other franchisees or Wahlburgers' or our company-owned or affiliate-owned operations; or **(d)** Wahlburgers' and/or our decision or the action taken is adverse to your interests. Wahlburgers' and/or we will have no liability to you for any such decision or action. Wahlburgers and/or we and you intend that the exercise of the right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, Wahlburgers and/or we and you agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement grants Wahlburgers and/or us the right to make decisions, take actions and/or refrain from taking actions not inconsistent with your rights and obligations under this Agreement.

## **25 NOTICES**

Notices related to this Agreement will be effective upon receipt (or first rejection) and may be given by any of the following delivery methods: **(a)** certified or registered mail; **(b)** U.S. Priority Mail or national commercial delivery service (e.g., UPS, Federal Express); or **(c)** email (if receipt is verified within 24 hours of transmission). Notices sent by (a) or (b) must be sent to the addresses on the first page of this Agreement; however, we also may send notices addressed to you at the Subfranchised Location. If we or you send a communication relating to this Agreement or any other agreement between us and/or our affiliates and you and/or your affiliates to the other party, we or you will also send copies of that communication to Wahlburgers at 350 Lincoln Street, Suite 2501, Hingham, MA 02043, Attn: Chief Executive Officer. Email notices must be sent to the email address provided by the party. Either party can change its notice address by informing the other party.

## **26 ENTIRE AGREEMENT**

Each element of this Agreement is essential and material. This Agreement, the Manual, the documents referred to in this Agreement and the attachments to this Agreement constitute the entire agreement between you and us with respect to the Subfranchised Restaurant at the Subfranchised Location and supersede all prior negotiations, representations, correspondence and agreements

concerning the same subject matter. Except for the NativeWahl Franchise Disclosure Document, there are no other representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this Agreement other than those set forth in this Agreement and in the attachments. No obligations or duties that contradict or are inconsistent with the express terms of this Agreement may be implied into this Agreement. Except as expressly set forth in this Agreement, no amendment, change or variance from this Agreement will be binding on either party unless mutually agreed to by the parties and executed in writing.

## **27 SEVERABILITY AND CONSTRUCTION**

**27.1 Severability.** Each provision of this Agreement is severable from the others. If, for any reason, any provision is determined by a court to be invalid, the invalidity will not impair the operation of the remaining provisions of this Agreement. The latter will continue to be given full force and effect and bind us and you; the invalid provision(s) will be deemed not to be a part of this Agreement.

**27.2 Survival.** Each provision of this Agreement that, expressly, or by reasonable implication, is to be performed, in whole or in part, after the expiration, termination or Transfer of this Agreement will survive expiration, termination or Transfer.

**27.3 Interpretation.** This Agreement will not be interpreted in favor of or against any party based on a party's sophistication or based on the party that drafted this Agreement. Except as expressly otherwise provided, nothing in this Agreement is intended, or will be deemed, to confer any rights or remedies upon any person or legal entity other than you and us.

## **28 DISPUTE RESOLUTION AND LIMITED WAIVER OF SOVEREIGN IMMUNITY**

**28.1 Tribal Peacemaking; Arbitration.** Any claim between the parties arising out of or related to this Agreement or the parties' operations under this Agreement will first be subject to tribal Peacemaking; provided, however, that if this tribal Peacemaking is unable to successfully resolve the dispute through tribal Peacemaking within 30 days from the commencement of the tribal peacemaking process, such claims will be subject to arbitration.

**28.2 Arbitration Rules and Procedures.** Any arbitration between the parties will be conducted pursuant to the American Arbitration Association ("AAA") or its successor's then-prevailing arbitration and mediation rules ("Rules"), except as the AAA Rules are modified (to the extent permitted by U.S. federal law) by the following:

**28.2.1 Demand and Selection of Arbitrator.** Any demand for arbitration will be filed with the AAA office nearest to our principal offices, unless Wahlburgers has either assumed our rights and obligations under this Agreement or is named as a party in the arbitration, in which case it will be filed with the AAA office nearest to the principal offices of Wahlburgers, in each case at the time the demand is filed. The arbitration will be conducted before one arbitrator selected in accordance with the AAA Rules and such arbitrator will be someone experienced with Native American law.

**28.2.2 Location and Language.** The arbitration will be conducted at a location designated by the arbitrator. The language of the arbitration will be English.

**28.2.3 Procedures.** The arbitrator will follow applicable law and judicial precedent. The arbitrator will not entertain or permit any class or consolidated proceeding. The arbitrator will afford the parties such reasonable discovery as the arbitrator deems appropriate.



**28.2.4 Distribution of Costs.** The arbitrator's fees will be borne equally by the parties. All other costs and expenses in connection with the arbitration will be borne initially by the party who incurs such expense or who requests a service (such as, without limitation, a transcript of a deposition or of the arbitration proceeding). At the conclusion of the arbitration proceeding, all costs and expenses (including, without limitation, attorneys' and accountants' fees (on a full indemnity basis)) of the prevailing party will be reimbursed by the party that does not prevail. If a party prevails on some but not all issues, the arbitrator will determine the manner in which such costs will be borne.

**28.2.5 Decisions and Awards.** The decision of the arbitrator will be final and binding on the parties, and the arbitrator's award will be the exclusive remedy between the parties with respect to all claims and issues arising out of the transaction(s) or occurrence(s) at issue, whether or not presented or pled to the arbitrator. In addition: **(a)** the arbitrator will have no authority to award consequential, punitive or exemplary damages; **(b)** any award will be paid promptly, without deduction or offset. Judgment upon the award may be entered by any court of competent jurisdiction; **(c)** if the award is confirmed by a court of competent jurisdiction, a party challenging the award or resisting enforcement of a judgment entered upon the award will pay, to the extent permitted by law, all costs, attorneys' fees and expenses incurred by the other party in defending the award or seeking enforcement of the judgment; and **(d)** the decision of the arbitrator will have no collateral estoppel effect with respect to a claim by or against any person or business entity who is not a party to the arbitration.

**28.2.6 Strict Confidentiality.** The parties and their counsel, agents and employees will at all times maintain all aspects of any arbitration proceeding conducted under these provisions in strict confidence and will make no disclosure of the same except to the limited extent required by law or with the consent of the other party.

**28.3 Choice of Law.** This Agreement and the relationship between the parties is governed by and will be construed in accordance with the laws of Little River Band of Ottawa Indians ("Tribal Law") and where silent, federal law of the United States ("Federal Law") without regard to conflicts of laws principles. In the event that Tribal Law and Federal Law are silent with respect to a matter to be resolved, the laws of the State of Michigan including the UCC provisions effective at the time of the dispute will govern without regards to conflict of law principles.

**28.4 [intentionally deleted]**

**28.5 Limitation of Actions.** Any legal action or proceeding (including a proceeding related to the offer and sale of a franchise to you) brought or instituted with respect to any dispute arising from or related to this Agreement or with respect to any breach of the terms of this Agreement must be brought or instituted within a period of 2 years after the initial occurrence of any act or omission that is the basis of the legal action or proceeding, regardless of when discovered. The preceding limitation period does not apply: **(a)** with respect to payments owed by one party to the other; **(b)** if prohibited by applicable law; or **(c)** if applicable law provides for a shorter limitations period.

**28.6 Mutual Waivers.** Each party waives the right to bring, or be a class member in, any class action or class proceeding against the other party, the right to trial by jury with respect to any claim against the other party and the right to consequential, punitive or exemplary damages against the other party.

**28.7 Remedies Not Exclusive.** Except as otherwise expressly provided in this Agreement, no right or remedy that the parties have under this Agreement is exclusive of any other right or remedy under this Agreement or under applicable law.

**28.8 Rights of Parties are Cumulative.** The parties' rights under this Agreement are cumulative and the exercise or enforcement of any right or remedy under this Agreement will not preclude the exercise or enforcement by a party of any other right or remedy under this Agreement that it is entitled by law or this Agreement to exercise or enforce.

**28.9 Survival.** The provisions of this Section 28 will survive the expiration or earlier termination of this Agreement.

## **29 MISCELLANEOUS**

**29.1 Counterparts and Signatures.** This Agreement may be executed in counterparts, and each copy so executed and delivered will be deemed an original. This Agreement may be signed using electronic signatures, and those signatures will have full legal force and effect.

**29.2 Captions.** All captions in this Agreement are intended solely for the convenience of the parties and none will be deemed to affect the meaning or construction of any provision of this Agreement.

**29.3 Time.** Time is of the essence of this Agreement for each provision in which time is a factor.

**29.4 Injunctive Relief.** You recognize that your failure to comply with the terms of this Agreement, including, but not limited to, the failure to fully comply with the restrictions contained in Section 13 or 18 or the failure to comply with all post-termination obligations, is likely to cause irreparable harm to us, our affiliates and the System. Therefore, you agree that, in the event of a breach or threatened breach of any of the terms of this Agreement by you, we will be entitled to declaratory and injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance without showing or proving actual damages and without posting any bond or security.

**29.5 Control During Crisis Situation.** If an event occurs at the Subfranchised Restaurant that has or reasonably may cause harm or injury to customers, guests or employees (*i.e.*, food spoilage/poisoning, food tampering/sabotage, slip and fall injuries, natural disasters, robberies, Data Breach, shootings, etc.) or may damage the Proprietary Marks, the System or the Wahlburgers reputation (collectively "Crisis Situation"), you must: **(a)** immediately contact appropriate emergency care providers to assist it in curing the harm or injury; and **(b)** immediately inform us by telephone of the Crisis Situation. You must refrain from making any internal or external announcements (*i.e.*, no communication with the news media) regarding the Crisis Situation (unless otherwise directed by us, Wahlburgers or public health officials).

To the extent such Crisis Situation primarily relates to or involves the Subfranchised Restaurant and in such case to the extent Wahlburgers and/or we deem appropriate, in Wahlburgers' or our sole and absolute discretion, we, our designee, Wahlburgers' or Wahlburgers' designee may control the manner in which the Crisis Situation is handled by the parties, including, without limitation, conducting all communication with the news media, providing care for injured persons and/or temporarily closing the Subfranchised Restaurant. The parties acknowledge that, in directing the management of any such Crisis Situation, we, our designee, Wahlburgers' or Wahlburgers' designee may engage the services of attorneys, experts, doctors, testing laboratories, public relations firms and those other professionals as we or Wahlburgers deem appropriate. You and your employees must cooperate fully with us, our designee, Wahlburgers or Wahlburgers' designee in our or Wahlburgers efforts and activities in this regard and will be bound by all further Crisis Situation procedures developed by us or Wahlburgers from to time hereafter. The indemnification under

Section 23 will include all losses and expenses that may result from the exercise by us or our designee of the management rights granted in this Section 29.5.

**29.6 Compliance with U.S. Laws.** You acknowledge that under applicable U.S. law, including, without limitation, Executive Order 13224, signed on September 23, 2001 (“Order”), we are prohibited from engaging in any transaction with any person engaged in, or with a person aiding any person engaged in, acts of terrorism, as defined in the Order. Accordingly, you represent and warrant to us that, as of the date of this Agreement, neither you nor any person holding any ownership interest in you, controlled by you, or under common control with you is designated under the Order as a person with whom business may not be transacted by us, and that you: **(a)** do not, and hereafter will not, engage in any terrorist activity; **(b)** are not affiliated with and do not support any individual or entity engaged in, contemplating, or supporting terrorist activity; and **(c)** are not acquiring the rights granted under this Agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating, or supporting terrorist activity, or to otherwise support or further any terrorist activity.

### **30 ACKNOWLEDGEMENTS**

You represent, acknowledge and warrant to us (and you agree that these representations, acknowledgments and warranties will survive termination of this Agreement) that:

**30.1** This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You have read this Agreement in its entirety, conducted an independent investigation of the business contemplated by this Agreement, have been thoroughly advised with regard to the terms and conditions of this Agreement by legal counsel or other advisors of your choosing, recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

**30.2** We expressly disclaim the making of, and you acknowledge that you have not received, any warranty or guaranty, express or implied, as to the potential volume, profits or success of the business venture contemplated by this Agreement. We do not, by virtue of any approvals or advice provided to you, assume responsibility or liability to you or any third-party to which we would otherwise not be subject.

**30.3** We have entered, and will continue to enter, into agreements with other franchisees. The manner in which we enforce our rights and the franchisees’ obligations under any of those other agreements will not affect our ability to enforce our rights or your obligations under this Agreement.

**30.4** The Initial Subfranchise Fee is not refundable for any reason.

**30.5** We may change or modify the System, from time to time, including the Manual, and you will be required to make such expenditures as such changes or modifications in the System may require.

**30.6** Nothing in this Agreement prohibits Wahlburgers, us or its and our affiliates from: **(a)** operating or licensing others to operate Wahlburgers Restaurants at any location during the Term other than in the Protected Area; **(b)** operating or licensing others to operate restaurants, other than Wahlburgers Restaurants, at any location; **(c)** utilizing the System or any part of the System in any manner other than operation by us or our affiliates of a Wahlburgers Restaurant at the Subfranchised Location; **(d)** manufacturing, distributing and selling, or causing to be manufactured, distributed and sold, food, goods, wares, merchandise, services, products and Branded Merchandise, whether or

not authorized for sale at Wahlburgers Restaurants, under the Proprietary Marks or other trademarks, service marks, logos or commercial symbols, at wholesale or retail, at any location through any other method or channel of distribution, including, but not limited to, mail order and catalog, direct mail advertising, the Internet and other methods of distribution, regardless of the proximity to the Subfranchised Location; **(e)** developing and owning other franchise systems for the same or similar products and services using trade names and trademarks other than the Proprietary Marks; and/or **(f)** purchasing, being purchased by, merging or combining with, businesses that directly compete with Wahlburgers Restaurants.

**30.7** You have not received from us or our affiliates or anyone acting on our behalf: **(a)** any representation of your potential sales, expenses, income, profit or loss; or **(b)** any representations as inducements to enter this Agreement.

**30.8** Even though this Agreement contains provisions requiring you to operate the Subfranchised Restaurant in compliance with the System: **(a)** we and our affiliates do not have actual or apparent authority to control the day-to-day conduct and operation of your business or employment decisions; **(b)** neither you nor we intend for us or our affiliates to incur any liability in connection with or arising from any aspect of the System or your use of the System, whether or not in accordance with the requirements of the Manual; and **(c)** you are the sole employer of your employees and you and we are not joint employers.

**30.9** You will be solely responsible for: **(a)** hiring, training and supervising efficient, competent and courteous employees of good character for the operation of the Subfranchised Restaurant; **(b)** the terms of their employment and compensation; and **(c)** the proper training of the employees in the operation of the Subfranchised Restaurant.

**30.10** Your execution of this Agreement does not and will not conflict or interfere, directly or indirectly, intentionally or otherwise, with the terms of any other agreement with any third party to which you, any of your owners or any affiliate of yours is a party, including, but not limited to, any noncompetition provision.

**30.11** In the event of a dispute between us, you and we have waived our right to a jury trial.

**30.12** Wahlburgers is not a party to and will have no liability or obligation under this Agreement or any other agreement between you and/or your affiliates and us or our affiliates, unless Wahlburgers formally assumes our obligations in accordance with Exhibit B, in which case the obligations assumed by Wahlburgers will be limited to those which arise after formal assumption of our obligations.

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized representatives.

**SUBFRANCHISEE:**

**MASTER FRANCHISEE:  
NATIVEWAHL LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FRANCHISE INFORMATION**

1. **Subfranchised Location:** \_\_\_\_\_  
\_\_\_\_\_

Within a Gaming Facility: Yes: \_\_\_\_ No: \_\_\_\_

2. **Service Format: (check one)**

\_\_\_\_\_ Full-Service

\_\_\_\_\_ Fast Casual

\_\_\_\_\_ Hybrid Full-Service/Fast Casual

3. **Initial Subfranchise Fee:** \_\_\_\_\_

4. **Renewal Fee:** \_\_\_\_\_

5. **Ownership:** The following is a list of all holders of a direct or indirect equity interest in you and their respective percentage interests:

<b>Name</b>	<b>Address</b>	<b>Ownership Interest</b>

6. **Operating Principal:** \_\_\_\_\_

7. **Existing Businesses:**

<b>Name of Business</b>	<b>Description of Business</b>

## EXHIBIT B

### SPECIAL RIGHTS OF WAHLBURGERS

#### 1. ROLE OF WAHLBURGERS

**1.1. Not a Party.** Wahlburgers is not a party and will have no liability or obligation of any kind under the Agreement or any other agreement between Master Franchisee and Subfranchisee and/or its affiliates, unless Wahlburgers formally assumes (by a writing executed by a duly authorized officer of Wahlburgers) the obligations of Master Franchisee in accordance with this Exhibit B. Without assuming any such obligations or associated liabilities of Master Franchisee, either formally or otherwise, Wahlburgers may periodically act for or on Master Franchisee's behalf to exercise any right or perform any obligation of Master Franchisee under the Agreement or any other agreement between Master Franchisee and Subfranchisee and/or its affiliates, and in such case, Subfranchisee will have no recourse to or against Wahlburgers for or relating to any such action.

**1.2. Special Third Party Beneficiary.** While not a party to the Agreement, Wahlburgers is a notified third party beneficiary of the Agreement and has a significant and material stake in the full compliance of Subfranchisee and Master Franchisee under the Agreement. Accordingly, the parties agree that: **(a)** Wahlburgers may periodically veto, override or reverse all or any decisions, approvals or other discretionary acts that Master Franchisee may periodically take under the Agreement whenever Wahlburgers determines a veto, override or reversal is necessary or important to the protection of the integrity or reputation of or goodwill associated with Wahlburgers, any Wahlburgers' affiliate, the System, any Proprietary Mark, any Confidential Information, any Wahlburgers Restaurant (including the Subfranchised Restaurant) or System developers, franchisees, and licensees; **(b)** Wahlburgers may compel Master Franchisee and/or Subfranchisee to comply with the terms and conditions of the Agreement and any other agreement between Master Franchisee and Subfranchisee and/or its affiliates; and **(c)** Wahlburgers' approval must be granted before Subfranchisee can relocate or cease operations at the Subfranchised Restaurant.

**1.3. Indemnification.** Subfranchisee will indemnify, defend and hold harmless Wahlburgers, its affiliates, its or their successors, assigns and past and present stockholders, directors, officers, employees, agents, members, managers and representatives for exercising in good faith any right, power or authority under this Agreement or any other agreement between Master Franchisee and Subfranchisee and/or its affiliates provided under this Exhibit B or under the Master Agreement.

#### 2. ASSIGNMENT

**2.1. Irrevocable Consent.** The parties hereby irrevocably and unconditionally consent to the immediate assignment of each right or obligation of Master Franchisee under the Agreement in favor of Wahlburgers or its designee, provided that any such assignment may only proceed if one or more of the following events has occurred: **(a)** the Master Agreement is terminated for any reason or expires by its terms; **(b)** Wahlburgers has given Master Franchisee notice that Master Franchisee is in default under the Master Agreement, and Master Franchisee fails to cure the default within the applicable cure period, if any; or **(c)** Master Franchisee and Wahlburgers have agreed in writing to such assignment. Any such assignment will take effect as and when and directed by Wahlburgers or its designee.

**2.2. Power of Attorney.** Master Franchisee and Subfranchisee hereby unconditionally and irrevocably appoint Wahlburgers as attorney-in-fact with full power and authority: **(a)** to execute in the names of Master Franchisee and Subfranchisee and for and on behalf of each of them all

documents necessary to cause any such assignment under this Appendix C to be realized and perfected in favor of Wahlburgers or its designee; and **(b)** to receive or collect, for and on behalf of Master Franchisee and at Master Franchisee's sole cost and expense, all sums payable to Master Franchisee under or in connection with the Agreement. At Wahlburgers' request, Master Franchisee and Subfranchisee also will execute, in favor of Wahlburgers, powers of attorney in compliance with applicable law regarding the foregoing, although the failure to execute the powers of attorney will not affect the legality and enforceability of the power of attorney granted in this Section.

