

## FRANCHISE DISCLOSURE DOCUMENT



**HOOTS FRANCHISING, LLC**  
**A Delaware Limited Liability Company**  
**1815 The Exchange**  
**Atlanta, Georgia 30339**  
**770-951-2040**

The franchisee will operate a hoots® wings restaurant that in a fast food/ fast casual format offers a limited menu featuring chicken wings and other food and beverage offerings (including limited alcoholic beverages) we designate or approve.

The total investment necessary to begin operation of a single hoots® wings restaurant ranges from \$425,550 to \$1,238,750. This includes \$50,250 to \$66,750 that must be paid to the franchisor or affiliate.

The total initial investment necessary under the Multi-Unit Addendum for the purchase of 2 to 4 hoots® wings restaurants ranges from \$851,100 to \$4,955,000 including the initial cost of 1 to 4 hoots® wings restaurants, and the initial franchise fees due for all hoots® wings restaurants under the Multi-Unit Addendum. This includes \$80,250 to \$267,000 that must be paid to the franchisor or its affiliate.

The total initial investment necessary under the Area Development Agreement for the purchase of 5 to 15 hoots® wings restaurants ranges from \$896,100 to \$6,343,750 including the initial cost of 2 to 4 hoots® wings restaurants, and the Development Fees due for all hoots® wings restaurants under the Area Development Agreement. This includes \$145,500 to \$483,750 that must be paid to the franchisor or its affiliate.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Hoots Franchising, LLC's Franchise Department at 1815 The Exchange, Atlanta, Georgia 30339, and 770-951-2040.

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

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "*A Consumer's Guide to Buying a Franchise*," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at [www.ftc.gov](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: August 2, 2021

## 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 Exhibit T.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit U 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 hoots® wings restaurant in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a hoots® wings restaurant franchisee?</b>	Item 20 or Exhibit T lists 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 you 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 Y.

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Georgia. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Georgia than in your own state.
2. **Financial Condition.** The franchisor's financial condition as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.
3. **Going Concern.** The auditor's report on the franchisor's parent company's financial statements expresses substantial doubt about the franchisor's ability to remain in business. This means that the franchisor may not have the financial resources to provide services or support to you.
4. **Short Operating History.** The franchisor is at an early stage of development and has limited operating history. The franchise is likely to be a riskier investment than a franchise system with a longer operating history.
5. **Spousal Liability.** Your spouse will be required to sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.

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

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### EXHIBITS

A. Application for Prospective Franchisees	O POS Service Agreement
B. Form of Franchise Agreement	P Form of Pepsi Agreement
C. Form of Multi-Unit Addendum	Q. Bylaws of Collaborative Purchasing Organization (CPO)
D Form of Area Development Agreement	R. CPO Membership Agreement
E. Form of Principal Owners Guarantee	S. Tables of Contents of Manuals
F. Form of Principal Owners Statement	T. List of Franchisees/Licensees
G. Form of Collateral Assignment of Lease	U. Financial Statements
H. Form of Individual Non-Competition and Non- Disclosure Agreement (Franchise Agreement)	V. Guarantee of Performance
I. Form of Individual Non-Competition and Non- Disclosure Agreement (Multi-Unit Addendum)	W. Statement of Prospective Franchisees
J. Form of Release	X. Forms of Services Agreements
K. Form of Construction Project Management Agreement	Y. List of State Agencies/Agents for Service of Process
L. Form of Software and Apps Agreement	Z. State Specific Addenda
M. Form of Third-Party Delivery Agreement	AA. State Effective Dates Page
N Hooters Franchisee 1 to 1 Addendum	AB. Receipts

## ITEM 1

### THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

#### The Franchisor

The franchisor is Hoots Franchising, LLC. This Disclosure Document will refer to Hoots Franchising, LLC as “we,” “us,” “our,” or the “Company,” We refer to the person or entity that buys a franchise from us as “you” or “your.” Each Principal Owner (as defined in Item 15) must sign a Personal Guaranty (Exhibit E), which means that all provisions of the Franchise Agreement (Exhibit B) also will apply to them.

We are a Delaware limited liability company organized on June 25, 2018. Our principal business address is 1815 The Exchange, Atlanta, Georgia 30339. Our agent for service of process in Georgia is CT Corporation System, 289 Culver St., Lawrenceville, GA 30046.

We do business under our company name, the name “Hoots” or “Hoots Franchising” and the name “Hoots.” We offer, sell and grant franchises for hoots® wings restaurants. We or our affiliates may own or operate hoots® wings restaurants. We and our affiliates may sell products, inventory equipment, supplies and services to hoots® wings restaurant franchisees and our company owned hoots® wings restaurant locations. We have not offered franchises in any other line of business. Except as described above, we have no other business activities.

Our affiliates have offered franchises for Hooters® Restaurants, and those activities are described later in this Item 1. Also, HI Limited Partnership, a Florida limited partnership (“**HILP**”) (an affiliate of ours described below), has agreed to allow Hooters, Inc., which operates Hooters® Restaurants pursuant to a license agreement to develop and operate “Hoots” branded restaurants in certain areas of Illinois, New York, Nevada and Florida under the terms of the License Agreement, which are different from the terms offered to franchisees under this Disclosure Document. These “Hoots” branded restaurants operated by Hooters, Inc. (the “**Licensed HI Hoots**”) are helping us to develop our hoots® wings restaurants business model and feature or may feature designs, trademark and service mark variations, and offer menus, that are somewhat different from the franchised hoots® wings restaurants offered by us under this FDD. Currently, the Licensed HI Hoots are not treated as franchised due to the nature of the relationship established under that license agreement.

We have worked and are working cooperatively with Hooters Inc. to use the Licensed HI Hoots to enable us to, along with our company owned hoots® wings restaurants, create the prototype and business model for the franchised hoots® wings restaurants offered under this FDD. We have offered franchises for hoots® wings restaurants since July 2020 and our affiliate, Hoots Restaurant Holder, LLC has operated them since February 2019. As of the date of this Disclosure Document, Hoots Restaurant Holder, LLC operates 3 hoots® wings restaurants in the Atlanta, Georgia area. As of the date of this Disclosure Document, there are 4 Licensed HI Hoots operating, with 3 in the Chicago, Illinois area and one in St. Petersburg, Florida. Over time, the Licensed HI Hoots may or may not operate in a more or less consistent manner as our company owned and franchised hoots® wings restaurants.

Hooters, Inc. has not and does not offer franchises for Licensed HI Hoots Restaurants. We and our affiliates do not operate any Licensed HI Hoots. In Item 20 tables of this Disclosure Document, we include the Licensed HI Hoots with the data for franchised hoots® wings restaurants.

## **Our Parents, Predecessors and Certain Affiliates**

We are a direct wholly owned subsidiary of HOA Funding, LLC, a Delaware limited liability company (“**HOA Funding**”). Its principal business address is 1815 The Exchange, Atlanta, Georgia 30339. HOA Funding is an indirect subsidiary of Hoots Restaurant Group, LLC, a Delaware limited liability company. Its principal address is 1815 The Exchange, Atlanta, Georgia 30339. We are an affiliate of Hooters of America, LLC (“**HOA**”), a Georgia limited liability company which is also a direct wholly owned subsidiary of HOA Funding. Its principal address is 1815 The Exchange, Atlanta Georgia 30339.

HOA was incorporated in Texas in November 1984 as Neighborhood Restaurants of America, Inc. (“**NRA**”). NRA began operating Hooters restaurants in November 1984 and started franchising others the right to operate Hooters restaurants in January 1986. On October 24, 1986, NRA changed its name to “Hooters of America, Inc.” and state of incorporation to Georgia. On January 24, 2011, as a result of an acquisition of HOA by its then new ownership group, HOA converted its form from a corporation to a limited liability company, and became Hooters of America, LLC, a Georgia limited liability company.

We are an indirect subsidiary of HOA Restaurant Group, LLC (“**HOA Restaurant Group**”), a Delaware limited liability company, whose principal place of business is 1815 The Exchange SE, Atlanta, GA 30339. (HOA Restaurant Group is an indirect parent owner of HOA Funding, our direct parent). Prior to June 28, 2019, HOA Restaurant Group was owned by HOA Holdings, LLC (“**HOA Holdings**”), a Delaware limited liability company, whose principal place of business is 1815 The Exchange SE, Atlanta, GA 30339. HOA Restaurant Group is currently an indirect subsidiary of HOA Holdings.

Under a securitization financing transaction which closed in August 2014 (the “**Securitization Transaction**”), HOA Holdings and its affiliates were restructured. In October 2015, HOA Funding and certain related entities completed a new financing transaction (the “**2015 Financing Transaction**”).

Under the Securitization Transaction and 2015 Financing Transaction, HOA entered into a management agreement with us to provide the required support and services to our franchisees under our Hoots® franchise agreements and area development agreement. HOA also acts as our franchise sales agent and assists us with the operation of the Hoots® franchise system. Much, if not all duties of the franchisor under the Franchise Agreement are or may be delegated to HOA. We will pay management fees to HOA for these services. If HOA fails to perform its obligations under its management agreement, then HOA may be replaced as manager. However, as the franchisor, we are responsible and accountable to Hooters® franchisees to make sure that all services we promise to perform under the franchise agreements or area development agreements for Hooters® Restaurants are performed in compliance with those agreements, regardless of who performs those services on our behalf.

On June 28, 2019, HOA Holdings was merged with Hawk Merger Sub, LLC, and the surviving company was HOA Holdings. As a result of the merger, HOA Holdings became a wholly owned subsidiary of Hawk Parent, LLC (“**Hawk Parent**”), and Hawk Parent is now our ultimate parent and the ultimate parent of our affiliates. Hawk Parent was formed in May 2019 as a Delaware limited liability company. These entities have their principal places of business at 1815 The Exchange, Atlanta, Georgia 30339.