### **2.3. Payments.**

**(a)** Upon notice of any assignment in favor of Wahlburgers or its designee under this Section 2, if such assignment affects any amounts payable by or for Subfranchisee to, or receivable by or for, Master Franchisee under or in connection with the Agreement or any related agreement: **(i)** Subfranchisee will thereafter pay or cause to be paid all such amounts and render all relevant performances under such agreements in favor of Wahlburgers or its designee; and **(ii)** Master Franchisee may not, without the approval of Wahlburgers, receive or collect, or cause to be received or collected for the account of Master Franchisee or otherwise, any such amounts.

**(b)** Without limiting the generality of the foregoing, after the Agreement is assigned in favor of Wahlburgers or its designee under this Section 2, Master Franchisee will immediately and without delay forward to Wahlburgers any amounts thereafter payable to or receivable by Wahlburgers under or in connection with the Agreement or any related agreement (whether by virtue of the assignment or otherwise) that Master Franchisee may have, control, receive or collect, without any deduction, withholding, offset or other reduction for any reason.

**2.4. Liability of Master Franchisee after Assignment.** Master Franchisee alone will be liable for any default of Master Franchisee under or in connection with the Agreement assigned in favor of Wahlburgers or its designee under this Section 2, regardless of the assignment, if the default commences or occurs before the assignment or under or in connection with any obligations of Master Franchisee that survive the assignment.



## EXHIBIT C

### GUARANTEE AND ASSUMPTION OF SUBFRANCHISEE'S OBLIGATIONS

In consideration of, and as an inducement to, the execution of the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ ("Agreement") by \_\_\_\_\_ ("Master Franchisee"), entered into with \_\_\_\_\_ ("Subfranchisee"), the undersigned (collectively, "Guarantors") hereby personally and unconditionally agree as follows:

1. **Guarantee To Be Bound By Certain Obligations.** Guarantors hereby personally and unconditionally guarantee to Master Franchisee and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that each will be personally bound by the restrictions contained in Section 18 of the Agreement.

2. **Guarantee and Assumption of Subfranchisee's Obligations.** Guarantors hereby: **(A)** guarantee to Master Franchisee and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that Subfranchisee and any assignee of Subfranchisee's interest under the Agreement will: **(1)** punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement and **(2)** punctually pay all other monies owed to Master Franchisee and/or its affiliates; and **(B)** agree to be personally liable for the breach of each and every provision in the Agreement.

3. **General Release.** Each Guarantor (if an individual, on behalf of him/herself and his/her heirs, representatives, successors and assigns, and if a business entity, on behalf of itself and its parent, subsidiaries and affiliates) (collectively, "Releasors"), freely and without any influence, forever releases and covenants not to sue Master Franchisee, Wahlburgers Franchising LLC, or their parents, subsidiaries and affiliates and their respective past and present officers, directors, managers, members, shareholders, agents and employees, in their corporate and individual capacities (collectively, "Releasees"), with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, "claims"), that any Releasor now owns, has or claims to have or holds, or may in the future own or hold, or at any prior time owned, held, had or claimed to have, based on, arising out of or relating to, in whole or in part, any fact, event, conduct or omissions occurring on or before the date of this Guarantee, including, without limitation, claims arising under federal, state, tribal and local laws, rules and ordinances and claims arising out of, or relating to this Guarantee, the Agreement and all other agreements between any Releasor and any Releasee, the development and operation of the Subfranchised Restaurant and the development and operation of all other restaurants operated by any Releasor that are franchised by any Releasee. Releasors expressly agree that fair consideration has been given by Master Franchisee for this release, and they fully understand that this is a negotiated, complete and final release of all claims.

4. **General Terms and Conditions.** The following general terms and conditions will apply to this Guarantee:

**A.** Each of the undersigned waives: **(1)** acceptance and notice of acceptance by Master Franchisee of the foregoing undertakings; **(2)** notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; **(3)** protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; **(4)** any right he/she/it may have to require that an action be brought against Subfranchisee or any other person as a condition of liability; **(5)** all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Subfranchisee arising

as a result of the execution of and performance under this Guarantee by the undersigned; **(6)** any law or statute which requires that Master Franchisee make demand upon, assert claims against or collect from Subfranchisee or any others, foreclose any security interest, sell collateral, exhaust any remedies or take any other action against Subfranchisee or any others prior to making any demand upon, collecting from or taking any action against the undersigned with respect to this Guarantee; **(7)** any and all other notices and legal or equitable defenses to which he may be entitled; and **(8) any and all right to have any legal action under this Guarantee decided by a jury.**

**B.** Each of the undersigned consents and agrees that: **(1)** his/her/its direct and immediate liability under this Guarantee will be joint and several; **(2)** he/she/it will render any payment or performance required under the Agreement if Subfranchisee fails or refuses punctually to do so; **(3)** such liability will not be contingent or conditioned upon pursuit by Master Franchisee of any remedies against Subfranchisee or any other person; **(4)** such liability will not be diminished, relieved or otherwise affected by any amendment of the Agreement, any extension of time, credit or other indulgence which Master Franchisee may from time to time grant to Subfranchisee or to any other person including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims, none of which will in any way modify or amend this Guarantee, which will be continuing and irrevocable during the term of the Agreement and for so long thereafter as there are monies or obligations owing from Subfranchisee to Master Franchisee or its affiliates under the Agreement; and **(5)** monies received from any source by Master Franchisee for application toward payment of the obligations under the Agreement and under this Guarantee may be applied in any manner or order deemed appropriate by Master Franchisee. In addition: **(a)** each Guarantor acknowledges that the obligations under this Guarantee will continue to remain in force and effect unless Master Franchisee in its sole discretion, in writing, releases him/her/it from this Guarantee; and **(b)** following any Transfer, the obligations of each Guarantor under this Guarantee will continue to remain in force and effect unless Master Franchisee in its sole discretion, in writing, releases the Guarantor from this Guarantee. Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Sections 16.2.3 of the Agreement will remain in force and effect for a period of 2 years after any such release by Master Franchisee. A release by Master Franchisee of any Guarantor will not affect the obligations of any other Guarantor.

**C.** If Master Franchisee brings a legal action to enforce this Guarantee, the prevailing party in such proceeding will be entitled to reimbursement of its costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, cost of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. In any judicial proceeding, these costs and expenses will be determined by the court and not by a jury.

**D.** If Master Franchisee utilizes legal counsel (including in-house counsel employed by Master Franchisee or its affiliates) in connection with any failure by the undersigned to comply with this Guarantee, the undersigned will reimburse Master Franchisee for any of the above-listed costs and expenses incurred by it.

**E.** If any of the following events occur, a default ("Default") under this Guarantee will exist: **(1)** failure of timely payment or performance of the obligations under this Guarantee; **(2)** breach of any agreement or representation contained or referred to in this Guarantee; **(3)** the dissolution of, termination of existence of, loss of good standing status by, appointment of a receiver for, assignment for the benefit of creditors of, or the commencement of any insolvency or bankruptcy proceeding by or against, any of the undersigned; and/or **(4)** the entry of any monetary judgment or the assessment against, the filing of any tax lien against, or the issuance of any writ of garnishment or attachment against any property of or debts due any of the undersigned. If a Default occurs, the

obligations of each Guarantor will be due immediately and payable without notice. Upon the death of a Guarantor, the estate will be bound by this Guarantee for all obligations existing at the time of death. The obligations of the surviving Guarantors will continue in full force and effect.

**F.** This Guarantee will inure to the benefit of and be binding upon the parties and their respective heirs, legal representatives, successors and assigns. Master Franchisee's interests in and rights under this Guarantee are freely assignable, in whole or in part, by Master Franchisee. Any assignment will not release the undersigned from this Guarantee.

**G.** Section 28 of the Agreement is incorporated by reference into this Guarantee and all capitalized terms that are not defined in this Guarantee will have the meaning given them in the Agreement.

**IN WITNESS WHEREOF**, each of the undersigned has hereunto affixed his signature.

**GUARANTORS:**

Date: \_\_\_\_\_  
\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

## EXHIBIT D

### COMMITMENT TO BE BOUND BY CERTAIN OBLIGATIONS

In consideration of, and as an inducement to, the execution of the foregoing Wahlburgers Restaurant Subfranchise Agreement ("Agreement") by NativeWahl LLC ("Master Franchisee"), entered into with \_\_\_\_\_ ("Subfranchisee"), the undersigned, each of which is a 10% Owner, hereby personally and unconditionally agree as follows:

#### 1. Defined Terms

Except as otherwise provided herein, all capitalized or defined terms in this Commitment have the meanings ascribed to them in the Agreement.

#### 2. Acknowledgment

Each of the undersigned has and will remain under a continuing obligation to have read, understood and discussed or had or taken the opportunity to discuss with its own advisers and consultants (financial, legal, technical and otherwise) this Commitment, the Agreement and any other related agreement in its or their entirety.

#### 3. Commitment

Each of the undersigned hereby personally and unconditionally acknowledges and agrees, for the Term and thereafter as provided in the Agreement or at law or in equity, that each will be personally bound by the restrictions contained in Sections 18.1 and 18.2 of the Master Franchise Agreement.

#### 4. Enforcement

Section 28 of the Agreement is incorporated by reference into this Commitment.

#### 5. Assignment

Master Franchisee may freely assign its right, title and interest in the Agreement without the prior written consent of any of the undersigned. No assignment of the Agreement by Master Franchisee will release any of the undersigned from this Commitment.

#### 6. Miscellaneous

None of the undersigned will in any way be released from this Commitment by: **(A)** any invalidity, illegality or unenforceability of the Agreement or any related agreement; **(B)** any alteration or amendment of, or variation to, the Agreement or any related agreement; **(C)** any allowance of time by Master Franchisee under the Agreement or any related agreement; **(D)** any forbearance or forgiveness or indulgence in respect of any matter or thing on the part of Master Franchisee concerning the Agreement or any related agreement; **(E)** the insolvency, bankruptcy, winding up or reorganization of Subfranchisee (or any analogous event or the exercise of any power of disclaimer arising in such circumstances); or **(F)** any dispute or disagreement between Master Franchisee and Subfranchisee under or in relation to the Agreement or any related agreement.

**IN WITNESS WHEREOF**, each of the undersigned has signed, sealed and delivered this Commitment.

Date: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

***EXHIBIT D***  
***GAMING FACILITY ADDENDUM***

**GAMING FACILITY ADDENDUM TO  
WAHLBURGERS RESTAURANT SUBFRANCHISE AGREEMENT**

**THIS GAMING FACILITY ADDENDUM** to the Wahlburgers Restaurant Subfranchise Agreement for a Tribal Location dated as of \_\_\_\_\_ ("Subfranchise Agreement") by and between NativeWahl LLC ("Master Franchisee", "we", "us" or "our") and \_\_\_\_\_ ("Subfranchisee", "you" or "your") is entered into simultaneously with the execution of the Subfranchise Agreement.

**RECITALS**

Pursuant to the Subfranchise Agreement, we granted you the right to develop, open and operate a Subfranchised Restaurant at the Subfranchised Location.

Since the Subfranchised Restaurant will be located in \_\_\_\_\_ ("Gaming Facility"), you and we have agreed to modify certain provisions in the Subfranchise Agreement and are entering into this Addendum to make those modifications.

**NOW, THEREFORE**, the parties agree to amend the Subfranchise Agreement as follows:

1. **Capitalized Terms.** Any capitalized term not defined in this Addendum will have the meaning given to it in the Subfranchise Agreement.
2. **Term.** Section 2.1. of the Subfranchise Agreement is deleted and is replaced with the following:

The Term begins on the Effective Date and, unless this Agreement is terminated at an earlier date as provided in Section 19, expires at midnight on the day preceding the 20th anniversary of the date the Subfranchised Restaurant first opened for business. (We may complete and forward to you a notice to memorialize the date the Subfranchised Restaurant first opened for business.) Notwithstanding the foregoing, this Agreement will automatically terminate if your foodservice contract or lease (collectively, "lease") with the Gaming Facility owner or operator ("Owner") terminates or expires without renewal. In addition, you may terminate this Agreement following 60 days' written notice to us if the Owner instructs you in writing to cease operating the Subfranchised Restaurant (provided you have exercised your best efforts to arrange a meeting between the Owner and us, if we so elect, to discuss the continued operation of the Subfranchised Restaurant). If your lease with the Gaming Facility permits the Owner to take this action on shorter notice, the notice period provided in that contract will govern, provided you have given us a copy of the relevant contract provision.

3. **Development Procedure.** Section 3 of the Subfranchise Agreement is deleted; provided however, the location of the Subfranchised Restaurant within the Gaming Facility will be subject to our prior written approval.
4. **Lease Provisions.** Section 4.1.3. of the Subfranchise Agreement is deleted.
5. **Opening Date.** The first sentence of Section 5.2.1. of the Subfranchise Agreement is deleted and is replaced with the following: "You must open the Subfranchised Restaurant for

business at the Subfranchised Location no later than 180 days after the Effective Date ("Opening Date")."

6. **Right to Open the Subfranchised Restaurant.** Section 5.3.9. of the Subfranchise Agreement is deleted.

7. **Grand Opening Plan.** Section 8.6 of the Subfranchise Agreement is deleted.

8. **Grounds for Termination.** Section 19.1.14. of the Subfranchise Agreement is deleted.

9. **Miscellaneous.**

A. **Captions.** All captions in this Addendum are intended solely for the convenience of the parties, and none will be deemed to affect the meaning or construction of any provision of this Addendum.

B. **Counterparts.** This Addendum may be executed in counterparts, and each copy so executed and delivered will be deemed to be an original. This Addendum may be signed using electronic signatures, and such signatures will have full legal force and effect.

C. **Limited Modification.** Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized representatives.

**SUBFRANCHISEE**

**MASTER FRANCHISEE:  
NATIVEWAHL LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



***EXHIBIT E***  
***CONFIDENTIALITY AGREEMENT***

## CONFIDENTIALITY AGREEMENT

In consideration of the willingness of NativeWahl LLC (“NativeWahl”) and Wahlburgers Franchising LLC (“Wahlburgers”) to permit me to review the confidential operating Manual (“Manual”) before entering into a Subfranchise Agreement, I agree, individually and as an officer, member or partner of any entity that may enter into an agreement with NativeWahl, as follows:

1. As used in this Agreement, the term “Confidential Information” means all information contained in the Manual and all other information relating to the Wahlburgers System disclosed to me except: information which is now, or hereafter becomes, generally known (other than by unauthorized disclosure, whether deliberate or inadvertent, by myself or by any other person or entity with which I am affiliated); information that was in my possession at the time of receipt of the Manual; and information that comes into my possession after the date of this Agreement from a source not under an obligation of secrecy to NativeWahl and/or Wahlburgers.
  
2. I agree not to make any use of the Confidential Information, not to make any copies of the Confidential Information and not to reveal any of the Confidential Information to any person who has not signed a Confidentiality Agreement with NativeWahl and/or Wahlburgers.
  
3. This Agreement and the relationship between the parties is governed by and will be construed in accordance with the laws of Little River Band of Ottawa Indians (“Tribal Law”) and where silent, federal law of the United States (“Federal Law”) without regard to conflicts of laws principles. In the event that Tribal Law and Federal Law are silent with respect to a matter to be resolved, the laws of the State of Michigan effective at the time of the dispute will govern without regards to conflict of law principles.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_ 202\_\_

**EXHIBIT F**  
**FINANCIAL STATEMENTS**

***NativeWahl's Financial Statements***

**COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE**

March 15, 2023

Manager-Members  
NativeWahl, LLC  
Manistee, Michigan

We have audited the financial statements of **NativeWahl, LLC** (the "Company"), as of and for the year ended December 31, 2022, and have issued our report thereon dated March 15, 2023. Professional standards require that we advise you of the following matters relating to our audit.

**Our Responsibility in Relation to the Financial Statement Audit**

As communicated in our engagement letter dated January 24, 2023, our responsibility, as described by professional standards, is to form and express an opinion about whether the financial statements that have been prepared by management with your oversight are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America. Our audit of the financial statements does not relieve you or management of its respective responsibilities.

Our responsibility, as prescribed by professional standards, is to plan and perform our audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. An audit of financial statements includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, as part of our audit, we considered the internal control of the Company solely for the purpose of determining our audit procedures and not to provide any assurance concerning such internal control.

We are also responsible for communicating significant matters related to the audit that are, in our professional judgment, relevant to your responsibilities in overseeing the financial reporting process. However, we are not required to design procedures for the purpose of identifying other matters to communicate to you.

**Planned Scope and Timing of the Audit**

We conducted our audit consistent with the planned scope and timing we previously communicated to you in our engagement letter.



### **Compliance with All Ethics Requirements Regarding Independence**

The engagement team, others in our firm, as appropriate, and our firm has complied with all relevant ethical requirements regarding independence.

### **Significant Risks Identified**

We have identified the following significant risks, which are ordinarily presumed in a financial statement audit: management override of controls and material misstatement due to fraud related to revenue recognition.

### **Qualitative Aspects of the Company's Significant Accounting Practices**

#### *Significant Accounting Policies*

Management has the responsibility to select and use appropriate accounting policies. A summary of the significant accounting policies adopted by the Company is included in Note 1 to the financial statements. As described in Note 1 to the financial statements, during the year, the Company adopted Accounting Standards Update 2021-02, which adds subtopic Accounting Standards Codification 952-606, *Franchisors - Revenue from Contracts with Customers*, which allows non-public entities to account for pre-opening services as distinct from the franchise license and as a single performance obligation. No matters have come to our attention that would require us, under professional standards, to inform you about (1) the methods used to account for significant unusual transactions and (2) the effect of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

#### *New Accounting Pronouncements*

Refer to the attached Addendum B for descriptions of new or pending accounting pronouncements not previously disclosed to you and the actual or expected impact that their application, or pending implementation, may have on the Company's financial statements.

#### *Significant Accounting Estimates*

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's current judgments. Those judgments are normally based on knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ markedly from management's current judgments. The most sensitive estimate affecting the financial statements is the estimated useful life of the master franchise rights.

We have reviewed the process used by management in formulating the Company's estimate, and we have evaluated the key factors and assumptions used and determined that such an estimate is reasonable in relation to the Company's financial statements taken as a whole.

**Significant Difficulties Encountered during the Audit**

We encountered no significant difficulties in dealing with management relating to the performance of the audit.

**Uncorrected and Corrected Misstatements**

For purposes of this communication, professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that we believe are trivial, and communicate them to the appropriate level of management. Further, professional standards require us to also communicate the effect of uncorrected misstatements related to prior periods on the relevant classes of transactions, account balances or disclosures, and the financial statements as a whole. Management has corrected all identified misstatements. Uncorrected misstatements or matters underlying those uncorrected misstatements could potentially cause future-period financial statements to be materially misstated, even though the uncorrected misstatements are immaterial to the financial statements currently under audit.

In addition, professional standards require us to communicate to you all material, corrected misstatements that were brought to the attention of management as a result of our audit procedures. There were no material misstatements detected by us as a result of our audit procedures.

**Disagreements with Management**

For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter, which could be significant to the Company's financial statements or the auditors' report. No such disagreements arose during the course of the audit.

**Representations Requested from Management**

We have requested certain written representations from management, which are included in the attached letter dated March 15, 2023.

**Management's Consultations with Other Accountants**

In some cases, management may decide to consult with other accountants about auditing and accounting matters. Management informed us that, and to our knowledge, there were no consultations with other accountants regarding auditing and accounting matters.

Manager-Members  
NativeWahl, LLC  
March 15, 2023  
Page 4

**Other Significant Matters, Findings, or Issues**

In the normal course of our professional association with the Company, we generally discuss a variety of matters, including the application of accounting principles and auditing standards, business conditions affecting the entity, and business plans and strategies that may affect the risks of material misstatement. None of the matters discussed resulted in a condition to our retention as the Company's auditors.

This report is intended solely for the information and use of the Member-Managers and management of **NativeWahl, LLC** and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

*Rehmann Robson LLC*



## Attachment B – Upcoming Changes in Accounting Standards

The following pronouncements of the Financial Accounting Standards Board (FASB) have been released recently and may be applicable to the Company in the near future. We encourage management to review the following information and determine which standard(s) may be applicable to the Company. For the complete text of these and other FASB standards, visit [www.fasb.org](http://www.fasb.org) and click on the “Standards & Guidance” tab. If you have questions regarding the applicability, timing, or implementation approach for any of these standards, please contact your audit team.