Our affiliate, Hoots Restaurant Holder, LLC operates 3 hoots® wings restaurants in the Atlanta, Georgia area. Its corporate address is the same as ours.

Our affiliate, HOA Gift Cards, LLC, a Florida limited liability company formed on September 29, 2020, with its principle place of business at 140 Island Way, #241, Clearwater, Florida 33767. Its phone number is the same as ours. HOA Gift Cards serves as a gift card issuing and processing provider for company-owned and franchised hoots® wings restaurants, as well as company-owned and franchised restaurants of our affiliates.

Our affiliate, Hoots System Fund, LLC, a Delaware limited liability company (“**Hoots SFLLC**”) was formed on April 27, 2021, and its address and phone number is the same as ours. Hoots SFLLC operates as our designee for administering our System Fund, described in Item 11.

Our affiliate, HILP, is wholly owned by HOA IP GP, LLC and HOA Funding, HILP’s principal place of business is the same as ours. HILP owns all of the trademarks and intellectual property related to the operation of hoots® wings restaurants.

In February 2019, HILP entered into an IP License Agreement with us authorizing us to use and sublicense the use in the operation of hoots® wings restaurants all of HILP’s applicable trademarks, service marks and intellectual property relating to the System.

Except as described above, none of our other affiliates directly or indirectly offer services to our hoots® wings restaurant franchisees.

### **Our Affiliates Who Offer Franchises**

Our affiliates HOA Franchising, LLC (“**HOA Franchising**”) and HOA Systems, LLC (“**HOA Systems**”) (collectively “**Hooters Franchisors**”) franchise casual dining restaurants (“**Hooters® Restaurants**”) that offer chicken wings, seafood and burgers, together with beer, wine, and liquor and other food and beverage offerings and merchandise under the “**HOOTERS®**” trademark and featuring the “**Hooters® Girls**.”

Hooters Franchisors and their predecessors began franchising Hooters® Restaurants in January 1986 and, as of December 31, 2020, their Hooters® franchisees operated 109 Hooters® Restaurants in the United States and approximately 66 Hooters® Restaurants internationally (However among these Hooters franchisees, 2 US Hooters and 11 international Hooters were temporarily closed as of December 31, 2020 due to Covid-19.) As of December 31, 2020, Hooters Franchisors’ affiliates operated 197 company-owned Hooters® Restaurants in the United States and none internationally (with none of them temporarily closed as of December 31, 2020 due to COVID-19). Other than HOA Franchising’s offer of Hooters® Restaurant franchises, our predecessors and affiliates do not offer franchises in this or any other line of business.

HOA Systems provides management services for HOA Franchising to engage in the offering and support of Hooters® Restaurants, as well as support of company-owned Hooters® Restaurants which are owned and operated by affiliates of Hooters® Franchisors. HOA Systems provides us with management services to enable us to franchise and provide support for the hoots® wings restaurants.

Unlike the hoots® wings restaurants, the Hooters® Restaurants are casual dining restaurants/ sports bar and grill style restaurants with table services, and feature the “**Hooters® Girls**”,



whose primary role is to entertain and interact with guests while serving food and drink. Hooters® Restaurants offer takeout, delivery and catering that will or may compete with those products and services offered by hoots® wings restaurants. Hooters® Restaurants primarily compete with the likes of Tilted Kilt®, Twin Peaks®, Muggs®, as well as other large bar and grill restaurants like Buffalo Wild Wings®. Hooters Franchisors share our principal business address. Both hoots® wings restaurants and Hooters® Restaurants compete with restaurants offering limited in store dining, as well as take-out and delivery of chicken wings, poultry products and any other Products and Services offered by hoots® wings restaurants. These similar competitors include companies like WingStop® brand restaurants.

HILP licenses to Hooters, Inc. the right to operate restaurants in St. Petersburg Florida and the area of Chicago, IL which use the hoots trademarks and service marks (“**HI Licensed HI hoots**”). HILP has licensed these rights to Hooters, Inc. since 2017. Hooters, Inc. owns and operates 4 Licensed HI hoots, 3 in the Chicagoland area and 1 in St. Petersburg, FL. Hooters Inc., through the development of Licensed HI hoots, helped develop the concept that had become the hoots® wings restaurant, but all intellectual property developed during that process is owned by HILP or our affiliates, not Hooters, Inc.

Hooters Franchisors’ affiliates also operate virtual sales platforms on third party delivery services using the trademarks or service marks “Hootie’s Bait and Tackle” and “Hootie’s Chicken Tenders”. We do not currently use the “Hootie’s Bait and Tackle”, “Hootie’s Chicken Tenders” or similar marks or practice for hoots® wings restaurants, but we may do so in the future. The Hootie’s Burger Bar® virtual concept has operated since January 2019, and Hooters Franchisor expanded it to the full company owned system in April 2019 using third-party delivery services such as Door Dash, Uber Eats and Grub Hub. The Hootie’s Bait and Tackle and Hootie’s Chicken Tenders virtual concepts have operated since July 2020 and January 2021, and Hooters Franchisor expanded each to the full company owned system in April 2021 using third-party delivery services such as Door Dash, Uber Eats and Grub Hub. Some of Hooters Franchisor’s Hooters® Restaurant franchisees have or may be in the process of operating similar Hootie’s Burger Bar®, Hootie’s Bait and Tackle and Hootie’s Chicken Tenders virtual offerings. Hooters Franchisors may develop other Hootie’s themed virtual concepts that may compete with your hoots® wings restaurants.

## **The Business You Will Conduct**

### **Individual hoots® wings restaurants**

Individual hoots® wings restaurants are fast food/fast casual style restaurants that offer and sell via dine-in, catering, take-out and delivery a limited menu of chicken wings and other foods and beverages we may designate or approve from time to time.

hoots® wings restaurants are not Hooters® Restaurants offered by our affiliate: hoots® wings restaurants do not feature the “Hooters® Girls” and do not feature all of the same products or services offered by Hooters® Restaurants. As explained below, hoots® wings restaurants are typically 1,400 square feet to 1,800 square feet, designed for quick dine-in and take-out service, while Hooters® Restaurants are typically much larger, at 5,000 to 7,000 square feet, designed for full dine-in service. Unlike Hooters® Restaurants, hoots® wings restaurants generally do not offer a full bar except in certain circumstances based upon unique market conditions. hoots® wings restaurants do not sell Hooters®-branded merchandise and do not participate in certain promotional programs such as the Hooters® pageant, Hooters® calendar, and Hooters® advertising on NASCAR® car wraps.

hoots® wings restaurants offer and sell only products, services and accessories we designate or approve for hoots® wings restaurants (the “**Products and Services**”). hoots® wings restaurants use our System, Copyrights and Marks, which differ from or may differ from in various ways from those of Hooters® Restaurants. Most Hooters® menu offerings are not available at hoots® wings restaurants; instead, they offer a variety of menu items only available at hoots® wings restaurants.

We grant franchises for hoots® wings restaurants by entering into a separate franchise agreement (a “**Franchise Agreement**”) for the establishment and operation of each hoots® wings restaurant. A copy of the form of Franchise Agreement is attached to this Disclosure Document as Exhibit B.

Each hoots® wings restaurant operates from a specified location that we designate and approve (the “**Site**”). Our recommended typical Site for a new hoots® wings restaurant currently ranges from approximately 1,400 square feet to 1,800 square feet with seating from 12 to 50 persons. The typical desired location is in a shopping center or strip mall with parking in front of the Site. Some may be located in enclosed malls, airports or other similar enclosed or non-traditional facilities and may have a footprint that is modified to conform to those needs.

Our “**System**”, which your hoots® wings restaurants must use and follow, is comprised of our Confidential Information, distinctive business formats, methods, procedures, rules, suggested practices, guidance, designs, layouts, signs, recipes, ingredients, product and service mix, standards, specifications, and System Standards, all of which we may improve, further develop or otherwise modify from time-to-time. Our “**System Standards**” are our mandatory rules, requirements for the development and operation of hoots® wings restaurants. Our Manuals and our System Standards define and describe the System and will address use of our Confidential Information, Marks and Copyrights, specifics of the layout of hoots® wings restaurants, number of personnel needed, types of Products or Services offered, amount of inventory carried and various other aspects of the development, operation, transfer or closure of hoots® wings restaurants. We may change, alter or amend the System at any time in our sole discretion.

Our “**Marks**” are comprised of certain trademarks, service marks and other commercial symbols in the operation of hoots® wings restaurants (including the primary mark being the “Hoots®” word and design mark, and other marks being “Hoots on the Fly”, “Hoots® Wings”, “Hoots Wings™” “Hoots® Wings and other Things” and other associated logos, tag lines, designs, symbols and trade dress, we designate or approve). The current Marks have gained and continue to gain public acceptance and goodwill. We in our sole discretion may at any time license, create or designate new Marks and change, alter, amend, substitute or discontinue any of the Marks. The Marks currently do not include certain Hooters® marks, such as the owl logo and word mark, among other marks exclusively used by Hooters® Restaurants.

Our “**Copyrights**” are comprised of information capable of being rendered into tangible form that we claim as our Copyrights, including spreadsheets, forms, marketing materials, labels, manuals, pricing lists, vendor lists, menus, advertisements, our website, and any other written materials, marketing materials, advertisements, or slogans (including the look, compilation, feel and content of them). We in our sole discretion at any time may license, create or designate new Copyrights and change, modify, amend discontinue or use substitute Copyrights.

You must use the Marks, Copyrights and System in the manner we designate and follow all Systems Standards for the development and operation of your hoots® wings restaurant.

During 2020, we tested the market for offering franchises for Ghost Kitchen hoots® wings restaurants but did not sell them and have decided to discontinue that Ghost Kitchen offering to

focus on dine-in hoots® wings restaurants. The “Ghost-Kitchen” type **hoots® wings restaurants** were fast food/fast casual style restaurants that offered and sold, catering, take-out and delivery only, a limited menu of chicken wings and other foods and beverages. In January of 2021, we decided to focus on non-Ghost Kitchen type hoots® wings restaurants to build the brand with the opportunity for both a “dine in” and take out experience. We are currently not offering the Ghost Kitchen type hoots® wings restaurants but may to do so again in the future.