### 12/31/2023 Year Ends

#### **ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments***

The ASU is intended to improve financial reporting by requiring timelier recording of credit losses on loans and other financial instruments held by financial institutions and other organizations.

The ASU requires the measurement of all expected credit losses for financial assets held at the reporting date based on historical experience, current conditions, and reasonable and supportable forecasts. Financial institutions and other organizations will now use forward-looking information to better inform their credit loss estimates.

Many of the loss estimation techniques applied today will still be permitted, although the inputs to those techniques will change to reflect the full amount of expected credit losses. Organizations will continue to use judgment to determine which loss estimation method is appropriate for their circumstances.

The ASU requires enhanced disclosures to help investors and other financial statement users better understand significant estimates and judgments used in estimating credit losses, as well as the credit quality and underwriting standards of an organization’s portfolio. These disclosures include qualitative and quantitative requirements that provide additional information about the amounts recorded in the financial statements.

In addition, the ASU amends the accounting for credit losses on available-for-sale debt securities and purchased financial assets with credit deterioration.

For non-public organizations, the ASU on credit losses will take effect for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years.

#### **ASU No. 2017-04, *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment***

To simplify the subsequent measurement of goodwill, these amendments eliminate Step 2 from the goodwill impairment test. The annual, or interim, goodwill impairment test is performed by comparing the fair value of a reporting unit with its carrying amount. An impairment charge should be recognized for the amount by which the carrying amount exceeds the reporting unit’s fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. In addition,

## Attachment B – Upcoming Changes in Accounting Standards

income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit should be considered when measuring the goodwill impairment loss, if applicable.

The amendments also eliminate the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity still has the option to perform the qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary.

The amendments should be applied on a prospective basis. The nature of and reason for the change in accounting principle should be disclosed upon transition.

Nonpublic entities, including not-for-profit entities, that adopt the amendments should do so for their annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2022. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017.

### ***ASU No. 2022-02, Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures***

The FASB issued ASU No. 2022-02 to improve the usefulness of information provided to investors about certain loan refinancings, restructurings, and writeoffs. The new ASU responds to feedback we received from investors and other stakeholders during our extensive post-implementation review (PIR) of the credit losses standard. The amendments create a single model for loan modification accounting by creditors while providing improved loan modification and writeoff disclosures.

#### **Troubled Debt Restructurings by Creditors That Have Adopted CECL**

During the FASB's PIR of the credit losses standard, including a May 2021 roundtable, investors and other stakeholders questioned the relevance of the troubled debt restructuring (TDR) designation and the usefulness of disclosures about those modifications. Some noted that measurement of expected losses under the CECL model already incorporates losses realized from restructurings that are TDRs and that relevant information for investors would be better conveyed through enhanced disclosures about certain modifications.

The amendments in the new ASU eliminate the accounting guidance for TDRs by creditors that have adopted CECL while enhancing disclosure requirements for certain loan refinancings and restructurings by creditors made to borrowers experiencing financial difficulty.

#### **Vintage Disclosures—Gross Writeoffs**

The disclosure of gross writeoff information by year of origination was cited by numerous investors as an essential input to their analysis. To address this feedback, the amendments in the new ASU require that a public business entity disclose current-period gross writeoffs by year of origination for financing receivables and net investment in leases.

## Attachment B – Upcoming Changes in Accounting Standards

### Effective Dates

For entities that have adopted the amendments in ASU No. 2016-13, *Financial Instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, the amendments in this Update are effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. For entities that have not yet adopted the amendments in ASU No. 2016-13, the effective dates for the amendments in this Update are the same as the effective dates in ASU No. 2016-13. The amendments in this Update should be applied prospectively, except as provided in the next sentence. For the transition method related to the recognition and measurement of TDRs, an entity has the option to apply a modified retrospective transition method, resulting in a cumulative-effect adjustment to retained earnings in the period of adoption.

### **ASU No. 2022-04, *Liabilities—Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations***

ASU No. 2022-04 enhances the transparency about the use of supplier finance programs for investors and other allocators of capital.

The ASU affects buyer companies that use supplier finance programs in connection with buying goods or services. By entering into supplier finance programs with finance providers, suppliers have the option to be paid by a third party in advance of an invoice due date, based on invoices that the buyer has confirmed as valid. These arrangements are also commonly known as reverse factoring, payables finance, or structured payables arrangements.

Under the new ASU, a company that uses a supplier finance program in connection with the purchase of goods or services will be required to disclose sufficient information about the program to allow a user of financial statements to understand the program's nature, activity during the period, changes from period to period, and potential magnitude. Specifically, a buyer will be required to provide the following qualitative and quantitative information:

- The key terms of the program, including a description of the payment terms (including payment timing and basis for its determination) and assets pledged as security or other forms of guarantees provided for the committed payment to the finance provider or intermediary.
- For the obligations that the buyer has confirmed as valid to the finance provider or intermediary:
- The amount outstanding that remains unpaid by the buyer as of the end of the annual period (the outstanding confirmed amount).
- A description of where those obligations are presented in the balance sheet.
- A rollforward of those obligations during the annual period, including the amount of obligations confirmed and the amount of obligations subsequently paid.

The buyer should disclose the outstanding confirmed amount as of the end of each interim period.

## Attachment B – Upcoming Changes in Accounting Standards

This ASU is effective for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2022, except for the pending content in paragraph 405-50-50-3(b)(2), which shall be effective for fiscal years beginning after December 15, 2023. Early adoption is permitted.

12/31/2024 Year Ends

### **ASU No. 2020-06, *Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging— Contracts in Entity’s Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity’s Own Equity***

ASU 2020-05 is expected to improve financial reporting associated with accounting for convertible instruments and contracts in an entity’s own equity.

The ASU simplifies accounting for convertible instruments by removing major separation models required under current U.S. GAAP. Consequently, more convertible debt instruments will be reported as a single liability instrument and more convertible preferred stock as a single equity instrument with no separate accounting for embedded conversion features. The ASU removes certain settlement conditions that are required for equity contracts to qualify for the derivative scope exception, which will permit more equity contracts to qualify for it. The ASU also simplifies the diluted earnings per share (EPS) calculation in certain areas.

For nonpublic entities, the standard will be effective for fiscal years beginning after December 15, 2023, including interim periods within those fiscal years. Early adoption will be permitted.

In its original July 2019 Exposure Draft, the FASB also proposed simplifying the accounting for equity contracts by reducing form-over-substance-based accounting conclusions that are driven by remote contingent events in the assessment of the derivatives scope exception. However, based on mixed feedback from stakeholders during the public comment period, the FASB decided not to include those proposed changes in the ASU. Consequently, the FASB plans to continue to explore improvements on this aspect of the guidance in a separate Phase 2 project.

### **ASU No. 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers***

ASU 2021-08 addresses diversity in practice related to the accounting for revenue contracts with customers acquired in a business combination.

Under current GAAP, an acquirer generally recognizes assets acquired and liabilities assumed in a business combination, including contract assets and contract liabilities arising from revenue contracts with customers and other similar contracts that are accounted for in accordance with Topic 606, Revenue from Contracts with Customers, at fair value on the acquisition date.

The FASB indicates that some stakeholders indicated that it is unclear how an acquirer should evaluate whether to recognize a contract liability from a revenue contract with a customer acquired in a business combination after Topic 606 is adopted. Furthermore, it was identified that under current

## Attachment B – Upcoming Changes in Accounting Standards

practice, the timing of payment (payment terms) of a revenue contract may subsequently affect the post-acquisition revenue recognized by the acquirer. To address this, the ASU requires entities to apply Topic 606 to recognize and measure contract assets and contract liabilities in a business combination.

Finally, the amendments in the ASU improve comparability after the business combination by providing consistent recognition and measurement guidance for revenue contracts with customers acquired in a business combination and revenue contracts with customers not acquired in a business combination.

For public business entities, the amendments in this Update are effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. For all other entities, the amendments are effective for fiscal years beginning after December 15, 2023, including interim periods within those fiscal years.

The amendments in this Update should be applied prospectively to business combinations occurring on or after the effective date of the amendments. Early adoption of the amendments is permitted, including adoption in an interim period. An entity that early adopts in an interim period should apply the amendments (1) retrospectively to all business combinations for which the acquisition date occurs on or after the beginning of the fiscal year that includes the interim period of early application and (2) prospectively to all business combinations that occur on or after the date of initial application.

### ***ASU No. 2022-01, Derivatives and Hedging (Topic 815): Fair Value Hedging—Portfolio Layer Method***

The FASB issued ASU No. 2022-01 to better align hedge accounting with an organization's risk management strategies.

In 2017, the FASB issued a new hedging standard to better align the economic results of risk management activities with hedge accounting. That standard increased transparency around how the results of hedging activities are presented, both on the face of the financial statements and in the footnotes, for investors and analysts when hedge accounting is applied.

One of the major provisions of that standard was the addition of the last-of-layer hedging method. For a closed portfolio of fixed-rate prepayable financial assets or one or more beneficial interests secured by a portfolio of prepayable financial instruments, such as mortgages or mortgage-backed securities, the last-

of-layer method allows an entity to hedge its exposure to fair value changes due to changes in interest rates for a portion of the portfolio that is not expected to be affected by prepayments, defaults, and other events affecting the timing and amount of cash flows.

Since issuing that standard, stakeholders have told the FASB that the ability to elect hedge accounting for a single layer is useful, but hedge accounting could better reflect risk management activities if expanded to allow multiple layers of a single closed portfolio to be hedged under the method.

## Attachment B – Upcoming Changes in Accounting Standards

ASU No. 2022-01 expands the current single-layer method to allow multiple hedged layers of a single closed portfolio under the method. To reflect that expansion, the last-of-layer method is renamed the portfolio layer method.

Additionally, the ASU:

- Expands the scope of the portfolio layer method to include nonprepayable assets;
- Specifies eligible hedging instruments in a single-layer hedge;
- Provides additional guidance on the accounting for and disclosure of hedge basis adjustments under the portfolio layer method; and
- Specifies how hedge basis adjustments should be considered when determining credit losses for the assets included in the closed portfolio.

The ASU applies to all entities that elect to apply the portfolio layer method of hedge accounting. For public business entities, the ASU is effective for fiscal years beginning after December 15, 2022, and interim periods within those fiscal years. For all other entities, the ASU is effective for fiscal years beginning after December 15, 2023, and interim periods within those fiscal years. Early adoption is permitted.

### **ASU No. 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848***

ASU No. 2022-06 extends the period of time preparers can utilize the reference rate reform relief guidance.

In 2020, the FASB issued Accounting Standards Update No. 2020-04, Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting, which provides optional guidance to ease the potential burden in accounting for (or recognizing the effects of) reference rate reform on financial reporting.

The objective of the guidance in Topic 848 is to provide relief during the temporary transition period, so the FASB included a sunset provision within Topic 848 based on expectations of when the London Interbank Offered Rate (LIBOR) would cease being published. In 2021, the UK Financial Conduct Authority (FCA) delayed the intended cessation date of certain tenors of USD LIBOR to June 30, 2023.

To ensure the relief in Topic 848 covers the period of time during which a significant number of modifications may take place, the ASU defers the sunset date of Topic 848 from December 31, 2022, to December 31, 2024, after which entities will no longer be permitted to apply the relief in Topic 848.

## Attachment B – Upcoming Changes in Accounting Standards

### 12/31/2025 Year Ends

#### **ASU No. 2018-12, *Financial Services —Insurance (Topic 944): Targeted Improvements to the Accounting for Long-Duration Contracts***

ASU No. 2018-12 improves financial reporting for insurance companies that issue long-duration contracts, such as life insurance, disability income, long-term care, and annuities.

To improve this area of financial reporting, the new ASU:

- Requires updated assumptions for liability measurement. Assumptions used to measure the liability for traditional insurance contracts, which are typically determined at contract inception, will now be reviewed, and, if there is a change, updated, at least annually, with the effect recorded in net income;
- Standardizes the liability discount rate. The liability discount rate will be a standardized, market-observable discount rate (upper-medium grade fixed-income instrument yield), with the effect of rate changes recorded in other comprehensive income;
- Provides greater consistency in measurement of market risk benefits. The two previous measurement models have been reduced to one measurement model (fair value), resulting in greater uniformity across similar market-based benefits and better alignment with the fair value measurement of derivatives used to hedge capital market risk;
- Simplifies amortization of deferred acquisition costs. Previous earnings-based amortization methods have been replaced with a more level amortization basis; and
- Requires enhanced disclosures. They include rollforwards and information about significant assumptions and the effects of changes in those assumptions.

For calendar-year nonpublic companies, the changes will be effective in 2025. Early adoption is permitted.

#### **ASU No. 2020-11, *Financial Services —Insurance (Topic 944): Effective Date and Early Application***

ASU No. 2020-11 will help insurance companies adversely affected by the COVID-19 pandemic by giving them an additional year to implement ASU No. 2018-12, *Financial Services—Insurance (Topic 944): Targeted Improvements to the Accounting for Long-Duration Contracts (LDTI)*. For insurers that do not need the extra time, the ASU makes it easier and more cost-effective to maintain their current timelines and early adopt LDTI.

The new ASU has two purposes:

- To ensure a high-quality implementation of LDTI guidance by permitting insurance companies impacted by the pandemic to take an additional year to apply the standard; and

## Attachment B – Upcoming Changes in Accounting Standards

- To reduce cost and complexity for insurance companies that remain on track to make a successful transition to the standard by the current effective date.

To facilitate early application and encourage accelerated delivery of better information to investors, the ASU allows insurance companies to restate only one previous period, rather than two, if they choose to early adopt LDTI.

For insurance companies that need extra time, the ASU permits them to delay implementation by one year as follows: for entities that are not SEC filers, all other entities, LDTI is effective for fiscal years beginning after December 15, 2024, and interim periods within fiscal years beginning after December 15, 2025.

### **ASU No. 2022-03 (“ASU 2022-03”), *Fair Value Measurement (Topic 820): Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions***

ASU No. 2022-03 improves financial reporting for investors and other financial statement users by increasing comparability of financial information across reporting entities that have investments in equity securities measured at fair value that are subject to contractual restrictions preventing the sale of those securities.

Topic 820, Fair Value Measurement, states that when measuring the fair value of an asset or a liability, a reporting entity should consider the characteristics of the asset or liability, including restrictions on the sale of the asset or liability, if a market participant also would take those characteristics into account. Key to that determination is the unit of account for the asset or liability being measured at fair value.

Some stakeholders noted that Topic 820 contains conflicting guidance on what the unit of account is when measuring the fair value of an equity security. This has resulted in diversity in practice on whether the effects of a contractual restriction that prohibits the sale of an equity security should be considered in measuring that equity security’s fair value.

To address this, the amendments in the ASU clarify that a contractual restriction on the sale of an equity security is not considered part of the unit of account of the equity security and, therefore, is not considered in measuring fair value. The ASU introduces new disclosure requirements to provide investors with information about the restriction including the nature and remaining duration of the restriction.

ASU No. 2022-03 is effective for public business entities for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2023. Early adoption is permitted. For all other entities, it is effective for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2024. Early adoption is permitted for both interim and annual financial statements that have not yet been issued or made available for issuance.



## Attachment B – Upcoming Changes in Accounting Standards

### **ASU No. 2022-05, *Financial Services-Insurance (Topic 944): Transition for Sold Contracts***

ASU 2022-05 amends transition guidance in ASU No. 2018-12, Financial Services—Insurance (Topic 944): Targeted Improvements to the Accounting for Long-Duration Contracts (LDTI), for contracts that have been derecognized because of a sale or disposal of individual or a group of contracts or legal entities before the LDTI effective date.

In August 2018, the FASB issued ASU No. 2018-12 to improve, simplify, and enhance the financial reporting requirements for long-duration contracts issued by insurance entities. The amendments in ASU No. 2018-12 require an insurance entity to apply a retrospective transition method as of the beginning of the earliest period presented or the beginning of the prior fiscal year if early application is elected.

The FASB received feedback that applying the LDTI guidance to contracts that were derecognized because of a sale or disposal of individual or a group of contracts or legal entities before the LDTI effective date likely would not provide decision-useful information to investors and other allocators of capital and may result in significant operability challenges for insurance entities to apply the guidance.

To address this issue, the ASU amends the LDTI transition guidance to allow an insurance entity to make an accounting policy election to exclude certain contracts or legal entities from applying the LDTI guidance when, as of the LDTI effective date, (a) the insurance contracts have been derecognized because of a sale or disposal and (b) the insurance entity has no significant continuing involvement with the derecognized contracts.

The effective dates of the amendments in this Update are consistent with the effective dates of the amendments in Update 2020-11; that is, for entities that are not SEC filers, fiscal years beginning after December 15, 2024, and interim periods within fiscal years beginning after December 15, 2025.

# ***NativeWahl, LLC***

2608 Government Center Drive  
Manistee, MI 49660  
231-398-6840

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March 15, 2023

Rehmann Robson  
107 S. Cass Street, Suite A  
Traverse City, MI

This representation letter is provided in connection with your audit of the financial statements of ***NativeWahl, LLC*** (the "Company"), which comprise the balance sheet as of December 31, 2022, and the related statements of operations and members' equity, and cash flows for the year then ended, and the related notes to the financial statements, for the purpose of expressing an opinion as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, 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.

We confirm that, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves as of March 15, 2023:

## **Financial Statements**

1. We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated January 23, 2023 for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework we have chosen, which is accounting principles generally accepted in the United States of America.
2. The financial statements are fairly presented in accordance with accounting principles generally accepted in the United States of America.
3. We acknowledge our responsibility 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.
4. We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
5. Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable. Specifically, we believe that the master franchise rights of \$1,000,000 have a 20 year useful life and should be amortized over that period.

# ***NativeWahl, LLC***

2608 Government Center Drive  
Manistee, MI 49660  
231-398-6840

6. Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of accounting principles generally accepted in the United States of America.

For the purposes of this letter, related parties means affiliates of the Company; entities for which investments are accounted for by the equity method by the Company; trusts for the benefit of employees, such as pension and profit-sharing trusts that are managed by or under the trusteeship of management; principal owners of the Company and its management; and other parties with which the Company may deal if one party controls or can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. Another party is also a related party if it can significantly influence management or operating policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own interest.

7. There were no events subsequent to the date of the financial statements for which accounting principles generally accepted in the United States of America require adjustment to or disclosure in the financial statements.

8. With respect to your assistance in preparing the financial statements, we have:

- a. Made all management decisions and performed all management functions;
- b. Assigned a competent individual to oversee the services;
- c. Evaluated the adequacy of the services performed;
- d. Evaluated and accepted responsibility for the result of the service performed; and
- e. Established and maintained internal controls, including monitoring ongoing activities.

9. The outbreak of a novel coronavirus (COVID-19), which the World Health Organization declared in March 2020 to be a pandemic, continues to spread throughout the United States of America and the globe. The outbreak may result in reduced customer traffic and the temporary reduction of operating hours from Company's potential restaurants and stores. The extent of the impact of COVID-19 on the Company's operational and financial performance will depend on certain developments, including the duration and spread of the outbreak, and its impact on customers, employees, and vendors, all of which are uncertain and cannot be predicted. While management reasonably expects the COVID-19 outbreak to impact the Company's financial condition, operating results, and cash flows, the related financial consequences and duration cannot be estimated at this time.

## **Information Provided**

10. We have provided you with:
- a. Access to all information that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters;
  - b. Additional information that you have requested from us for the purpose of the audit;
  - c. Unrestricted access to persons within the Company from whom you determined it necessary to obtain audit evidence.