In this Disclosure Document, when we refer to a hoots® wings restaurant or hoots® wings restaurants, we do not mean a Ghost Kitchen type hoots® wings restaurant or Ghost Kitchen hoots® wings restaurants.

### **Multiple hoots® wings restaurants — our Multi-Unit Program**

We offer the right to develop and operate multiple hoots® wings restaurants under our “Multi-Unit Program”. Our Multi-Unit Program consists of two options: our “Multi-Unit Addendum Program” and our “Area Development Agreement Program”.

We do not offer either part of the Multi-Unit Program to every prospective franchisee. Even more important than financial qualifications, each qualified Multi-Unit Program prospect must demonstrate to us that they can maintain our brand values and standards while operating multiple hoots® wings restaurants. You do not obtain any right or option to participate in either aspect of the Multi-Unit Program by entering into the Franchise Agreement alone. Any rights to participate under the Multi-Unit Program are granted only by entering into a Multi-Unit Addendum or Area Development Agreement.

Both of these aspects of the Multi-Unit Program described below:

#### **2-4 hoots® wings restaurants — our Multi-Unit Addendum Program**

We offer to certain qualified persons or entities the right to open, obtain franchises for and to and operate 2-4 hoots® wings restaurants under separate Franchise Agreements for each hoots® wings restaurant and locate those hoots® wings restaurants in a defined area (the “**Multi-Unit Addendum Program**”).

If we allow you to participate in the Multi-Unit Addendum Program, you must enter into our form of Multi-Unit Addendum (the “**Multi-Unit Addendum**” or “**MUA**”) under which you will develop and open 2 to 4 hoots® wings restaurants according to a schedule (the “**Development Schedule**”) within a specific geographic territory (the “**MUA Development Area**”). A copy of our form of Multi-Unit Addendum is attached to this Disclosure Document as Exhibit C. Under the Multi-Unit Addendum, we require you to sign each franchise agreement for each hoots® wings restaurant under the MUA Development Schedule at the time you sign the Multi-Unit Addendum.

#### **5 or more hoots® wings restaurants — our Area Development Program**

We also offer to certain qualified persons or entities the right to open, obtain franchises for and to and operate 5 or more hoots® wings restaurants under separate Franchise Agreements for each hoots® wings restaurant and locate those hoots® wings restaurants in a defined area (the “**Area Development Program**”).

If we allow you to participate in the Area Development Program, you must enter into our form of area development agreement (the “**Area Development Agreement**”) under which you will develop and open a predetermined number of hoots® wings restaurants according to a schedule (the “**Development Schedule**”) within a specific geographic territory (the “**Development Area**”). A copy of our form of Area Development Agreement is attached to this Disclosure Document as Exhibit D. Under the Area Development Agreement, we may in our sole discretion require you to sign franchise agreements for 1 hoots® wings restaurant under the Development Schedule at the time you sign the Development Agreement and the remaining Franchise Agreements will be signed under our then current form of Franchise Agreement on a Site-by-Site basis when each Site is approved. For each Franchise Agreement that is signed when your Site is approved, you must sign our then-current form of each Franchise Agreement for each that may be in a form that is different than the form of Franchise Agreement in this offering. If you wish for each Franchise Agreement to be the same form as in this Disclosure Document, you must sign all Franchise Agreements when you sign the Area Development Agreement.

### **Existing Hooters® Restaurants.**

We may offer certain existing Hooters Restaurant franchisees the opportunity to acquire the right to operate hoots® wings restaurants under reduced fee terms (the “**Hooters Franchisee 1 to 1 Program**”). This Hooters Franchisee 1 to 1 Program for existing Hooters® Restaurants is in the research and development stage, and our terms for offering this program, and System Standards for operation in this manner are evolving and may change significantly. Currently, it provides them the opportunity to enter to an Area Development Agreement (Exhibit D) and Hooters Franchisee 1 to 1 Addendum (Exhibit N) that together include the right to develop 1 hoots® wings restaurant for every Hooters Restaurant they own or have the right to develop under their Hooters Area Development Schedules (if any), at a reduced royalty rate, with an agreement not to increase the System Development Fee for a period of 2 years, and a lower minimum local advertising expenditure requirement. This Hooters Franchisee 1 to 1 Program is not offered to non-Hooters Franchisees.

### **Competition and Market**

You will operate the hoots® wings restaurant as a fast-casual restaurant, offering dine-in, take-out and delivery, and you must also offer beer, wine and other alcoholic beverages if designated by us and available based on the zoning of your Site. The market for these services is mature and well-developed. The market has greatly increased in recent years.