# ***NativeWahl, LLC***

2608 Government Center Drive  
Manistee, MI 49660  
231-398-6840

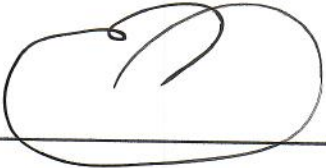
- d. A written acknowledgement of all of the documents that we expect to be included in an annual report, which includes but is not limited to the Franchise Disclosure Document.
  - e. A final version of the annual report (including all the documents that, together, comprise the annual report) as soon as is practicable.
11. The financial statements and any other information included in the annual report are consistent with one another, and the other information does not contain any material misstatements.
  12. All transactions have been recorded in the accounting records and are reflected in the financial statements.
  13. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
  14. We have provided to you our analysis of the Company's ability to continue as a going concern, including significant conditions and events present, and if necessary, our analysis of management's plans, and our ability to achieve those plans.
  15. We have no knowledge of fraud or suspected fraud that affects the Company and involves:
    - a. Management;
    - b. Employees who have significant roles in internal control; or
    - c. Others when the fraud could have a material effect on the financial statements.
  16. We have no knowledge of any allegations of fraud, or suspected fraud, affecting the Company's financial statements communicated by employees, former employees, analysts, regulators, or others.
  17. We have disclosed to you all known instances of noncompliance or suspected noncompliance with laws and regulations whose effects should be considered when preparing financial statements.
  18. We are not aware of any pending or threatened litigation and claims whose effects should be considered when preparing the financial statements and we have not consulted legal counsel concerning litigation or claims.
  19. We have disclosed to you the identity of all the Company's related parties and the nature of all the related party relationships and transactions of which we are aware.
  20. Little River Holdings, LLC has agreed not to charge an administrative fee to the Company for back office support until the Company cash flows permit.
  21. Notes payable to members totaling \$100,000 as of December 31, 2022 are noninterest-bearing and considered due on demand. These notes will be paid off as Company cash flows permit.
  22. Advances payable to member totaling \$285,233 as of December 31, 2022 are noninterest-bearing and considered due on demand. These notes will be paid off as Company cash flows permit.

# ***NativeWahl, LLC***

2608 Government Center Drive  
Manistee, MI 49660  
231-398-6840



Tyler Leppanen, Chief Operating Officer



Eugene Magnuson, General Manager



Corinna Hervey, Contracted CPA

Hervey

# NativeWahl, LLC

Year Ended  
December 31,  
2022

Financial  
Statements

**Rehmann**

# NATIVEWAHL, LLC

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## INDEPENDENT AUDITORS' REPORT

March 15, 2023

Manager-Members  
NativeWahl, LLC  
Manistee, Michigan

### **Opinion**

We have audited the accompanying financial statements of **NativeWahl, LLC** (the "Company"), which comprise the balance sheet as of December 31, 2022, and the related statements of operations and members' equity, and cash flows for the year then ended, and the related notes to the financial statements (the "financial statements").

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

### **Basis for Opinion**

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

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

Management is responsible for the preparation and fair presentation of these 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 available to be issued.





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

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

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

A handwritten signature in black ink that reads "Lehmann Lohman LLC". The signature is written in a cursive, flowing style.

# NATIVEWAHL, LLC

## Balance Sheet

December 31, 2022

### ASSETS

#### Current assets

Cash	\$	119,742
Accounts receivable		3,564
Prepaid insurance		8,878

**Total current assets** **132,184**

Intangible asset, net 950,000

**Total assets** **\$ 1,082,184**

### LIABILITIES AND MEMBERS' EQUITY

#### Current liabilities

Accounts payable	\$	2,600
Advances payable - member		285,233
Notes payable - members		100,000

**Total liabilities (all current)** **387,833**

Commitments (Note 4)

**Members' equity** 694,351

**Total liabilities and members' equity** **\$ 1,082,184**

The accompanying notes are an integral part of these financial statements.

## NATIVEWAHL, LLC

### Statement of Operations and Members' Equity

Year Ended December 31, 2022

<b>Revenue</b>	
Initial subfranchise fees	\$ 40,000
Royalty fees	57,383
	<hr/>
<b>Total revenues</b>	<b>97,383</b>
<b>Cost of revenue</b>	
Franchise commission fees	48,028
	<hr/>
<b>Gross profit</b>	<b>49,355</b>
<b>Expenses</b>	
Operating expenses	178,044
Amortization	50,000
	<hr/>
<b>Total expenses</b>	<b>228,044</b>
<b>Net loss</b>	<b>(178,689)</b>
Members' equity, beginning of year	873,040
	<hr/>
<b>Members' equity, end of year</b>	<b>\$ 694,351</b>
	<hr/> <hr/>

The accompanying notes are an integral part of these financial statements.

# NATIVEWAHL, LLC

## Statement of Cash Flows

Year Ended December 31, 2022

### Cash flows from operating activities

Net loss	\$ (178,689)
Adjustments to reconcile net loss to net cash provided by operating activities:	
Amortization	50,000
Changes in operating assets and liabilities which (used in) provided by cash:	
Accounts receivable	(3,564)
Prepaid expenses	(8,878)
Accounts payable	2,600

**Net cash used in operating activities** **(138,531)**

### Cash flows provided by financing activities

Advances from member	<u>158,273</u>
----------------------	----------------

**Net increase in cash** **19,742**

Cash, beginning of year 100,000

**Cash, end of year** \$ 119,742

The accompanying notes are an integral part of these financial statements.

# NATIVEWAHL, LLC

## Notes to Financial Statements

### 1. NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### *Nature of Business and Concentration Risk*

**NativeWahl, LLC** ("NativeWahl" or the "Company") was formed on October 11, 2021, to operate as a master franchisee engaged in the licensing and support of subfranchisees operating Wahlburger's restaurants within tribally owned locations (commonly referred to as "Reservations", "Trusts", or "Fee Lands"). At December 31, 2022, the Company had one subfranchise agreement executed.

#### *Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the year. Actual results could differ from those estimates. Significant estimates includes, but are not limited to, the recoverability of master franchise rights.

#### *Cash*

Cash consists of demand deposits in banks. The Company periodically has deposits in financial institutions in excess of federally insured limits. Management does not believe the Company is exposed to any significant interest rate or other financial risk as a result of these deposits.

#### *Revenue from Contracts with Customers*

The Company's revenue consists primarily of initial subfranchise fees and on-going royalties. Royalty revenues are based on a percent of subfranchise sales and recognized at the time the underlying sales occur. Royalty rates include a royalty fee of 8.0% plus a brand fund fee of 0.5%. Effective January 1, 2022, the Company has elected the practical expedient Accounting Standards Update 2021-02, which adds subtopic Accounting Standards Codification 952-606, *Franchisors - Revenue from Contracts with Customers*, and allows non-public entities to account for pre-opening services as distinct from the franchise license and as a single performance obligation. The practical expedient requires a modified or full retrospective transition. Initial subfranchise fees related to pre-opening services are recognized at the time the services are provided. Contract receivables were \$3,564 at December 31, 2022. There were no contract receivables at January 1, 2022. Since revenue was first recognized in 2022, there is no impact to 2021 balances for this adoption.

#### *Accounts Receivable*

Accounts receivable represents unpaid royalties from subfranchisee sales and are due within 30 days from the invoice date. Accounts receivable is stated at the amount management expects to collect from outstanding balances. The contract in 2022 does not have a significant financing component. At December 31, 2022, management has determined that an allowance for doubtful accounts was not warranted. There was no revenue or corresponding receivable in 2021.

# NATIVEWAHL, LLC

## Notes to Financial Statements

### *Intangible Asset*

Intangible asset consists of master franchise rights which will be amortized on a straight-line basis over the term of the initial subfranchise term, which is 20 years. Management annually reviews these assets for impairment whenever events or changes in circumstances indicate the related carrying amount may not be recoverable.

### *Income Taxes*

NativeWahl, LLC has elected to be taxed as partnership under the provisions of the Internal Revenue Code whereby federal taxable income, as well as tax credits, are passed directly to the members for inclusion in their personal income tax returns. Therefore, federal income taxes are not provided in these financial statements. Some states and localities assess income taxes at the entity level for "LLC's."

Management has evaluated the Company's income tax filing positions since its inception in 2021, the period which remains subject to examination as of December 31, 2022. The Company concluded that there are no significant uncertain tax positions requiring recognition in the Company's financial statements. The Company does not expect the total amount of unrecognized tax benefits ("UTB") (e.g. tax deductions, exclusions, or credits claimed or expected to be claimed) to significantly change in the next twelve months. The Company does not have any amounts accrued for interest and penalties related to UTBs at December 31, 2022 and is not aware of any claims for such amounts by federal or state income tax authorities.

### *Subsequent Events*

In preparing these financial statements, management has evaluated, for potential recognition or disclosure, significant events or transactions that occurred during the period subsequent to December 31, 2022, the most recent balance sheet presented herein, through March 15, 2023, the date these financial statements were available to be issued. No significant such events or transactions were identified.

## 2. INTANGIBLE ASSET

Intangible asset includes master franchise rights relating to the Wahlburgers franchise. Additionally this includes rights to establish and grant subfranchisees the right to develop, open, and operate subfranchised restaurants at authorized locations. The master franchise rights are amortized on a straight-line basis over the term of the successor subfranchise agreement, which is 20 years.

# NATIVEWAHL, LLC

## Notes to Financial Statements

The estimated amortization expense for each of the five succeeding years and thereafter is as follows:

Year	Amount
2023	\$ 50,000
2024	50,000
2025	50,000
2026	50,000
2027	50,000
Thereafter	<u>700,000</u>
<b>Total</b>	<b><u><u>\$ 950,000</u></u></b>

Amortization expense was \$50,000 in 2022.

### 3. RELATED PARTY TRANSACTIONS

Notes payable are noninterest-bearing and considered due on demand to its members. The notes are expected to be paid off as cash flows permit.

Member advances payable are noninterest-bearing and considered due on demand to its member. The advances are expected to be paid off as cash flows permit.

### 4. COMMITMENTS

As required by the master franchise agreement entered into with Wahlburgers, a subfranchise royalty fee equal to 3.0% of gross sales from the subfranchisee and a subfranchise brand fund of 0.5% of gross sales from the subfranchisee is owed to Wahlburgers. Additionally, the Company owes Wahlburgers the greater of \$20,000 or 50% of any initial subfranchise fees charged to a subfranchised restaurant opened during the year. Per the subfranchise agreement entered into in 2022 for an initial term of 20 years, with an optional renewal term of 10 years (subject to certain provisions), the Company is owed royalty fees of 8% and brand fund fees of 0.5% based on gross sales of the subfranchise.

# NATIVEWAHL, LLC

## Notes to Financial Statements

The Company is also committed under its agreement with Wahlburgers to open several new subfranchised restaurants through 2029. If the Company does not meet the required cumulative number of subfranchised restaurants during any period, it may result in the termination of the Company's master franchise agreement. Required openings of new subfranchised restaurants and cumulative operating subfranchises as of October 31 for each of the future development years is as follows:

<b>Development Year Ending October 31:</b>	<b>Required New Subfranchise Openings</b>	<b>Cumulative Operating Subfranchises</b>
2023	3	4
2024	3	7
2025	5	12
2026	5	17
2027	5	22
2028	5	27
2029	3	30





# NativeWahl, LLC

Period from  
Inception  
(October 11, 2021)  
through  
December 31, 2021

Financial  
Statements

**Rehmann**

# NATIVEWAHL, LLC

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## INDEPENDENT AUDITORS' REPORT

April 21, 2022

Manager-Members  
NativeWahl, LLC  
Manistee, Michigan

### **Opinion**

We have audited the accompanying financial statements of **NativeWahl, LLC** (the "Company"), which comprise the balance sheet as of December 31, 2021, and the related statements of operations and members' equity and cash flows for the period from inception (October 11, 2021) through December 31, 2021, and the related notes to the financial statements (the "financial statements").

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of **NativeWahl, LLC** as of December 31, 2021, and the results of its operations and its cash flows for the period from inception (October 11, 2021) through December 31, 2021, in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

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

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

Management is responsible for the preparation and fair presentation of these 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 available to be issued.



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

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

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

*Rehmann Loborn LLC*

# NATIVEWAHL, LLC

## Balance Sheet

December 31, 2021

### ASSETS

#### Current assets

Cash	\$ 100,000
------	------------

#### Total current assets

100,000

Master franchise rights

1,000,000

#### Total assets

\$ 1,100,000

### LIABILITIES AND MEMBERS' EQUITY

#### Current liabilities

Advances payable - Member	\$ 126,960
---------------------------	------------

Notes payable - members	<u>100,000</u>
-------------------------	----------------

#### Total liabilities (all current)

226,960

#### Members' equity

873,040

#### Total liabilities and members' equity

\$ 1,100,000

The accompanying notes are an integral part of these financial statements.

## NATIVEWAHL, LLC

### Statement of Operations and Members' Equity

Period from Inception (October 11, 2021) through December 31, 2021

Operating expenses	<u>\$ 126,960</u>
<b>Net loss</b>	<b>(126,960)</b>
Members' capital contributions	<u>1,000,000</u>
<b>Members' equity at December 31, 2021</b>	<b><u><u>\$ 873,040</u></u></b>

The accompanying notes are an integral part of these financial statements.

## NATIVEWAHL, LLC

### Statement of Cash Flows

For the Period From Inception (October 11, 2021) through December 31, 2021

<b>Cash flows from operating activities</b>	
Net loss	\$ (126,960)
Adjustments to reconcile net loss to net cash used in operating activities:	
Advances payable - Member	<u>126,960</u>
<b>Cash flows used in operating activities</b>	-
<b>Cash flows used in investing activities</b>	
Acquisition of master franchise rights	<b>(1,000,000)</b>
<b>Cash flows provided by financing activities</b>	
Borrowings from notes payable - members	100,000
Member contributions	<u>1,000,000</u>
<b>Net cash provided by financing activities</b>	<u><b>1,100,000</b></u>
<b>Net increase in cash, equal to cash at end of period</b>	<u><u><b>\$ 100,000</b></u></u>

The accompanying notes are an integral part of these financial statements.

# NATIVEWAHL, LLC

## Notes to Financial Statements

### 1. NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### *Nature of Business and Concentration Risk*

**NativeWahl, LLC** ("NativeWahl" or the "Company") was formed on October 11, 2021, to operate as a master franchisee engaged in the licensing and support of subfranchisees operating Wahlburger's restaurants within tribally owned locations (commonly referred to as "Reservations", "Trusts", or "Fee Lands"). At December 31, 2021, the Company did not have any subfranchise agreements executed.

#### *Risks and Economic Uncertainties*

The outbreak of a novel coronavirus (COVID-19), which the World Health Organization declared in March 2020 to be a pandemic, continues to spread throughout the United States of America and the globe. The outbreak may result in reduced customer traffic and the temporary reduction of operating hours from Company's potential stores. The extent of the impact of COVID-19 on the Company's operational and financial performance will depend on certain developments, including the duration and spread of the outbreak, and its impact on customers, employees, and vendors, all of which are uncertain and cannot be predicted. While management reasonably expects the COVID-19 outbreak to impact the Company's financial condition, operating results, and cash flows, the related financial consequences and duration cannot be estimated at this time.

#### *Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the year. Actual results could differ from those estimates. Significant estimates includes, but are not limited to, the recoverability of master franchise rights.

#### *Cash*

Cash consists of demand deposits in banks. The Company periodically has deposits in financial institutions in excess of federally insured limits. Management does not believe the Company is exposed to any significant interest rate or other financial risk as a result of these deposits.

#### *Revenue Recognition and Deferred Revenue*

The Company's revenue will consist primarily of initial subfranchise fees, and on-going royalties. Royalties are a percentage of franchise sales, and are recognized in the period earned. Initial franchise fees will be recognized over the term of the subfranchise agreement, which is typically 20 years.



# NATIVEWAHL, LLC

## Notes to Financial Statements

### *Master Franchise Rights*

Franchise rights will be amortized on a straight-line basis over the term of the development schedule, which is 10 years. Franchise rights are tested for impairment at least annually. No indication of impairment was present at December 31, 2021.

### *Income Taxes*

NativeWahl, LLC has elected to be taxed as partnership under the provisions of the Internal Revenue Code whereby federal taxable income, as well as tax credits, are passed directly to the members for inclusion in their personal income tax returns. Therefore, federal income taxes are not provided in these financial statements. Some states and localities assess income taxes at the entity level for "LLC's."

Management analyzes the Company's income tax filing positions in the federal and state jurisdictions where it is required to file income tax returns, for all open tax years in these jurisdictions, to identify potential uncertain tax positions.

As of December 31, 2021, there are no uncertain income tax positions taken or expected to be taken that would require recognition of a liability or disclosure in the financial statements. The Company is subject to routine audits by taxing jurisdictions. There are currently no audits for any tax periods in progress.

### *Subsequent Events*

In preparing these financial statements, management has evaluated, for potential recognition or disclosure, significant events or transactions that occurred during the period subsequent to December 31, 2021, the most recent balance sheet presented herein, through April 21, 2022, the date these financial statements were available to be issued. No significant such events or transactions were identified, other than as disclosed in Note 4.

## 2. NOTES PAYABLE - MEMBERS

Notes payable are due on demand to its members. It is expected that as the Company begins to collect franchise revenue, the notes payable will be repaid.

# NATIVEWAHL, LLC

## Notes to Financial Statements

### 3. MASTER FRANCHISE RIGHTS

Amortization expense expected for each of the five succeeding years and thereafter is summarized as follows:

Year	Amount
2022	\$ 50,000
2023	50,000
2024	50,000
2025	50,000
2026	50,000
Thereafter	<u>750,000</u>
<b>Total</b>	<b><u>\$ 1,000,000</u></b>

### 4. SUBSEQUENT EVENT

On March 11, 2022, the Company executed a subfranchise agreement for the opening of a Wahlburger's restaurant. This is comprised of a \$40,000 initial subfranchise fee (one time payment) with 8.5% total royalties on gross revenue, of which 3.5% and 5% will go to Wahlburger's Corporate and NativeWahl, respectively.