The fast-casual restaurant business is very competitive and is likely to become more competitive as dining habits and discretionary income change. You will compete with other restaurants and stores that offer the same type of products you do, including restaurants that specialize in one or more of the products that you will offer, like chicken wings, chicken tenders, salads, burgers, and seafood. You will also compete with restaurants which are not fast-casual, with restaurants operated as “ghost kitchens”, and with grocery store chains that offer take-out or delivery of catered food. You will compete with independent and franchise restaurant chains, “ghost kitchens”, catering services and delivery services that offer wings, chicken items and other similar menu items, as well as different menu items. These competitors may be connected with national or regional chains, or they may be local businesses. You may also compete with Hooters® Restaurants. You will also compete with outlets that offer products different from those you will offer. Additional market development, including development by franchised and non-franchised competitors, should be expected.

## **Regulatory Matters**

The restaurant and food preparation industry is heavily regulated. Many laws that apply to business generally have particular applicability to restaurants, especially restaurants that offer limited bar service. These laws include federal, state, and local statutes and regulations that govern health permits, inspections, and approvals by state, county, or municipal health departments, and other bodies that regulate food and liquor service.

Various federal, state and local agencies and jurisdictions have enacted laws, rules, regulations and ordinances which may apply to the operation of your hoots® wings restaurant, including (without limitation) those which (a) regulate zoning and land use; (b) establish general standards, specifications and requirements for the construction, design and maintenance of the hoots® wings restaurant premises; (c) regulate matters affecting the health, safety and welfare of your customers, such as general health and sanitation requirements for hoots® wings restaurants; employee practices concerning wage and hours, employee rights, the storage, handling, cooking and preparation of food; restrictions on smoking; and availability of and requirements for public accommodations, including restrooms; (d) set standards pertaining to employee health and safety; (e) set standards and requirements for fire safety and general emergency preparedness; (f) control the operation of delivery vehicles; (g) regulate the proper use, storage and disposal of waste, grease, and other hazardous materials; (h) nutrition labeling laws governing display of nutritional information and limiting the use of trans-fats in preparation of food prepared or served on-premises as well as laws and regulations limiting types of single use plastics; (i) customer, employee and others and financial and personal data privacy protection; (j) anti-texting, anti-spam, unsolicited email marketing and similar laws, rules and regulations.

We currently do not, but we may require that each hoots® wings restaurant offer a limited bar, if permitted under applicable law. We may grant an exception to enable a hoots® wings restaurant to not offer a limited bar, but only where we deem the particular proposed Site warrants such exception. We have no contractual obligation to offer this exception. Otherwise, if a liquor license is available to you in your jurisdiction, we may require you to have a liquor license before you open the hoots® wings restaurant. State laws may require you to apply for and obtain a liquor license before you can offer or sell alcoholic beverages. The difficulty and cost of obtaining a liquor license, and the procedures for securing the license, vary greatly from jurisdiction to jurisdiction. There are also wide variations in laws 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.

The U.S. Food and Drug Administration, the U.S. Department of Agriculture, and state and local health departments administer and enforce laws that govern restaurant sanitation, and food preparation and service. State and local agencies inspect restaurants to ensure that restaurant operators comply with these laws.

The federal Clean Air Act and various state laws impose air quality standards. These standards include limits on emissions of ozone, carbon monoxide, and other gases, and particulate matter, including emissions from commercial food preparation. Some state and local governments have also adopted, or are considering, laws that regulate indoor air quality, including laws that ban the smoking of tobacco products in public places like restaurants.

The federal Patient Protection and Affordable Care Act became law in March 2010. You should carefully evaluate the impact that this law and any changes to it might have on your hoots® wings restaurant.

Your hoots® wings restaurant must meet applicable building codes and handicap access codes. The Americans With Disabilities Act (ADA) will apply to your Site, and to certain aspects of your social media. The Telephone Consumer Protection Act (TCPA) and similar laws will govern how you can engage in solicited and unsolicited email and text marketing.

The U.S. federal government and the governments of some states are enacting laws that may significantly increase the costs of doing business and discourage commerce generally.

The worldwide spread of the novel coronavirus COVID-19 has resulted in a variety of state, federal and local laws, rules, guidelines, regulations and industry-suggested best practices for restaurants and other food and beverage establishments, as well as short-term and possible long-term changes in consumer behavior. Among other things, these industry specific requirements range from total or partial closures of businesses, social distancing, increased sanitization, Personal Protective Equipment (“**PPE**”) use, requirements that restaurants operate via take-out and delivery only, limitations on the number of restaurant patrons in dining rooms and on patio areas, and other methods intended to reduce the chance of the spread of the virus.

We strongly recommend that you retain your own legal counsel to assist you with understanding and complying with applicable laws, rules, ordinances and regulations before you decide to purchase a hoots® wings restaurant.

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## ITEM 2

### BUSINESS EXPERIENCE

Unless otherwise specified, the location of all positions of the individuals in this Item 2 is or has been Atlanta, Georgia.