■ ■ ■ ■ ■

## ***Wahlburgers Financials***

WAHLBURGERS FRANCHISING LLC  
FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022



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## INDEPENDENT AUDITORS' REPORT

To the Members of  
Wahlburgers Franchising LLC  
Hingham, Massachusetts

### **Opinion**

We have audited the accompanying financial statements of Wahlburgers Franchising LLC, which comprise the balance sheets as of January 1, 2023 and January 2, 2022 and the related statements of operations and members' capital/(deficit), and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Wahlburgers Franchising LLC as of January 1, 2023 and January 2, 2022 and the results of their operations and cash flows for the years then ended in conformity 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. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Wahlburgers Franchising LLC and to meet other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence 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 Wahlburgers Franchising LLC's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

## **Auditors' 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 generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

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

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

*Clark Hirth, CPAs*

Farmington, Connecticut  
April 26, 2023

**WAHLBURGERS FRANCHISING LLC**  
**BALANCE SHEETS**  
**JANUARY 1, 2023 AND JANUARY 2, 2022**

	<u>January 1, 2023</u>	<u>January 2, 2022</u>
<b>Assets:</b>		
Current assets:		
Cash and cash equivalents	\$ 2,719,324	\$ 3,981,358
Accounts receivable	346,245	594,008
Due from affiliates	242,814	-
Prepaid expenses	243,847	251,216
Total current assets	<u>3,552,230</u>	<u>4,826,582</u>
Property and equipment:		
Office equipment	86,948	86,948
Leasehold improvements	84,610	84,610
	<u>171,558</u>	<u>171,558</u>
Less accumulated depreciation	<u>104,500</u>	<u>86,609</u>
Property and equipment, net	<u>67,058</u>	<u>84,949</u>
Other assets:		
ROU asset for operating lease, net	<u>244,014</u>	<u>-</u>
Total assets	<u>\$ 3,863,302</u>	<u>\$ 4,911,531</u>
<b>Liabilities and Members' Capital/(Deficit):</b>		
Current liabilities:		
Forgivable loan	\$ -	\$ 701,313
Accounts payable	73,081	257,727
Accrued expenses	282,208	743,935
Due to affiliates	-	1,541,628
Current portion of operating lease liability	73,097	-
Marketing fund liability	50,361	104,764
Current portion of deferred revenue	217,666	133,333
Total current liabilities	<u>696,413</u>	<u>3,482,700</u>
Long-term liabilities:		
Due to affiliates, net of current portion	-	5,310,023
Operating lease liability, net of current portion	179,158	-
Deferred revenue, net of current portion	1,219,001	1,446,667
Total long-term liabilities	<u>1,398,159</u>	<u>6,756,690</u>
Total liabilities	2,094,572	10,239,390
Members' capital/(deficit)	<u>1,768,730</u>	<u>(5,327,859)</u>
Total liabilities and members' capital/(deficit)	<u>\$ 3,863,302</u>	<u>\$ 4,911,531</u>

See Independent Auditors' Report and Notes to Financial Statements



WAHLBURGERS FRANCHISING LLC  
STATEMENTS OF OPERATIONS  
FOR THE YEARS ENDED JANUARY 1, 2023 AND JANUARY 2, 2022

	<u>January 1, 2023</u>	<u>January 2, 2022</u>
Franchise revenues:		
Area development and franchise fees	\$ 638,333	\$ 755,000
Royalties and management/license fees	5,303,918	5,443,589
Advertising fees	756,176	574,458
Other franchise income	42,133	186,211
Total revenues, net	<u>6,740,560</u>	<u>6,959,258</u>
Operating expenses:		
Salaries and wages	2,786,787	2,875,306
Other operating costs and expenses	1,784,107	1,417,905
General and administrative expenses	1,955,300	1,940,716
Total operating expenses	<u>6,526,194</u>	<u>6,233,927</u>
Other income/(expenses)		
Other income	828,247	626,072
Interest income	6,496	-
Interest expense	(556)	-
Gain/(loss) on sale of assets	-	(35,283)
Settlement expense	(12,000)	(11,000)
Total other income/(expenses)	<u>822,187</u>	<u>579,789</u>
Net income	<u>\$ 1,036,553</u>	<u>\$ 1,305,120</u>

See Independent Auditors' Report and Notes to Financial Statements

WAHLBURGERS FRANCHISING LLC  
STATEMENTS OF MEMBERS' CAPITAL/(DEFICIT)  
FOR THE YEARS ENDED JANUARY 1, 2023 AND JANUARY 2, 2022

Members' deficit balance, January 3, 2021	\$ (6,632,979)
Net income	<u>1,305,120</u>
Members' deficit balance, January 2, 2022	\$ (5,327,859)
Net income	1,036,553
Distributions	(214,203)
Contributions	6,274,239
Members' capital balance, January 1, 2023	<u>\$ 1,768,730</u>

See Independent Auditors' Report and Notes to Financial Statements

**WAHLBURGERS FRANCHISING LLC**  
**STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED JANUARY 1, 2023 AND JANUARY 2, 2022**

	<u>January 1, 2023</u>	<u>January 2, 2022</u>
Cash flows from operating activities:		
Net income	\$ 1,036,553	\$ 1,305,120
Adjustments to reconcile net loss to net cash provided by operating activities:		
Forgiveness of PPP loan	(701,313)	(500,939)
Depreciation and amortization	17,891	68,758
Amortization of ROU assets	81,338	-
Loss on sale of fixed assets	-	35,283
Reduction of lease liability for operating leases	(73,097)	-
Changes in operating assets and liabilities:		
(Increase) decrease in:		
Accounts receivable	247,763	(29,407)
Due from affiliates	(242,814)	411,020
Prepaid expenses and other assets	7,369	(249,835)
Increase (decrease) in:		
Accounts payable	(184,646)	(504,668)
Accrued expenses	(461,727)	372,320
Marketing fund liability	(54,403)	22,088
Due to affiliates	1,011,793	1,754,605
Deferred revenue	(143,333)	370,000
Net cash provided by operating activities	<u>541,374</u>	<u>3,054,345</u>
Cash flows from investing activities:		
Purchases of property and equipment	-	(15,770)
Proceeds from sale of assets	-	50,000
Net cash provided by investing activities	<u>-</u>	<u>34,230</u>
Cash flows from financing activities:		
Proceeds from forgivable loan	-	701,313
Due to affiliates	(7,863,444)	-
Members' distributions	(214,203)	-
Members' contributions	6,274,239	-
Net cash provided/(used) by financing activities	<u>(1,803,408)</u>	<u>701,313</u>
Net increase/(decrease) in cash and cash equivalents	(1,262,034)	3,789,888
Cash and cash equivalents, beginning of year	<u>3,981,358</u>	<u>191,470</u>
Cash and cash equivalents, end of year	<u>\$ 2,719,324</u>	<u>\$ 3,981,358</u>
Supplemental disclosures of cash flow information:		
Cash paid during the year for:		
Interest	<u>\$ 556</u>	<u>\$ -</u>
Income taxes	<u>\$ -</u>	<u>\$ -</u>
Additions to ROU assets obtained from operating leases, net	<u>\$ (325,352)</u>	<u>\$ -</u>
Additions to lease liabilities obtained from operating leases, net	<u>\$ 325,352</u>	<u>\$ -</u>

See Independent Auditors' Report and Notes to Financial Statements

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 1 ORGANIZATION

Wahlburgers Franchising LLC (the “Company”) is a single member limited liability company organized in the state of Massachusetts and established on April 9, 2014. The Company is a wholly owned subsidiary of Wahlburgers Holding Company, LLC (“WHC”). The Company is a franchisor and licensor of restaurants in the better-burger segment of the restaurant industry, offering both fast casual and table service featuring a chef-inspired menu including burgers, sandwiches, salads, fries, tater tots, frappes as well as a full-service bar. The Company has franchise and license agreements with various operators to develop and operate the restaurants in the United States, Canada, and Germany.

A summary of franchise and affiliate-owned until activity is as follows:

	<u>Franchise</u>	<u>Affiliate- Owned</u>
Units operating at January 3, 2021	52	7
Units opened	32	-
Units closed	<u>(2)</u>	<u>-</u>
Units operating at January 2, 2022	82	7
Units opened	21	-
Units closed	<u>(4)</u>	<u>-</u>
Units operating at January 1, 2023	<u><u>99</u></u>	<u><u>7</u></u>

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The accompanying financial statements have been prepared in accordance with accounting standards set by the Financial Accounting Standards Board (“FASB”). The FASB sets generally accepted accounting principles in the United States of America (“GAAP”) that the Company follows to ensure its financial conditions, results of operations, and cash flows are consistently reported. References to GAAP issued by the FASB in these footnotes are to the FASB Accounting Standards Codification (“FASB ASC”).

Fiscal Year

The Company operates on a 52/53-week fiscal year ending on the Sunday closest to December 31. Fiscal year 2021 was 52 weeks and included the period from January 4, 2021 through January 2, 2022. Fiscal year 2022 was 52 weeks and included the period from January 3, 2022 through January 1, 2023.

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Actual results could differ from those estimates.

Income Taxes

The Company is a wholly owned subsidiary of WHC and is a disregarded entity for income tax purposes, and accordingly, the results of operations will be reported on the parent company's tax returns. As a result, the Company generally does not incur United States federal income taxes.

The Company accounts for uncertainties in tax positions, under the provisions of ASC 740 *Income Taxes*. Under these provisions, the Company recognizes the tax benefit of tax positions to the extent that the benefit will more likely than not be realized. The determination as to whether the tax benefit will more than likely than not be realized is based upon the technical merits of the tax position as well as consideration of the available facts and circumstances.

Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and deposits in commercial banks. The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. The Company maintains its cash in a bank deposit account which, at times, may exceed federally insured limits. The Company has not experienced any losses in this account. The Company believes it is not exposed to any significant risk on cash and cash equivalents.

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Accounts Receivable

Accounts receivable are stated at the amount the Company expects to collect. The Company maintains allowances for doubtful accounts for estimated losses resulting from the inability of some of its franchisees to make required payments. Management considers the following factors when determining the collectability of specific franchisee accounts: franchisee creditworthiness, past transaction history with the franchisee, and current economic industry trends. If the financial conditions of the Company's franchisees were to deteriorate, adversely affecting their ability to make payments, additional allowances would be required. Based on management's assessment, the Company provides for estimated uncollectible amounts through a charge to earnings and a credit to a valuation allowance. Balances that remain outstanding after the Company has made reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. The Company believes all of its accounts receivable at January 1, 2023 and January 2, 2022 are fully collectible, and accordingly, no allowance has been recorded.

Property and Equipment

Property and equipment are recorded at historical cost. Assets under development are included in construction in progress, with depreciation commencing upon placing the asset in service. Upon sale or retirement, the cost and related accumulated depreciation are removed from the respective accounts and the resulting gain or loss is recognized in the statements of operations. The cost of maintenance and repairs is charged to expense as incurred; significant renewals and betterments are capitalized.

Depreciation of equipment is provided by the straight-line method over their estimated useful lives ranging from 3 to 7 years, except for leasehold improvements, which are amortized over the shorter of the terms of the related leases or their estimated useful lives.

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
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NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Revenue Recognition

The Company derives its revenues from franchise revenue, advertising fund revenue, transfer fees, and corporate owned locations.

*Franchise fees and royalties*

Contract consideration from franchisees primarily consist of initial or renewal franchise fees, area development fees, sales-based royalties, sales-based advertising fund fees and transfer fees payable by a franchisee for the transfer of their franchise unit to another franchisee. The Company also enters into area development agreements ("ADAs") which grant a franchisee the right to develop two or more franchise units. The Company collects an upfront area development fee for the grant of such rights. The initial franchise fees and upfront area development fees are nonrefundable and collected when the underlying franchise agreement or ADA is signed by the franchisee. Sales based royalties and advertising fund fees are payable weekly. Renewal and transfer fees are payable when an existing franchisee renews the franchise agreement for an additional term or when a transfer to a third party occurs, respectively. In addition to ADAs the Company enters into master territory and/or license agreements ("MLAs") that typically allows the master licensee to either act as the franchisee or to sub-franchise to other operators.

The Company's primary performance obligation under the franchise agreement mainly includes granting certain rights to access the Company's intellectual property and a variety of activities relating to opening a franchise unit, including site selection, training and other such activities commonly referred to collectively as "pre-opening activities." The Company has elected to use the practical expedient for pre-opening activities and considers the following as a single performance obligation: assistance in selection of site; assistance in obtaining facilities and preparing facilities for their intended use; training of franchisee's personnel; preparation and distribution of manuals; bookkeeping, information technology, and advisory services; and inspection, testing and other quality control programs.

All other pre-opening activities have been determined to be highly interrelated and interdependent to access the Company's intellectual property and therefore are accounted for as a single performance obligation, which is satisfied by granting certain rights to access our intellectual property over the term of each franchise agreement.

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Revenue Recognition – (Continued)

The Company estimates the standalone selling price of training services that are not brand specific using an adjusted market assessment approach. The Company first allocates the initial franchise fees and the fixed consideration, under the franchise agreement to the stand-alone selling price of the training services that are not brand specific and the residual, if any, to the right to access the Company's intellectual property. Consideration allocated to training services that are not brand specific are recognized ratably as the training services are rendered.

Initial and renewal franchise fees allocated to the right to access the Company's intellectual property are recognized as revenue on a straight-line basis over the term of the respective franchise agreement. ADAs generally consist of an obligation to grant the right to open two or more units. These development rights are not distinct from franchise agreements; therefore, upfront fees paid by franchisees for development rights are deferred and apportioned to each franchise agreement signed by the franchisee. The pro-rata amount apportioned to each franchise agreement is recognized as revenue in the same manner as the initial and renewal franchise fees. Initial and renewal franchise fees related to the ADAs are recorded as contract receivable and contract liabilities at their contract transaction price. Master license and territory fees are dependent upon the number of restaurants in each territory and are recognized in proportionate amounts as franchisees develop and open locations in accordance with the related development schedule.

Royalties are earned based on a percentage of franchisee's gross revenues. Franchise royalties represent sales-based royalties that are related entirely to the use of the Company's intellectual property and are recognized as franchisee sales occur and the royalty is deemed collectible.

*Corporate owned locations*

During 2021 the Company had a food truck in service. Revenues are recognized at the time when the food and beverage sales are made to customers, net of sales tax. During 2021 the food truck was sold which resulted in no revenues recorded in year end January 1, 2023. Additionally, the Company may charge labor to customers for corporate catering events, which is also recognized once the events are hosted. Discounts provided to customers are recognized as a reduction in sales at the time of sale.

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
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NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Revenue Recognition – (Continued)

*Advertising Fund*

The Company maintains an advertising fund established to collect and administer funds contributed for use in advertising and promotional programs for franchise units. Advertising fund fees are collected from franchisees based on a percentage of franchisee gross revenues. The Company has determined that it acts as a principal in the collection and administration of the advertising fund and therefore recognizes the revenues and expenses related to the advertising fund on a gross basis. The Company has that the right to access its intellectual property and administration of the advertising fund are highly interrelated and therefore are accounted for as a single performance obligation. As a result, revenues from the advertising fund represent sales-based royalties related to the right to access the Company's intellectual property, which are recognized as franchisee sales occur. When advertising fund fees exceed the related advertising fund expenses in a reporting period, advertising costs are accrued up to the amount of advertising fund revenues recognized.

Incremental Costs of Obtaining a Contract

The Company capitalizes direct and incremental costs, principally consisting of commissions, associated with the sale of franchises and amortizes them over the term of the franchise agreement.

Accounting Pronouncements Issued and Adopted

The Financial Accounting Standards Board issued Accounting Standards Update ASU No. 2016-02, *Leases* (Topic 842), to supersede previous generally accepted accounting principles related to accounting for finance and operating leases. The Company has adopted the standard for the year beginning January 3, 2022. Accordingly, ASC 842 has been retrospectively applied on a modified basis to January 3, 2022 with a cumulative-effect adjustment recognized as of January 3, 2022. The date of initial application for a lease with a commencement date prior to January 3, 2022 is January 3, 2022. ASC 842 applies in its entirety to any leases with commencement dates of January 3, 2022 or later. In addition, when applying this transition method, the Company has elected to follow the package of practical expedients under ASC 842-10-65-1(f). The objective of this ASU is to increase transparency and comparability in financial reporting. It is applicable to any entity that enters into a lease and applies to all leases and subleases of property, plant, and equipment. The core principle of Topic 842 is that the lessees should recognize the assets and liabilities that arise from leases.

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 3 REVENUE AND RELATED CONTRACT BALANCES

*Disaggregated revenues*

The Company derives its revenues from franchisees located throughout the United States. The economic risks of the Company's revenues are dependent on the strength of the economy in the United States and its ability to collect on its contracts. The Company disaggregates revenue from contracts with customers by geographic region and timing of revenue recognition by type of revenues, as it believes this best depicts how the nature, amount, timing and uncertainty of revenue and cash flows are affected by economic factors.

Revenues by geographic region in the were as follows:

	<u>January 1, 2023</u>	<u>January 2, 2022</u>
Northeastern United States	\$ 2,428,623	\$ 1,818,342
Midwestern United States	2,024,932	2,189,159
Southern United States	1,018,019	1,338,364
Southwestern United States	22,423	-
Western United States	1,167,159	1,072,287
Outside of the United States	<u>79,404</u>	<u>541,106</u>
	<u>\$ 6,740,560</u>	<u>\$ 6,959,258</u>

Revenue by timing of recognition were as follows:

	<u>January 1, 2023</u>	<u>January 2, 2022</u>
<i>Point in time:</i>		
Area development and franchise fees	\$ 505,000	\$ 275,000
Royalties and management/license fees	5,303,918	5,443,589
Franchise advertising fees	756,176	574,458
Other franchise income	<u>42,133</u>	<u>186,211</u>
Total	<u>\$ 6,607,227</u>	<u>\$ 6,479,258</u>
<i>Over time:</i>		
Area development and franchise fees	<u>\$ 133,333</u>	<u>\$ 480,000</u>

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 3 REVENUE AND RELATED CONTRACT BALANCES – (Continued)

*Contract balances*

Contract liabilities are comprised of unamortized initial and renewal franchise fees received from franchisees, which are presented as 'Deferred revenue' on the accompanying balance sheets. A summary of significant changes in deferred franchise fees is as follows:

Deferred franchise revenues at January 3, 2021	\$ 240,000
Revenue recognized during the year	(125,000)
Write off of fees related to termination of agreements	(150,000)
Additions for initial franchise fees received	<u>125,000</u>
Deferred franchise revenue at January 2, 2022	90,000
Revenue recognized during the year	(485,000)
Write off of fees related to termination of agreements	-
Additions for initial franchise fees received	<u>445,000</u>
Deferred franchise revenue at January 1, 2023	<u>\$ 50,000</u>

Deferred franchise fees consisted of the following:

	<u>January 1, 2023</u>	<u>January 2, 2022</u>
Franchise fees not yet opened	\$ 50,000	\$ 90,000
Opened franchise units	<u>-</u>	<u>-</u>
	<u>\$ 50,000</u>	<u>\$ 90,000</u>

The initial and renewal franchise fees on ADAs and MLAs that remain uncollected as of January 1, 2023 and January 2, 2022, are reflected as "Accounts receivable" in the accompanying balance sheets and the related contract liabilities are included in "Deferred revenues" in the accompanying balance sheets.

Significant changes in contract receivables and contract liabilities are as follows:

Deferred ADA and MLAs revenues at January 3, 2021	\$ 970,000
Revenue recognized during the year	(280,000)
Write off of fees related to termination of agreements	(200,000)
Additions for ADA and MLAs fees received	<u>1,000,000</u>
Deferred ADA and MLAs revenue at January 2, 2022	\$ 1,490,000
Revenue recognized during the year	(53,333)
Write off of fees related to termination of agreements	(100,000)
Additions for ADA and MLAs fees received	<u>50,000</u>
Deferred ADA and MLAs revenue at January 1, 2023	<u>\$ 1,386,667</u>

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WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 4 RELATED PARTY TRANSACTIONS

Area development and franchise agreements

The Company has an area development agreement and franchise agreement with Wahlburgers Boston Developer Company LLC (“WBDC”), an affiliate under common control. During 2021, there were \$10,000 area development and \$25,000 franchise fees recognized as income to the Company by WBDC. Accordingly, \$30,000 of ADA fees paid by WBDC remain in deferred revenue on the accompanying balance sheets as of January 1, 2023 and January 2, 2022. Additionally, WHC is a guarantor on the lease for this affiliate for the first restaurant opened under the ADA.

Due to/from affiliates

The Company and its affiliates share employee services and other expenses with the parent company, WHC and its subsidiaries, which pay a proportionate share of the operating expenses. In addition, certain costs incurred by WHC or its affiliates to provide support to the Company and/or individual franchisees during the construction and preopening phases of the restaurant have been charged to the Company. The Company also has management and license agreements with seven associated affiliates under common control, Wahlburgers Lynnfield, LLC, Wahlburgers Fenway, LLC, Wahlburgers South Bay, LLC, Wahlburgers Springfield, LLC, WB Frisco, LLC, WB Myrtle Beach, and Paragon Funding Group III, LLC. The affiliates pay both a management and license fee to the Company based on a percentage of sales, as defined. Management and license fees earned by the Company during the years ended January 1, 2023 and January 2, 2022 totaled \$1,366,246 and \$1,331,146, respectively, and are included in royalties and management/license fees on the statements of operations. Brand fund contributors for these affiliates totaled \$161,467 and \$156,945 for the years ended January 1, 2023 and January 2, 2022, respectively. The net amounts due from (to) affiliates noted above totaled \$242,814 and (\$1,541,628) as of January 1, 2023 and January 2, 2022, respectively. Additionally, WHC is guarantor on the leases for these affiliates.

During 2022 the parent company, WHC, had converted amounts due from Wahlburgers Franchising LLC to capital which resulted in a reduction in due to affiliates of \$7,863,444 during 2022. Due to the capital conversion, this amount is reported in the financing section of the cashflow statement.

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WAHLBURGERS FRANCHISING LLC  
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JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 4 RELATED PARTY TRANSACTIONS - (Continued)

Due to/from affiliates – (Continued)

In addition, the Company has fifteen franchise agreements in which a shareholder of WHC, the parent company, is also a shareholder in the franchisee. One of these franchised locations opened during 2022. For the year ended January 1, 2023, royalties and brand fund contributions from these franchisees were \$1,257,222. Amounts due from these franchisees were \$44,505 as of January 1, 2023, which are included in accounts receivable.