#### President, Manager and Chief Executive Officer: Sal Melilli

Mr. Melilli has served as our Chief Executive Officer since September 2020, served as our Chief Operations Officer and Executive Vice President from June 2019 to September 2020, and served as our President since April 2020. Mr. Melilli has served as HOA's Chief Executive officer since September 2020, served as HOA's Chief Operations Officer from October 2018 to September 2020 and served as HOA's Executive Vice President from October 2018 to April 2020. From June 2018 to October 2018, Mr. Melilli served as HOA's Chief Strategy Officer. Mr. Melilli was Chief Operating Officer for Hooters, Inc. in Clearwater, Florida from November 2006 to June 2018.

#### Director, Manager and Chief Legal Officer: Scott Weber

Mr. Weber has served on our, HOA Franchising and HOA's Board of Directors since June 2019 and an indirect member (through his affiliates) and Chief Legal Officer of HOA and its subsidiaries, including us and HOA Franchising since April 2020. Since June 2019, Scott has served as a manager and member of Southeast Hawk Investors, LLC, in Clearwater, Florida, which is an investor in Hawk Acquisitions, LLC (our ultimate parent company). Since its inception in March 2017, Mr. Weber and his wife are members of Tampa Franchise Brands #6, LLC, in Clearwater Florida, which serves to hold their interest in Southeast Hawk Investors, LLC. From February 2015 to present he has served as a member and Manager of Tampa Franchise Brands #5, LLC which is a member of Moon Mountain Franchising, LLC, and since July 2017 as a member of MM Vapor Café Winter Haven, LLC, in Winter Haven, Florida, and has served and serves as their (outside) General Counsel. From September 2012 to present he has been an indirect owner of Gulf Recovery Solutions Tampa, LLC and Gulf Recovery Solutions Development, LLC (H&S Weber Investments has since June 2016 owned his indirect interest in Gulf Recovery Solutions Holdings, LLC which became the owner of those two entities). From July 2016 to April 2021 Mr. Weber served through his law firm as (outside) General Counsel of Shapes Franchising, LLC ("Shapes") and as an executive for Shapes from July 2016 through December 31, 2019. Via ownership in a holding company, Tampa Franchise Brands #1, LLC, Mr. Weber owns part of Shapes Franchising, LLC and owned part of a Shapes location in St. Petersburg, Florida, which location closed in 2019. Since June 2017, he has been a member and manager of Tampa Franchise Brands Manager, LLC, which replaced him as one of Shapes' board of managers. In June 2017, his entity Tampa Franchise Brands Manager, LLC replaced him on Shapes' board, but he serves as its representative. He has served as (outside) General Counsel of Total Club Supply, LLC in St. Petersburg, Florida from August 2017 to December 31, 2019 (a supplier to Shapes). He serves as a member and manager of his and his wife's holding company, H&S Weber Investments, LLC and has served as its manager since July 2015. He was a manager of Franchise Motion Capital, LLC in Tampa, Florida from August 2014 to August 2017. He has served and serves as a Manager of Franchise Venture Partners, LLC from February 2015 to present. From February 2015 to August 2017, he was a member of Shark Mates, LLC, Florida, an inception stage franchisor of "The As Seen on TV™" stores, which was administratively dissolved in September 2016. In January 2017, he became a member of Franchise Venture Partners II, LLC, which had an investment in Nerd Alert Holdings, LLC (which was the parent to Nerd Alert Franchising, LLC) and Franchise Venture Partners II (which until September 2018

offered Techfly franchises, which has since been terminated). He served as Nerd Alert's outside general counsel from January 2017 to October 2017. Beginning on November 2011 through February 2021, Mr. Weber has served as the owner of Scott Phillip Weber, PA, d/b/a Franchise Legal Solutions™ most recently in Clearwater Florida. He closed his firm to devote his attention to serving as or Chief Legal Officer in 2021. From October 2011 to present, he has been a member of Tampa Franchise Brands, LLC and Tampa Franchise Incubators, LLC, a franchise development company.

Chief Operations Officer: Larry Linen

Mr. Linen has served as our Chief Operations Officer since September 2020 and served as our Senior Vice President – Global Operations from June 2019 to September 2020. Mr. Linen has served as HOA's Vice President – Global Franchise Operations since February 2017. Prior to that, he served as HOA's Senior Director of Operations Services from June 2015 to February 2017.

Manager, Chief Financial Officer: Matt Nisbet

Mr. Nisbet has served as our, HOA Franchising and HOA's Chief Financial Officer since December 2019. From August 2019 to December 2019, Mr. Nisbet served as Interim Chief Financial Officer. Mr. Nisbet served as HOA's Vice President of Finance from October 2018 to August 2019. Before that, Mr. Nisbet was Vice President of Finance at RG Berry Corporation in Pickerington, OH from May 2017 until October 2018. From March 2016 to May of 2017 he served as RG Berry Corporation's Director of Financial Planning and Analysis in Pickerington. From March 2014 to March 2016 he served as Manager of Store Finance at Lane Bryant in Columbus, OH.

Chief Development Officer: Mark Whittle

Mr. Whittle has served as our Chief Development Officer since June 2019. Mr. Whittle has served as HOA's Chief Development Officer since November 2016 (and serves in that same role for HOA Franchising). From December 2013 to November 2016, Mr. Whittle served as Senior Vice President – Development of HOA.