January 2, 2022, royalties and brand fund contributions from these franchisees were \$1,574,060. Amounts due from these franchisees were \$57,202 as of January 2, 2022, which are included in accounts receivable.

NOTE 5 OPERATING LEASE LIABILITY

Wahlburgers Holding Company, LLC entered into an agreement effective in June 2021 to rent office facilities for a five-year period. Wahlburgers Franchising Company, LLC has subleased this space upon the same terms and conditions of the lease. The agreement provides for fixed monthly rental payments. For the year ended January 1, 2023, lease cost, including certain related expenses, amounted to \$134,192. Based on the terms of the lease, the Company has determined the lease to be an operating lease under FASB ASU 842. The lease was discounted using a risk-free interest rate of 1.91%.

In accordance with ASU No. 2016-02, as a practical expedient, the Company has elected not to apply the recognition requirements to short-term leases, and therefore recognizes lease payments on short-term leases in the Statement of Operations and Members' Capital, on a straight-line basis, in the period in which the obligations for those payments is incurred. In addition, the Company has elected the practical expedient not to separate lease and non-lease components for building leases.

The future payments due under operating leases are as follows:

2023	\$ 79,113
2024	79,113
2025	79,113
2026	32,964
Less effects of discounting	<u>(18,048)</u>
	<u>\$ 252,255</u>

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 1, 2023 AND JANUARY 2, 2022

NOTE 6 EMPLOYEE BENEFITS

The Company established the Wahlburgers 401(k) Plan (the “Plan”) effective December 30, 2018. All employees of the Company who have completed at least one year of eligibility service, as defined, and who have attained the age of 21, except employees covered by a collective bargaining agreement, leased employees, or any employee who is a non-resident employee, are eligible to participate in the plan. The employer match is at management’s discretion. For the year ended January 1, 2023 and January 2, 2022, the Company did not have an employer match. Effective October 15, 2021 the Company has terminated the Wahlburgers 401(k) plan with final participant balance payouts occurring in 2022 fiscal year.

NOTE 7 COMMITMENTS AND CONTINGENCIES

Litigation

The Company is subject to various legal claims arising in the normal course of business. Based on the information currently available, it is the opinion of management that the ultimate resolution of pending and threatened legal proceedings will not have a material adverse effect on the Company’s financial position or the results of future operations.

NOTE 8 OTHER INCOME

On February 4, 2021, the Company was approved for relief under the government’s Payroll Protection Program (PPP) Second Draw, with a loan totaling \$701,313. This PPP loan funded on March 1, 2021. The Company applied for and was granted forgiveness for all of the Second Draw PPP loan in the year ended January 1, 2023. These amounts have been recorded as other income in the Statement of Operations.

In addition, the Company received funds in the amount of \$126,933 under The Employee Retention Credit (“ERC”). These amounts have been recorded as other income in the Statements of Operations.

NOTE 8 SUBSEQUENT EVENTS

The Company has evaluated all subsequent events through April 26, 2023, the date which the financial statements were available to be issued. During this period, no subsequent events occurred, other than what is currently disclosed, which require disclosure or accrual in the consolidated financial statements.

See Independent Auditors’ Report

WAHLBURGERS FRANCHISING LLC  
FINANCIAL STATEMENTS  
JANUARY 3, 2021



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## INDEPENDENT AUDITOR'S REPORT

To the Members of  
Wahlburgers Franchising LLC

### **Report on the Financial Statements**

We have audited the accompanying financial statements of Wahlburgers Franchising, LLC (the Company), which comprise the balance sheet as of January 3, 2021, the related statements of operations, members' deficit and cash flows for the year then ended, and the related notes to the financial statements.

### ***Management's Responsibility for the Financial Statements***

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

### ***Auditors' Responsibility***

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

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

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

***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Wahlburgers Franchising LLC as of January 3, 2021, and the results of its operations and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

*Clare Hirth, CPAs*

Farmington, Connecticut  
April 30, 2021

WAHLBURGERS FRANCHISING LLC  
BALANCE SHEET  
JANUARY 3, 2021

**Assets**

Current assets:

Cash and cash equivalents	\$ 191,470
Accounts receivable	564,601
Due from affiliates	411,020
Prepaid expenses	<u>1,381</u>
Total current assets	<u>1,168,472</u>

Property and equipment:

Office equipment	88,823
Leasehold improvements	84,610
Vehicles	<u>247,324</u>
	420,757
Less accumulated depreciation	<u>197,537</u>
Property and equipment, net	<u>223,220</u>

Total assets \$ 1,391,692

**Liabilities and Members' Deficit**

Current liabilities:

Forgivable loan	\$ 500,939
Accounts payable	762,395
Accrued expenses	371,615
Marketing fund liability	82,676
Deferred revenue	<u>30,000</u>
Total current liabilities	<u>1,747,625</u>

Long-term liabilities:

Due to affiliates	5,097,046
Deferred revenue, net of current portion	<u>1,180,000</u>
Total long-term liabilities	<u>6,277,046</u>

Total liabilities 8,024,671

Members' deficit (6,632,979)

Total liabilities and members' deficit \$ 1,391,692

See Independent Auditors' Report and Notes to Financial Statements

WAHLBURGERS FRANCHISING LLC  
STATEMENT OF OPERATIONS  
FOR THE YEAR ENDED JANUARY 3, 2021

Franchise revenues:	
Area development and franchise fees	\$ 1,035,000
Royalties and management/license fees	2,577,444
Advertising fees	333,039
Merchandise revenue	7,923
Food truck revenue	52,983
Other franchise income	<u>52,497</u>
Total revenues, net	<u>4,058,886</u>
Operating expenses:	
Cost of sales	31,324
Salaries and wages	2,879,181
Other operating costs and expenses	1,176,757
General and administrative expenses	<u>1,542,982</u>
Total operating expenses	<u>5,630,244</u>
Other income/(expenses)	
Settlement expense	<u>(294,233)</u>
Net loss	<u>\$ (1,865,591)</u>

See Independent Auditors' Report and Notes to Financial Statements

WAHLBURGERS FRANCHISING LLC  
STATEMENT OF MEMBERS' DEFICIT  
FOR THE YEAR ENDED JANUARY 3, 2021

Members' deficit at December 29, 2019	(4,767,388)
Net loss	<u>(1,865,591)</u>
Members' deficit at January 3, 2021	<u>\$ (6,632,979)</u>

See Independent Auditors' Report and Notes to Financial Statements  
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WAHLBURGERS FRANCHISING LLC  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED JANUARY 3, 2021

Cash flows from operating activities:	
Net loss	\$ (1,865,591)
Adjustments to reconcile net loss to net cash used by operating activities:	
Depreciation and amortization	66,849
Changes in operating assets and liabilities:	
(Increase) decrease in:	
Accounts receivable	(241,290)
Due from affiliates	1,528,026
Prepaid expenses and other assets	(100)
Increase (decrease) in:	
Accounts payable	6,906
Accrued expenses	227,979
Marketing fund liability	(21,246)
Due to affiliates	99,491
Deferred revenue	<u>(310,000)</u>
Net cash used by operating activities	<u>(508,976)</u>
Cash flows from financing activities:	
Proceeds from forgivable loan	<u>500,939</u>
Net cash provided by financing activities	<u>500,939</u>
Net decrease in cash and cash equivalents	(8,037)
Cash and cash equivalents, beginning of year	<u>199,507</u>
Cash and cash equivalents, end of year	<u>\$ 191,470</u>
Supplemental disclosures of cash flow information:	
Cash paid during the year for:	
Interest	<u>\$ -</u>
Income taxes	<u>\$ -</u>

See Independent Auditors' Report and Notes to Financial Statements

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 1 ORGANIZATION

Wahlburgers Franchising LLC (the “Company”) is a single member limited liability company organized in the state of Massachusetts and established on April 9, 2014. The Company is a wholly owned subsidiary of Wahlburgers Holding Company, LLC (“WHC”). The Company is a franchisor and licensor of restaurants in the better-burger segment of the restaurant industry, offering both fast casual and table service featuring a chef-inspired menu including burgers, sandwiches, salads, fries, tater tots, frappes as well as a full-service bar. The Company has franchise and license agreements with various operators to develop and operate the restaurants in the United States, Canada, Middle East and Germany.

A summary of franchise and affiliate-owned until activity is as follows:

	<u>Franchise</u>	<u>Affiliate- Owned</u>
Units operating at December 29, 2019	31	6
Units opened	27	-
Units closed	<u>(9)</u>	<u>-</u>
Units operating at January 3, 2021	<u>49</u>	<u>6</u>

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The accompanying financial statements have been prepared in accordance with accounting standards set by the Financial Accounting Standards Board (“FASB”). The FASB sets generally accepted accounting principles in the United States of America (“GAAP”) that the Company follows to ensure its financial conditions, results of operations, and cash flows are consistently reported. References to GAAP issued by the FASB in these footnotes are to the FASB Accounting Standards Codification (“FASB ASC”).

Fiscal Year

The Company operates on a 52/53-week fiscal year ending on the Sunday closest to December 31. Fiscal year 2020 was 53 weeks and included the period from December 30, 2019 through January 3, 2021.

See Independent Auditors’ Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Actual results could differ from those estimates.

Income Taxes

The Company is a wholly owned subsidiary of WHC and is a disregarded entity for income tax purposes, and accordingly, the results of operations will be reported on the parent company's tax returns. As a result, the Company generally does not incur United States federal income taxes.

The Company accounts for uncertainties in tax positions, under the provisions of ASC 740 *Income Taxes*. Under these provisions, the Company recognizes the tax benefit of tax positions to the extent that the benefit will more likely than not be realized. The determination as to whether the tax benefit will more than likely than not be realized is based upon the technical merits of the tax position as well as consideration of the available facts and circumstances.

Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and deposits in commercial banks. The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. The Company maintains its cash in a bank deposit account which, at times, may exceed federally insured limits. The Company has not experienced any losses in this account. The Company believes it is not exposed to any significant risk on cash and cash equivalents.

See Independent Auditors' Report



WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Accounts Receivable

Accounts receivable are stated at the amount the Company expects to collect. The Company maintains allowances for doubtful accounts for estimated losses resulting from the inability of some of its franchisees to make required payments. Management considers the following factors when determining the collectability of specific franchisee accounts: franchisee creditworthiness, past transaction history with the franchisee, and current economic industry trends. If the financial conditions of the Company's franchisees were to deteriorate, adversely affecting their ability to make payments, additional allowances would be required. Based on management's assessment, the Company provides for estimated uncollectible amounts through a charge to earnings and a credit to a valuation allowance. Balances that remain outstanding after the Company has made reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. The Company believes all of its accounts receivable at January 3, 2021 are fully collectible, and accordingly, no allowance has been recorded.

Property and Equipment

Property and equipment are recorded at historical cost. Assets under development are included in construction in progress, with depreciation commencing upon placing the asset in service. Upon sale or retirement, the cost and related accumulated depreciation are removed from the respective accounts and the resulting gain or loss is recognized in the statements of operations. The cost of maintenance and repairs is charged to expense as incurred; significant renewals and betterments are capitalized.

Depreciation of equipment is provided by the straight-line method over their estimated useful lives ranging from 3 to 7 years, except for leasehold improvements, which are amortized over the shorter of the terms of the related leases or their estimated useful lives. Depreciation expense for the year ended January 3, 2021 was \$66,849, and is included in general and administrative expenses in the statements of operations.

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Revenue Recognition

The Company derives its revenues from franchise revenue, advertising fund revenue, transfer fees, sale of merchandise, and corporate- owned locations.

*Franchise fees and royalties*

Contract consideration from franchisees primarily consist of initial or renewal franchise fees, area development fees, sales-based royalties, sales-based advertising fund fees and transfer fees payable by a franchisee for the transfer of their franchise unit to another franchisee. The Company also enters into area development agreements ("ADAs") which grant a franchisee the right to develop two or more franchise units. The Company collects an upfront area development fee for the grant of such rights. The initial franchise fees and upfront area development fees are nonrefundable and collected when the underlying franchise agreement or ADA is signed by the franchisee. Sales based royalties and advertising fund fees are payable weekly. Renewal and transfer fees are payable when an existing franchisee renews the franchise agreement for an additional term or when a transfer to a third party occurs, respectively.

The Company's primary performance obligation under the franchise agreement mainly includes granting certain rights to access the Company's intellectual property and a variety of activities relating to opening a franchise unit, including site selection, training and other such activities commonly referred to collectively as "pre-opening activities." The Company has elected to use the practical expedient for pre-opening activities and considers the following as a single performance obligation: assistance in selection of site; assistance in obtaining facilities and preparing facilities for their intended use; training of franchisee's personnel; preparation and distribution of manuals; bookkeeping, information technology, and advisory services; and inspection, testing and other quality control programs.

All other pre-opening activities have been determined to be highly interrelated and interdependent to access the Company's intellectual property and therefore are accounted for as a single performance obligation, which is satisfied by granting certain rights to access our intellectual property over the term of each franchise agreement.

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Revenue Recognition– (Continued)

The Company estimates the standalone selling price of training services that are not brand specific using an adjusted market assessment approach. The Company first allocates the initial franchise fees and the fixed consideration, under the franchise agreement to the stand-alone selling price of the training services that are not brand specific and the residual, if any, to the right to access the Company's intellectual property. Consideration allocated to training services that are not brand specific are recognized ratably as the training services are rendered.

Initial and renewal franchise fees allocated to the right to access the Company's intellectual property are recognized as revenue on a straight-line basis over the term of the respective franchise agreement. ADAs generally consist of an obligation to grant the right to open two or more units. These development rights are not distinct from franchise agreements; therefore, upfront fees paid by franchisees for development rights are deferred and apportioned to each franchise agreement signed by the franchisee. The pro-rata amount apportioned to each franchise agreement is recognized as revenue in the same manner as the initial and renewal franchise fees. Initial and renewal franchise fees related to the ADAs are recorded as contract receivable and contract liabilities at their contract transaction price.

Royalties are earned based on a percentage of franchisee's gross revenues. Franchise royalties represent sales-based royalties that are related entirely to the use of the Company's intellectual property and are recognized as franchisee sales occur and the royalty is deemed collectible.

*Merchandise revenue*

A third party distributes merchandise on behalf of the Company. All revenue related to merchandise sold by the third party has been recorded at the time of sale, net of costs.

*Corporate owned locations*

The Company owns certain locations, and also has placed into service a food truck. Revenues are recognized at the time when the food and beverage sales are made to customers, net of sales tax. Additionally, the Company may charge labor to customers for corporate catering events, which is also recognized once the events are hosted. Discounts provided to customers are recognized as a reduction in sales at the time of sale.

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Revenue Recognition– (Continued)

*Advertising Fund*

The Company maintains an advertising fund established to collect and administer funds contributed for use in advertising and promotional programs for franchise units. Advertising fund fees are collected from franchisees based on a percentage of franchisee gross revenues. The Company has determined that it acts as a principal in the collection and administration of the advertising fund and therefore recognizes the revenues and expenses related to the advertising fund on a gross basis. The Company has that the right to access its intellectual property and administration of the advertising fund are highly interrelated and therefore are accounted for as a single performance obligation. As a result, revenues from the advertising fund represent sales-based royalties related to the right to access the Company's intellectual property, which are recognized as franchisee sales occur. When advertising fund fees exceed the related advertising fund expenses in a reporting period, advertising costs are accrued up to the amount of advertising fund revenues recognized.

Incremental Costs of Obtaining a Contract

The Company capitalizes direct and incremental costs, principally consisting of commissions, associated with the sale of franchises and amortizes them over the term of the franchise agreement.

Recently Issued But Not Yet Effective Accounting Pronouncements

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*. The guidance in this ASU supersedes the leasing guidance in Topic 840, *Leases*. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the operations statement. In June 2020, the FASB issued ASU 2020-05 which deferred the effective date of ASU 2016-02 for private companies to fiscal years beginning after December 15, 2021, and interim periods within fiscal years beginning after December 15, 2020. The Company is currently evaluating the impact that the adoption of this new standard will have on the financial statements.

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 3 REVENUE AND RELATED CONTRACT BALANCES

*Disaggregated revenues*

The Company derives its revenues from franchisees located throughout the United States. The economic risks of the Company's revenues are dependent on the strength of the economy in the United States and its ability to collect on its contracts. The Company disaggregates revenue from contracts with customers by geographic region and timing of revenue recognition by type of revenues, as it believes this best depicts how the nature, amount, timing and uncertainty of revenue and cash flows are affected by economic factors.

Revenues by geographic region in the were as follows:

Northeastern United States	\$ 936,197
Midwestern United States	1,874,600
Southern United States	570,383
Western United States	626,171
Outside of the United States	<u>51,535</u>
	<u>\$ 4,058,886</u>

Revenue by timing of recognition were as follows:

*Point in time:*

Area development and franchise fees	\$ 745,000
Royalties and management/license fees	2,577,444
Franchise advertising fees	333,039
Merchandise revenues	7,923
Food truck revenue	52,983
Other franchise income	<u>52,497</u>
Total	<u>\$ 3,768,886</u>

*Over time:*

Area development and franchise fees	<u>\$ 290,000</u>
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See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 3 REVENUE AND RELATED CONTRACT BALANCES – (Continued)

*Contract balances*

Contract liabilities are comprised of unamortized initial and renewal franchise fees received from franchisees, which are presented as 'Deferred revenues' on the accompanying balance sheets. A summary of significant changes in deferred franchise fees is as follows:

Deferred franchise revenues at beginning of year	\$ 280,000
Revenue recognized during the year	(745,000)
Write off of fees related to termination of agreements	-
Additions for initial franchise fees received	<u>705,000</u>
	<u>\$ 240,000</u>

Deferred franchise fees consisted of the following:

Franchise fees not yet opened	\$ 240,000
Opened franchise units	<u>-</u>
	<u>\$ 240,000</u>

The initial and renewal franchise fees on ADAs that remain uncollected as of January 3, 2021, are reflected as "Accounts receivable" in the accompanying balance sheets and the related contract liabilities are included in "Deferred revenues" in the accompanying balance sheets.

Significant changes in contract receivables and contract liabilities as of January 3, 2021, are as follows:

Deferred ADA revenues at beginning of year	\$ 1,240,000
Revenue recognized during the year	(290,000)
Write off of fees related to termination of agreements	-
Additions for ADA fees received	<u>20,000</u>
	<u>\$ 970,000</u>

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 4 RECENTLY ADOPTED ACCOUNTING STANDARDS

In May 2014, FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*, with several clarifying updates issued subsequently. In conjunction with Topic 606, a new subtopic, ASC 340-40, *Other Assets and Deferred Costs – Contracts with Customers*, was also issued. The updated standard replaces most existing revenue recognition and certain cost standards under U.S. GAAP, including industry-specific standards. Collectively, we refer to Topic 606 and Subtopic 340-40 as "ASC 606." ASC 606 requires an entity to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.

The Company adopted ASC 606 effective December 29, 2019, using the modified retrospective transition method. The cumulative effect of initially applying ASC 606 for all contracts not yet completed or substantially completed as of December 29, 2019, was determined to be immaterial. As a result no adjustment to beginning members' deficit was necessary.

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 4 RECENTLY ADOPTED ACCOUNTING STANDARDS – (Continued)

The Company elected to use the following transition practical expedient provided in ASC 606:

- ASC 606 was applied only to contracts that were not complete as of December 29, 2019.
- The measurement of the transaction price excludes all taxes assessed by governmental authority that are both imposed on and concurrent with a specific revenue producing transaction and collected by the Company from a customer.
- The value of unsatisfied performance obligations for contracts with an original expected length of one year or less has not been disclosed.
- The Company reflected the aggregate effect of all contract modifications that occurred prior to December 29, 2019, when:
  - identifying the satisfied and unsatisfied performance obligations,
  - determining the transaction price,
  - allocating the transaction price to the satisfied and unsatisfied performance obligations.

NOTE 5 RELATED PARTY TRANSACTIONS

Area development and franchise agreements

The Company has an area development agreement and franchise agreement with Wahlburgers Boston Developer Company LLC (“WBDC”), an affiliate under common control. During 2020, there were no area development and franchise fees paid to the Company by WBDC. Accordingly, \$40,000 of ADA fees paid by WBDC remain in deferred revenue on the accompanying balance sheets as of January 3, 2021. Additionally, WHC is a guarantor on the lease for this affiliate for the first restaurant opened under the ADA.

See Independent Auditors’ Report



WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 5 RELATED PARTY TRANSACTIONS – (Continued)

Due to/from affiliates

The Company and its affiliates share employee services and other expenses with the parent company, WHC and its subsidiaries, which pay a proportionate share of the operating expenses. In addition, certain costs incurred by WHC or its affiliates to provide support to the Company and/or individual franchisees during the construction and preopening phases of the restaurant have been charged to the Company. The Company also has management and license agreements with six associated affiliates under common control, Wahlburgers Lynnfield, LLC, Wahlburgers Fenway, LLC, Wahlburgers South Bay, LLC, WB Frisco, LLC, WB Myrtle Beach, and Paragon Funding Group III, LLC. The affiliates pay both a management and license fee to the Company based on a percentage of sales, as defined. Management and license fees earned by the Company during the year January 3, 2021, totaled \$584,007 and are included in royalties and management/license fees on the statement of operations. Brand fund contributors for these affiliates totaled \$81,895 for the year ended January 3, 2021, respectively. The net amounts due from affiliated noted above totaled \$1,533,278 as of January 3, 2021. Additionally, WHC is guarantor on the leases for these affiliates.

In addition, the Company has nineteen franchise agreements in which a shareholder of WHC, the parent company, is also a shareholder in the franchisee. Three of these franchised locations opened during 2020. For the year ended January 3, 2021, royalties and brand fund contributions from these franchisees were \$1,094,556. Amounts due from these franchisees were \$533,207 as of January 3, 2021, which are included in due from affiliates on the accompanying consolidated balance sheets.

An international affiliate has provided funding to the Company totaling \$5,097,046 as of January 3, 2021. The affiliate has agreed not to call the amount due before 2022, therefore the amount is included in noncurrent liabilities as of January 3, 2021.

See Independent Auditors' Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 6 EMPLOYEE BENEFITS

The Company established the Wahlburgers 401(k) Plan (the “Plan”) effective December 30, 2018. All employees of the Company who have completed at least one year of eligibility service, as defined, and who have attained the age of 21, except employees covered by a collective bargaining agreement, leased employees, or any employee who is a non-resident employee, are eligible to participate in the plan. The employer match is at management’s discretion. For the year ended January 3, 2021, the Company did not have an employer match.

NOTE 7 COMMITMENTS AND CONTINGENCIES

Litigation

The Company is subject to various legal claims arising in the normal course of business. Based on the information currently available, it is the opinion of management that the ultimate resolution of pending and threatened legal proceedings will not have a material adverse effect on the Company’s financial position or the results of future operations.

See Independent Auditors’ Report

WAHLBURGERS FRANCHISING LLC  
NOTES TO FINANCIAL STATEMENTS  
JANUARY 3, 2021

NOTE 8 SUBSEQUENT EVENTS

On January 30, 2020, the World Health Organization declared the coronavirus outbreak a “Public Health Emergency of International Concern” and on March 10, 2020, declared it to be a pandemic. Actions taken around the world to help mitigate the spread of the coronavirus include restrictions on travel, and quarantines in certain areas, and forced closures for certain types of public places and businesses. The coronavirus and actions taken to mitigate it have had an are expected to continue to have an adverse impact on the economies and financial markets of many countries, including the geographical area in which the Company operates. While it is unknown how long these conditions will last and what the complete financial effect will be to the Company, it is reasonably possible that estimated made in the financial statements have been, or will be, materially and adversely impacted in the near term as a result of these conditions. In response to the pandemic, the Company has initiated a travel ban, furloughed personnel, and reduced other recurring expenses where feasible. Additionally, the Company has requested a three-month rent deferral, received payment extensions on their corporate credit cards, and been approved for relief under the government’s Payment Protection Program (PPP) with a loan totaling \$500,939. This PPP loan was funded on May 8, 2020. The Company has applied for and anticipates being granted forgiveness for all of the PPP loan in 2021. The Company has been approved for relief under the government’s Payroll Protection Program (PPP) Second Draw with a loan totaling \$701,313. This PPP loan was funded on March 1, 2021. Under the terms of the PPP loan, interest will accrue on the outstanding principal at the rate of 1.0% per annum. The term of the PPP loan is five years. The Company may apply for and be granted forgiveness for all or part of the PPP loan. To the extent the loan amount is not forgiven, the Company is obligated to make equal monthly payments of principal and interest.

The Company has evaluated all subsequent events through April 30, 2021, the date which the financial statements were available to be issued. During this period, no subsequent events occurred, other than what is currently disclosed, which require disclosure or accrual in the consolidated financial statements.

See Independent Auditors’ Report

***EXHIBIT G***

***ADDITIONAL INFORMATION REQUIRED BY CERTAIN STATES***

**ADDITIONAL DISCLOSURES AND ADDENDA FOR CALIFORNIA**

## ADDITIONAL DISCLOSURES FOR CALIFORNIA

1. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE SUBFRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.
2. See the cover page of the disclosure document for NativeWahl's and Wahlburgers' website addresses. NATIVEWAHL'S AND WAHLBURGERS' WEBSITES HAVE NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THE WEBSITES MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [WWW.DFPI.CA.GOV](http://WWW.DFPI.CA.GOV).
3. **The registration of this subfranchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**
4. **Items 1 and 7, Additional Disclosures.** The following statement is added to Items 1 and 7:

Subfranchisees must comply with the requirements set forth in the Alcoholic Beverage Control Act and the California Code of Regulations for the sale of alcoholic beverages.

5. **Item 3, Additional Disclosure.** The following statement is added to Item 3:  
  
Neither NativeWahl nor Wahlburgers nor any person listed in Item 2 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 parties from membership in such association or exchange.

6. **Item 5, Additional Disclosure.** The following statement is added to Item 5:  
  
The California Department of Financial Protection and Innovation requires us, in California, to defer the payment of the Initial Subfranchise Fee and other initial payments owed by you to us until we have completed our pre-opening obligations under each subfranchise agreement. Consequently, in California, we defer payment of, with respect to each Subfranchised Restaurant, the Initial Subfranchise Fee and any other initial fees owed by you to us for the Subfranchised Restaurant until the applicable Subfranchised Restaurant opens for business. Upon the opening of each Subfranchised Restaurant, you must pay us the Initial Subfranchise Fee and any other initial fees owed by you to us for that Subfranchised Restaurant.

7. **Item 15, Additional Disclosures.** The following statement is added to Item 15:  
  
If Subfranchisee is a natural person or if Subfranchisee is a business entity with 10% Owner(s), such natural person or 10% Owner(s), as applicable, must sign a personal guarantee, making such an individual and his or her spouse individually liable for such individual's financial obligations under the agreement if they are married. The guarantee will place such an individual and his or her spouse's marital and personal assets at risk, perhaps including their house, if the subfranchise fails.

**8. Item 17, Additional Disclosures.** The following statements are added to Item 17:

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

The subfranchise agreements provide for termination upon bankruptcy. These provisions may not be enforceable under federal bankruptcy law (11 U.S.C.A. § 101 et seq.).

The subfranchise agreements contain a covenant not to compete which extends beyond the expiration or termination of the franchise. These provisions may not be enforceable under California law.

The subfranchise agreements require application of the laws of the Little River Band of Ottawa Indians. These provisions may not be enforceable under California law.

The subfranchise agreements include a general release. In addition, you must sign a general release if you transfer or renew your franchise or development rights. These provisions may not be enforceable under California law. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professional Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

No disclaimer, questionnaire, clause or statement signed by a Subfranchisee in connection with the commencement of the Subfranchise relationship shall be construed or interpreted as waiving any claim of fraud in the inducement, whether common law or statutory, or as disclaiming reliance on or the right to rely upon any statement made or information provided by any Subfranchisor, broker or other person acting on behalf of the Subfranchisor that was a material inducement to a Subfranchisee's investment. Any statements or representations signed by a Subfranchisee purporting to understand any fact or its legal effect shall be deemed made only based upon the Subfranchisee's understanding of the law and facts as of the time of the Subfranchisee's investment decision. This provisions supersedes any other or inconsistent term of any document executed in connection with the Subfranchise.

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

Each provision of these Additional Disclosures shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the California Franchise Investment Law or the California Franchise Relations Act are met independently without reference to these Additional Disclosures.

## SUBFRANCHISE AGREEMENT ADDENDUM FOR CALIFORNIA

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ between NativeWahl LLC (“NativeWahl,” “we” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Subfranchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Subfranchisee was made in the State of California; **(B)** Subfranchisee is a resident of the State of California; and/or **(C)** your Wahlburgers Restaurant will be located or operated in the State of California.

2. The following sentences are added to the end of Section 6.1:

The California Department of Financial Protection and Innovation requires us, in California, to defer payment of the Initial Subfranchise Fee and other initial payments owed by you to us until we have completed our pre-opening obligations under each subfranchise agreement. Accordingly, notwithstanding anything to the contrary in this Agreement, including but not limited to, this Section 6.1, in California, we will defer the payment of the Initial Subfranchise Fee and any other initial fees owed by you to us for the Subfranchised Restaurant until the Subfranchised Restaurant opens for business. Upon the opening of the Subfranchised Restaurant, you will pay us the Initial Subfranchise Fee and any other initial fees owed by you to us for the Subfranchised Restaurant.

3. The following sentence is added to the end of Sections 6.5, 6.6 and 6.8:

In California, the highest lawful rate of interest is 10% per annum.

4. The following sentence is added after the first sentence of Section 12.13:

Subfranchisees must comply with the requirements set forth in the Alcoholic Beverage Control Act and the California Code of Regulations for the sale of alcoholic beverages.

5. The following sentences are added to the end of Sections 14.3 and 16.3.8:

If Subfranchisee is a natural person or if Subfranchisee is a business entity with 10% Owner(s), such natural person or 10% Owner(s), as applicable, must sign a personal guarantee, making such an individual and his or her spouse individually liable for such individual’s financial obligations under the agreement if they are married. The guarantee will place such an individual and his or her spouse’s marital and personal assets at risk, perhaps including their house, if the subfranchise fails.

6. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.



7. Section 30.7 is deleted.

8. The following sentences are added to the end of Section 30:

No disclaimer, questionnaire, clause or statement signed by a Subfranchisee in connection with the commencement of the Subfranchise relationship shall be construed or interpreted as waiving any claim of fraud in the inducement, whether common law or statutory, or as disclaiming reliance on or the right to rely upon any statement made or information provided by any Subfranchisor, broker or other person acting on behalf of the Subfranchisor that was a material inducement to a Subfranchisee's investment. Any statements or representations signed by a Subfranchisee purporting to understand any fact or its legal effect shall be deemed made only based upon the Subfranchisee's understanding of the law and facts as of the time of the Subfranchisee's investment decision. This provision supersedes any other or inconsistent term of any document executed in connection with the Subfranchise.

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

10. Any capitalized terms that are not defined in this Addendum will have the meaning given them in the Subfranchise Agreement.

11. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the California Franchise Investment Law are met independently of this Addendum.

12. Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

## **ADDITIONAL DISCLOSURES AND ADDENDUM MICHIGAN**

## **ADDITIONAL DISCLOSURES FOR MICHIGAN**

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

**SUBFRANCHISE AGREEMENT ADDENDUM FOR MICHIGAN**

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Subfranchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Subfranchisee was made in Indiana or Michigan; **(B)** Subfranchisee is a resident of Indiana or Michigan; and/or **(C)** the Franchised Restaurant will be located in Indiana or Michigan.
  
2. Section 30.1 is deleted and is replaced by the following:  

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.
  
3. Section 30.7 is deleted.
  
4. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship will have the effect of: **(A)** waiving any claims under any applicable state franchise law, including fraud in the inducement; or **(B)** disclaiming reliance on any statement made by any franchisor, franchise seller or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
  
5. Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**ADDITIONAL DISCLOSURES AND ADDENDA FOR MINNESOTA**

## **ADDITIONAL DISCLOSURES FOR MINNESOTA**

1. **Trademarks.** The following statement is added to Item 13:

Notwithstanding the foregoing, we will indemnify you against liability to a third party resulting from claims that your use of a Proprietary Mark infringes trademark rights of a third party; provided, that we will not indemnify against the consequences of your use of the Proprietary Marks unless the use is in accordance with the requirements of the Subfranchise Agreement and the Wahlburgers System.

2. **Notice of Termination.** The following statement is added to Item 17:

With respect to franchises governed by Minnesota law, we will comply with Minnesota Statute § 80C.14, subdivisions 3, 4, and 5, which require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreements.

3. **Choice of Forum and Law.** The following statement is added to the State Cover page and Item 17:

Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreements can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

4. **General Release.** The following statement is added to Item 17:

Minnesota Rule 2860.4400D prohibits us from requiring you to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§ 80C.01 - 80C.22.

5. **Waiver of Right to Jury Trial. The following statement is added to Item 17:**

Minnesota Rule 2860.4400J, among other things, prohibits us from requiring you to waive your rights to a jury trial.

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

Each provision of these Additional Disclosures will be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchise Act are met independently without reference to these Additional Disclosures.

## **SUBFRANCHISE AGREEMENT ADDENDUM FOR MINNESOTA**

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Subfranchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Subfranchisee was made in the State of Minnesota; **(B)** Subfranchisee is a resident of the State of Minnesota; and/or **(C)** your Wahlburgers Restaurant will be located or operated in the State of Minnesota.

2. The following sentence is added to the end of Sections 2.2.6, 16.3.5 and 17:

Notwithstanding the foregoing, you will not be required to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§ 80C.01 - 80C.22.

3. The following sentence is added to the end of Section 13.5:

Notwithstanding the foregoing, we will indemnify you against liability to a third party resulting from claims that your use of a Proprietary Mark infringes trademark rights of a third party; provided, that we will not indemnify against the consequences of your use of the Proprietary Marks unless the use is in accordance with the requirements of this Agreement and the Wahlburgers System.

4. The following sentence is added to the end of Section 19:

With respect to franchises governed by Minnesota law, we will comply with Minnesota Statute § 80C.14, Subdivision 3, 4, and 5 which requires, except in certain cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of franchise agreements.

5. The following sentences are added to the end of Section 28.2:

Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreements can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction. The following sentence is added to the end of Section 28.3:

Minnesota Statute § 80C.17, Subdivision 5, provides that no action may be commenced pursuant to that Section more than three years after the cause of action accrues.

6. Section 28.4 is deleted.

7. The second sentence of Section 29.5 is deleted and replaced with the following sentence.

Therefore, you agree that, in the event of a breach or threatened breach of any of the terms of this Agreement by you, we will be entitled to seek declaratory and injunctive relief

(both preliminary and permanent) restraining that breach and/or to specific performance. A court will determine if a bond is required.

8. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

9. Section 30.7 is deleted.

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

11. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Minnesota Franchise Act and the Rules and Regulation promulgated thereunder are met independently of this Addendum.

12. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Subfranchise Agreement.

13. Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**ADDITIONAL DISCLOSURES AND ADDENDA FOR NEW YORK**

## **ADDITIONAL DISCLOSURES FOR NEW YORK**

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

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

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

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

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

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

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

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

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

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it

being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

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

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

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

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

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

## **SUBFRANCHISE AGREEMENT ADDENDUM FOR NEW YORK**

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Subfranchise Agreement. This Addendum is being executed because: (A) the offer or sale of a franchise to Subfranchisee was made in the State of New York; (B) Subfranchisee is a resident of the State of New York; and/or (C) your Wahlburgers Restaurant will be located or operated in the State of New York.

2. Any provision in the Subfranchise Agreement that is inconsistent with the New York General Business Law, Article 33, Sections 680 – 695, may not be enforceable.

3. The following sentence is added to the end of Sections 2.2.6, 16.3.5 and 17:

Any provision in this Agreement requiring you to sign a general release of claims against us does not release any claim you may have under New York General Business Law, Article 33, Sections 680-695.

4. The following sentence is added to Section 15:

We will not assign our rights under this Agreement, except to an assignee who in its good faith and judgment is willing and able to assume its obligations under this Agreement.

5. The following sentence is added to the end of Section 28.1:

Notwithstanding the foregoing, the New York Franchises Law will govern any claim arising under that law.

6. The following sentence is added to the end of Section 29.5:

Our right to obtain injunctive relief exists only after proper proofs are made and the appropriate authority has granted such relief.

7. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

8. Section 30.7 is deleted.

9. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship will have the effect of: **(A)** waiving any claims under any applicable state franchise law, including fraud in the

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

- 10. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of New York General Business Law, Article 33, Section 680 through 695, and of the Codes, Rules, and Regulations of the State of New York, Title 13, Chapter VII, Section 200.1 through 201.16, are met independently of this Addendum.
- 11. Any capitalized terms that are not defined in this Addendum will have the meaning given them in the Subfranchise Agreement.

Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**ADDITIONAL DISCLOSURES AND ADDENDUM FOR NORTH DAKOTA**

## **ADDITIONAL DISCLOSURES FOR NORTH DAKOTA**

1. **Item 17, Additional Disclosures.** The following statements are added to Item 17:

Pursuant to the North Dakota Franchise Investment Law, any provision requiring franchisees to consent to the jurisdiction of courts outside North Dakota or to consent to the application of laws of a state other than North Dakota is void.

On renewal, you are not required to release any claims you might have against us under the North Dakota Franchise Investment Law.

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

3. Each provision of these Additional Disclosures shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the North Dakota Franchise Investment are met independently without reference to these Additional Disclosures.

**SUBFRANCHISE AGREEMENT ADDENDUM FOR NORTH DAKOTA**

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Subfranchisee Agreement. This Addendum is being executed because: **(A)** the offer or sale of a franchise to Subfranchisee was made in the State of North Dakota; **(B)** Subfranchisee is a resident of the State of North Dakota; and/or **(C)** the Franchised Restaurant will be located or operated in the State of North Dakota.

2. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

3. Section 30.7 is deleted.

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

5. Any capitalized terms that are not defined in this Addendum will have the meaning given them in the Subfranchisee Agreement.

6. Except as expressly modified by this Addendum, the Subfranchisee Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_



**ADDITIONAL DISCLOSURES AND ADDENDUM FOR SOUTH DAKOTA**

## **ADDITIONAL DISCLOSURES FOR SOUTH DAKOTA**

1. **Item 5, Initial Fees.** The following paragraph is added to the end of the section in Item 5 entitled "Initial Franchise Fee":

Notwithstanding the foregoing, based upon its review of our financial statements (attached as Exhibit H), the South Dakota Department of Labor and Regulation requires that we defer, with respect to each Subfranchised Restaurant, the payment of the Initial Franchise Fee for the Subfranchised Restaurant until that Subfranchised Restaurant opens for business. Upon the opening of each Subfranchised Restaurant, you must pay us the Initial Franchise Fee for that Subfranchised Restaurant. Simultaneously with your execution of the Subfranchise Agreement, you will execute the South Dakota Subfranchise Agreement Addendum, which will memorialize such deferral.

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

Each provision of these Additional Disclosures will be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the South Dakota Franchise Investment Act are met independently without reference to these Additional Disclosures.

## SUBFRANCHISE ADDENDUM FOR SOUTH DAKOTA

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into, the Subfranchise Agreement. This Addendum is being executed because the franchise was “offered or sold” (as defined in the South Dakota Franchise Investment Act (“Act”)) in South Dakota.
2. Notwithstanding anything to the contrary in this Agreement, including, but not limited to, Section 6.1, in the State of South Dakota, we will defer the payment of the Initial Franchise Fee for the Subfranchised Restaurant until the Subfranchised Restaurant opens for business. Upon the opening of the Subfranchised Restaurant, you will pay us the Initial Franchise Fee for the Subfranchised Restaurant.

3. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

4. Section 30.7 is deleted.
5. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship will have the effect of: **(A)** waiving any claims under any applicable state franchise law, including fraud in the inducement; or **(B)** disclaiming reliance on any statement made by any franchisor, franchise seller or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
6. The provisions of this Addendum will be effective only to the extent that the jurisdictional requirements of the Act are met independently of this Addendum.
7. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Subfranchise Agreement.
8. Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL DISCLOSURES AND ADDENDA FOR VIRGINIA**

## ADDITIONAL DISCLOSURES FOR VIRGINIA

1. Additional Disclosures for Item 17.h. The following statements are added to Item 17.h.:

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

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Subfranchise Agreement involves the use of undue influence by the franchisor to induce a franchisee to surrender any rights given to him under the franchise, 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 will have the effect of: **(A)** waiving any claims under any applicable state franchise law, including fraud in the inducement; or **(B)** disclaiming reliance on any statement made by any franchisor, franchise seller or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Each provision of these Additional Disclosures shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Virginia Retail Franchising Act are met independently without reference to these Additional Disclosures.

**SUBFRANCHISE AGREEMENT ADDENDUM FOR VIRGINIA**

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Subfranchise Agreement. This Addendum is being executed because: **(A)** the offer or sale of the franchise to Franchisee was made in the Commonwealth of Virginia; **(B)** Franchisee is a resident of the Commonwealth of Virginia; and/or **(C)** the Franchised Restaurant will be located or operated in the Commonwealth of Virginia.

2. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

3. Section 30.7 is deleted.

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

5. Any capitalized terms that are not defined in this Addendum will have the meaning given them in the Subfranchise Agreement.

6. Except as expressly modified by this Addendum, the Subfranchise Agreement remains unmodified and in full force and effect.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL DISCLOSURES AND ADDENDUM FOR WISCONSIN**



### **ADDITIONAL DISCLOSURES FOR WISCONSIN**

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

## SUBFRANCHISE AGREEMENT ADDENDUM FOR WISCONSIN

This Addendum to the Wahlburgers Restaurant Subfranchise Agreement dated as of \_\_\_\_\_ (“Subfranchise Agreement”) between NativeWahl LLC (“NativeWahl,” “you” or “us”) and \_\_\_\_\_ (“Subfranchisee,” “you” or “your”) is entered into simultaneously with the execution of the Subfranchise Agreement.

### WISCONSIN LAW MODIFICATIONS

1. Notwithstanding anything that may be contained in the body of the Subfranchise Agreement to the contrary, the Agreement is hereby amended to add the following provision:

For all franchises sold in the State of Wisconsin, the Company will provide Subfranchisee at least 90 days’ prior written notice of termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and will provide that Subfranchisee have 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days, the notice will be void. These notice requirements shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due under the franchise, Subfranchisee will be entitled to written notice of such default, and will have not less than 10 days in which to remedy such default from the date of delivery or posting of such notice.

2. Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of this Agreement or a related document between the Company and Subfranchisee inconsistent with the Law.

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

4. Section 30.1 is deleted and is replaced by the following:

This Agreement involves significant legal and business rights and risks. We do not guarantee your success. You recognize that the nature of the business conducted by Wahlburgers Restaurants may change over time and you have had ample opportunity to investigate all representations made by or on behalf of us. The prospect for success of the business undertaken by you is speculative and depends to a material extent upon your personal commitment, capability and direct involvement in the day-to-day management of the business.

5. Section 30.7 IS deleted.

6. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Wisconsin law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

**SUBFRANCHISEE:**

**NATIVEWAHL:  
NATIVEWAHL LLC**

By: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

***EXHIBIT H***

***LIST OF SUBFRANCHISOR SUBFRANCHISED LOCATIONS***

**SUB-FRANCHISED LOCATIONS OPEN AS OF THE END OF FISCAL YEAR 2022**

<b>FRANCHISEE</b>	<b>LOCATION</b>	<b>TELEPHONE</b>	<b>FULL-SERVICE (FS) OR FAST CASUAL (FC)</b>
Inn of the Mountain Gods Resort and Casino	287 Carrizo Canyon Rd. Mescalero, NM 88340	(575) 464-7058	FC

**SUB-FRANCHISEE AGREEMENT SIGNED BUT  
RESTAURANT NOT OPENED AS OF THE END OF FISCAL YEAR 2022**

**NONE**

**SUB-FRANCHISEES WHO TRANSFERRED, WERE TERMINATED, DID NOT REVIEW, WERE  
RE-ACQUIRED OR WHO CEASED OPERATIONS FOR OTHER REASONS  
IN FISCAL YEAR 2022**

**NONE**

***EXHIBIT I***

***LIST OF FRANCHISEES AND FRANCHISED LOCATIONS***

**FRANCHISED LOCATIONS OPEN AS OF THE END OF FISCAL YEAR 2022**

<b>FRANCHISEE</b>	<b>LOCATION</b>	<b>TELEPHONE</b>	<b>FULL-SERVICE (FS) OR FAST CASUAL (FC)</b>
WB Huntsville Burgers, LLC	1030 Mid City Northwest Huntsville, AL 35806	(256) 261-3821	FS
One Team Restaurant Group, LLC	1219 Burlingame Ave. Burlingame, CA	(650) 399-0777	FS
Wahlrongo, Inc.	49500 Seminole Drive Cabazon, CA 92230	(951) 755-5344	FC
Hollywood BLVD Burgers, Inc.	6922 Hollywood Blvd. Suite 106 Los Angeles, CA 90028	(323) 798-4920	FS
Wahlkey, LLC	700 Front Street, Suite 107 Key West, FL 33040	(305) 433-2020	FS
Grand Slam Enterprises, LLC	455 Legends Place SE Suite 874 Atlanta, GA 30339	(678) 402-1195	FS
One Team Restaurant Group, LLC	1450 Ala Moana Rd. Honolulu, HI	(808) 470-4850	FC
Fox Valley Burgers LLC	825 South Randall Road St. Charles, IL 60174	(331) 235-5200	FS
Hy-Vee, Inc.*	2115 S. Macarthur Blvd. Springfield, IL 62704	(217) 726-1011	FC
Hy-Vee, Inc.*	7610 N. Prairie Rd. Peoria, IL 61615	(309) 589-1030	FC
Hy-Vee, Inc.*	1403 N. Veterans Parkway Bloomington, IL 61704	(309) 663-3062	FC
Hy-Vee, Inc.*	1651 Midtown Pike Peru, IL 61354	(815) 223-5219	FC
WB Carmel, LLC	1200 S. Rangeline Road Suite 4 Carmel, IN 46032	(317) 810-9999	FS
Hy-Vee, Inc.*	640 Lincoln Way Ames, IA 50010	(515) 232-1961	FC
Hy-Vee, Inc.*	Village at Jordan Creek, 7105 Mills Civic Pkwy. Suite 160, West Des Moines, IA 50266	(515) 225-4885	FS
Hy-Vee, Inc.*	2510 SW State Street Ankeny, IA 50023	(515) 963-3140	FC
Hy-Vee, Inc.*	905 U.S. 30 Carroll, IA 51401	(712) 792-6333	FC
Hy-Vee, Inc.*	1914 8 <sup>th</sup> Street Coralville, IA 52241	(319) 338-7731	FC
Hy-Vee, Inc.*	3285 Crosspark Rd. Coralville, IA 52241	(319) 665-2712	FC



<b>FRANCHISEE</b>	<b>LOCATION</b>	<b>TELEPHONE</b>	<b>FULL-SERVICE (FS) OR FAST CASUAL (FC)</b>
Hy-Vee, Inc.*	2323 West Broadway Council Bluffs, IA 51501	(712) 328-9792	FC
Hy-Vee, Inc.*	400 South Locust Dubuque, IA 52003	(563) 583-6148	FC
Hy-Vee, Inc.*	4064 East 53 <sup>rd</sup> St. Davenport, IA 52807	(563) 355-5540	FC
Hy-Vee, Inc.*	5050 Edgewood Road NE Cedar Rapids, IA 52411	(319) 378-2945	FC
Hy-Vee, Inc.*	420 Court Avenue Des Moines, IA 50309	(515) 243-2263	FC
Hy-Vee, Inc.*	8701 Douglas Avenue Urbandale, IA 50322	(515) 251-5286	FC
Hy-Vee, Inc.*	1005 E. Hickam Road Waukee, IA 50263	(515) 216-2772	FC
Hy-Vee, Inc.*	351 NE Gateway Dr. Grimes, IA 50111	(515) 986-4527	FC
Hy-Vee, Inc.*	630 University Ave. Cedar Falls, IA 53613	(319) 266-1535	FC
Hy-Vee, Inc.*	115 S 29 <sup>th</sup> St. Ford Dodge, IA 50501	(515) 573-4105	FC
Hy-Vee, Inc.*	910 N Jefferson Hwy. Indianola, IA 50125	(515) 961-5329	FC
Hy-Vee, Inc.*	1125 N Didge St. Iowa City, IA 52245	(319) 354-9273	FC
Hy-Vee, Inc.*	2400 2 <sup>nd</sup> Ave. Muscatine, IA 52761	(563) 264-2420	FC
Hy-Vee, Inc.*	1501 1 <sup>st</sup> Ave. E Newton, IA 50208	(641) 792-7030	FC
Hy-Vee, Inc.*	1935 South Black Bob Road Olathe, KS 66062	(913) 768-1137	FS
Hy-Vee, Inc.*	8900 W 135 Street Overland Park, KS 55221	(913) 685-3500	FC
Hy-Vee, Inc.*	3540 Clinton Parkway Lawrence, KS 65047	(785) 832-4377	FC
Hy-Vee, Inc.*	2951 SW Wanamaker Rd. Topeka, KS 66614	(785) 272-1763	FC
Hy-Vee, Inc.*	601 N 3 <sup>rd</sup> Pl. Manhattan, KS 66502	(785) 587-8609	FC
SSP America, Inc.	300 Terminal St., Term. C Boston, MA 02128	(617) 755-6144	FS
Wahlburgers South Bay Company LLC*	South Bay Center 9 District Ave Boston, MA 02125	(617) 282-5300	FS
Wahlburgers Springfield LLC*	1028 Main Street Springfield, MA 01103	(417) 750-9980	FS

<b>FRANCHISEE</b>	<b>LOCATION</b>	<b>TELEPHONE</b>	<b>FULL-SERVICE (FS) OR FAST CASUAL (FC)</b>
ACW Detroit, LLC	569 Monroe St. Detroit, MI 48226	(313) 209-4499	FS
ACW Grand Rapids, LLC	10 Ionia Ave NW Grand Rapids, MI 49503	(616) 719-1788	FS
Hy-Vee, Inc.*	1307 18 <sup>th</sup> Ave. NW Austin, MN 55912	(507) 219-5513	FC
Hy-Vee, Inc.*	Mall of America 234 N. Garden Bloomington, MN 55425	(952) 854-1655	FS
Hy-Vee, Inc.*	11852 Elm Creek Blvd North Maple Grove, MN 55369	(763) 494-5339	FS
Hy-Vee, Inc.*	9409 Zane Ave North Brooklyn Park, MN 55443	(763) 488-4500	FC
Hy-Vee, Inc.*	7280 E Point Douglas Rd. S Cottage Grove, MN 55016	(651) 458-7012	FC
Hy-Vee, Inc.*	1500 Central Park Commons Dr Eagan , MN 55121	(651) 405-3672	FC
Hy-Vee, Inc.*	16150 Pilot Knob Rd Lakeville, MN 55044	(952) 423-9340	FC
Hy-Vee, Inc.*	8200 42nd Ave N New Hope, MN 55427	(763) 531-7472	FC
Hy-Vee, Inc.*	7180 10th St North Oakdale, MN 55128	(651) 714-3172	FC
Hy-Vee, Inc.*	6150 Egan Drive Savage, MN 55378	(952) 228-2562	FC
Hy-Vee, Inc.*	8155 Highway 65 NE Spring Lake Park, MN 55432	(763) 792-8440	FC
Hy-Vee, Inc.*	1451 Adams Street South Shakopee, MN 55379	(952) 403-1532	FC
Hy-Vee, Inc.*	4221 W Circle Dr NW Rochester, MN 55901	(507) 292-6012	FC
Hy-Vee, Inc.*	405 Nifong Blvd. Columbia, MO 65201	(573) 442-6349	FC
Hy-Vee, Inc.*	301 NE Rice Road Lee's Summit, MO 64086	(816) 347-3526	FC
Hy-Vee, Inc.*	625 U.S. 40 Blue Springs, MO 64014	(816) 224-4288	FC
Hy-Vee, Inc.*	5330 Northwest 64th Street, Hawthorne - Picture Hills Kansas City, MO 64151	(816) 505-1311	FC
Hy-Vee, Inc.*	4545 S. Nolan Rd. Independence, MO 64055	(816) 476-6557	FC

<b>FRANCHISEE</b>	<b>LOCATION</b>	<b>TELEPHONE</b>	<b>FULL-SERVICE (FS) OR FAST CASUAL (FC)</b>
Hy-Vee, Inc.*	109 N. Blue Jay Dr. Liberty, MO 64068	(816) 792-3910	FC
Hy-Vee, Inc.*	929 Highway Dr. Osage Beach, MO 65065	(513) 302-7977	FC
Hy-Vee, Inc.*	2150 E Sunshine St. Springfield, MO 65804	(417) 414-6560	FC
Hy-Vee, Inc.*	5212 3 <sup>rd</sup> Avenue Kearney, NE 68845	(308) 236-0031	FC
Hy-Vee, Inc.*	11650 S. 73 <sup>rd</sup> St. Papillion, NE 69046	(402) 597-5701	FC
Hy-Vee, Inc.*	2107 Taylor Avenue Norfolk, NE 68701	(402) 371-7071	FC
Hy-Vee, Inc.*	16418 Westside Drive Plattsmouth, NE 68048	(402) 298-7600	FC
Hy-Vee, Inc.*	5020 North 27th Street Lincoln, NE 68521	(402) 477-4764	FC
Hy-Vee, Inc.*	14591 Stoneybrook Blvd. Omaha, NE 68137	(402) 697-0811	FC
Hy-Vee, Inc.*	9707 Q Street Omaha, NE 68127	(402) 339-3047	FC
Hy-Vee, Inc.*	115 Wilmar Ave, Grand Island, NE 68803	(608) 381-3678	FC
Celebrity Burgers LLC*	3635 Las Vegas Blvd. South Unit 100 Las Vegas, NV	(702) 405-9090	FS
Atlantic Wahl, LLC	500 Boardwalk Atlantic City, NJ 08401	(609) 783-8868	FS
Inn of the Mountain Gods Resort and Casino	287 Carrizo Canyon Rd. Mescalero, NM 88340	(575) 464-7058	FC
ACW Cincinnati, LLC	199 E. 6 <sup>th</sup> Street Cincinnati, OH 45202	(513) 457-7085	FS
ACW Cleveland, LLC	2105 Ontario Street, Cleveland, OH 44115	(216) 302-1001	FS
Central Ohio Gaming Ventures, LLC	200 Georgesville Rd. Columbus, OH 43228	(614) 308-3333	FC
Youngstown Real Estate Ventures, LLC	655 N Canfield Niles Rd. Youngstown, OH 44515	(877) 788-3777	FC
Dayton Real Estate Ventures, LLC	777 Hollywood Blvd. Dayton, OH 45414	(937) 235-7586	FC
C Berry Burgers LLC*	6242 Northway Drive, Pittsburgh, PA 15237	(412) 536-3991	FS

<b>FRANCHISEE</b>	<b>LOCATION</b>	<b>TELEPHONE</b>	<b>FULL-SERVICE (FS) OR FAST CASUAL (FC)</b>
Robinson Burgers LLC	100 Robinson Ctr. Dr Ste 2550 Pittsburgh, PA 15205	(412) 744-9089	FS
Hy-Vee, Inc.*	1900 S. Marion Dr. Sioux Falls, SD 57106	(605) 361-3396	FC
Hy-Vee, Inc.*	1601 S Sycamore Ave. Sioux Falls, SD 57110	(605) 534-4530	FC
BP Memphis Inc.*	1 Bass Pro Dr. Memphis, TN 388195	(901) 291-8040	FS
Hy-Vee, Inc.*	The Corners of Brookfield, 325 N Market Street Brookfield, WI 53045	(262) 641-9975	FS
Hy-Vee, Inc.*	322 North Broadway Milwaukee, WI 53202	(414) 223 -3005	FS
Hy-Vee, Inc.*	2308 Clairemont Ave. Eau Claire, WI 54701	(715) 598-9525	FC
Hy-Vee, Inc.*	2920 Fitchrona Rd. Fitchburg, WI 53719	(608) 273-5131	FC
Hy-Vee, Inc.*	3801 East Washington Ave. Madison, WI 53704	(608) 244-4696	FC
Hy-Vee, Inc.*	4200 WI-16E Lacrosse, WI 54601	(608) 668-6600	FC
Hy-Vee, Inc.*	2395 S Oneida St., Ste 100 Ashwaubenon, WI	(920) 305-7010	FC

\* Indicates a current area developer.

**FRANCHISE AGREEMENT SIGNED BUT  
RESTAURANT NOT OPENED AS OF JANUARY 1, 2023**

<b>Franchisee</b>	<b>Location</b>	<b>Telephone</b>
One Team Restaurant Pier 39, LP	The Embarcadero San Francisco, CA	TBD

**DEVELOPERS WHO DO NOT HAVE AN EFFECTIVE A FRANCHISE AGREEMENT**

Tinseltown Eateries, Inc. 500 Via Val Verde Montebello, CA 60940	Big Apple Burgers, LLC 77 Bayview Avenue West Lindenhurst, NY 11757
Elite Burgers, LLC 214 East 49 <sup>th</sup> Street, 2 <sup>nd</sup> Floor New York, NY 10017	

**FRANCHISEES WHO CEASED OPERATION IN FISCAL YEAR 2022**

<b>Franchisee</b>	<b>Location</b>	<b>Last Known Telephone Number</b>
OneTeam Restaurant PA, LP	Palo Alto, CA	(650) 382-1389
218 Peachtree Burgers LLC	Atlanta, GA	(404) 565-1670
ACW Royal Oaks LLC	Royal Oak, MI	(248) 850-8601

***EXHIBIT J***  
***STATE EFFECTIVE DATES***

## 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	[Pending]
Michigan	January 21, 2023
Minnesota	[Pending]
New York	[Pending]
North Dakota	[Pending]
South Dakota	[Pending]
Virginia	[Pending]
Wisconsin	[Pending]

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities.

**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 NativeWahl LLC offers you a franchise, NativeWahl LLC 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. If applicable, 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. If applicable, 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 NativeWahl LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the appropriate state administrator listed in Exhibit A.

Franchise Seller Information: Name – Eugene Magnuson or Tyler Leppanen, Managers; Address – 2608 Government Center Drive, Manistee, MI 49660; and Telephone Number - 231-398-6830.

Issuance Date: April 28, 2023

I have received a Franchise Disclosure Document issued on April 28, 2023. This disclosure document included the following exhibits: A. List of State Administrators; B. List of Agents for Service of Process; C. Subfranchise Agreement; D. Gaming Facility Addendum; E. Confidentiality Agreement; F. Financial Statements; G. Additional Information Required by Certain States; H. List of Franchisees and Franchised Locations; and I. State Effective Dates.

Date of Receipt: \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Company Name \_\_\_\_\_

Street Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

City, State \_\_\_\_\_ Zip Code \_\_\_\_\_

**TO BE RETAINED BY YOU**



**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 NativeWahl LLC offers you a franchise, NativeWahl LLC 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. If applicable, 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. If applicable, 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 NativeWahl LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the appropriate state administrator listed in Exhibit A.

Franchise Seller Information: Name – Eugene Magnuson or Tyler Leppanen, Managers; Address – 2608 Government Center Drive, Manistee, MI 49660; and Telephone Number - 231-398-6830.

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Date of Receipt: \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Company Name \_\_\_\_\_

Street Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

City, State \_\_\_\_\_ Zip Code \_\_\_\_\_

**TO BE RETURNED TO NATIVEWAHL LLC**