Chief Information Officer: Karen Bird

Ms. Bird has served as our Chief Information Officer since June 2019. Ms. Bird has served as HOA's Chief Information Officer since July 2017 and performs the same role for HOA Franchising. From October 2011 to July 2017, Ms. Bird was Vice President – Information Technology at Buffalo Wild Wings in Minneapolis, Minnesota.

Chief Procurement Officer: Kevin Vandiver

Mr. Vandiver has served as our Franchise Business Director since June 2019. Mr. Vandiver has been the Chief Procurement Officer of us and HOA since September 16, 2019. Prior to this, he served as HOA's Vice President of Supply Chain since February 2014.



#### Senior Vice President Marketing & Product Development: Marc Butler

Mr. Butler has served as our Senior Vice President Marketing and Production Development since June 2019. From December 2013 to present, Mr. Butler has served as HOA's Senior Vice President, Marketing & Product Development.

#### Senior Vice President Organizational Effectiveness and Development: Cheryl Kish

Ms. Kish has served as our Senior Vice President Organizational Effectiveness and Development since October 2019. Ms. Kish has also served HOA and HOA Franchising's Senior Vice President Organizational Effectiveness and Development since October 2019. From June of 2017 until the present Ms. Kish has acted as Founder and President of Define Consulting, LLC in Atlanta, GA. From May 2015 until May 2016 she served as Senior Director of Learning and Development at Aaron's Inc. in Atlanta GA. From May 2002 to June of 2017 she acted as Founder and President of Cheryl Tyler Consulting Group, LLC.

#### Senior Director, Training & Development: Gina Elliott

Ms. Elliott has served as our Senior Director, Training & Development from September 2018 to the present in Atlanta, GA. She served as Director, NSO and Franchise Training of Hooters of America, LLC from April 2018 to September 2018 in Atlanta, GA. Ms. Elliott served as NSO and Franchise Training Manager for Hooters of America, LLC from August 2016 to April 2018 in Atlanta, GA. Prior to that, she served as Senior Franchise Training Specialist for Hooters of America, LLC from August 2013 to August 2016 in Atlanta, GA.

#### Senior Director, Franchise Sales and Development: Loren Bontrager

Mr. Bontrager has served as our Senior Director, Franchise Sales and Development since February 2021. From October 2018 to February 2021, he served as the Director of Franchise Sales for FOCUS Brands LLC in Atlanta, GA. Mr. Bontrager served as Director of Franchise Business Development for Jamba Juice from August 2017 to October 2018 in Frisco, TX. Prior to that, he served as Director of Development, Real Estate & Design and Construction for Teriyaki Madness from November 2014 to May 2017 in Denver, CO.

#### Senior Vice President, Franchising and Development: Taylor Bennett

Mr. Bennett has served as our Senior Vice President of Franchising and Development since June 2021. From March 2017 to June 2021, he served as the Vice President of Franchise Sales & Development for FOCUS Brands in Atlanta, GA. Mr. Bennett served as a Georgia State Representative, House District 80, from August 2015 to January 2017 in Atlanta, GA. Mr. Bennett was a principal at Bennett Law Group from May 2013 to February 2017 in Atlanta, GA.

#### NSO and Training Specialist: Rebecca Moore

Ms. Moore has served as our NSO and Training Specialist since April 2019. From May 2007 to April 2019, she served as a Hooters Girl, Hourly Manager and Trainer for Hooters of Merritt Island, Florida.

Director of Learning and Development: Anna McCormick

Ms. McCormick has served as our Director of Learning and Development since May 2021. From June 2016 to January 2021, she served as the Director of Training for Legacy Ventures Restaurants in Atlanta, Georgia. Prior to June 2016, she served as the General Manager of Thirteen Pies in Atlanta, Georgia and General Manager of Fifthgroup Restaurants, in Atlanta, Georgia.

Director of Operations & Franchise Support: Frank Tardy

Mr. Tardy has served as our Director of Operations & Franchise Support since December 2020. From September 2020 to December 2020, Mr. Tardy served as a Regional Vice President for Krystals, LLC, in Atlanta, Georgia. From January 2019 to April 2020 he served as a Senior Area Coach for KPB Foods in Atlanta, Georgia. From August 2015 to January 2019 he served as the Director of Operations for Wingstop Restaurants in Atlanta, Georgia.

Senior Franchise Business Director: James Marr

Mr. Marr has served as our Senior Franchise Business Director since June 2019. Mr. Marr has served as HOA's Senior Franchise Business Director since January 2015 and is located in Readfield, Maine.

Franchise Business Director: Greg Smith

Mr. Smith has served as our Franchise Business Director since June 2019. Mr. Smith has served as HOA's Franchise Business Director since February 2019 and is located in League City, Texas. From February 2018 until February 2019, Mr. Smith was an Operations Director with Dave and Busters in Houston, Texas and Richmond, Virginia. Before that, Mr. Smith was a Director of Operations, Area Developer, with Tilted Kilt from October 2010 to September 2017.

Director of HOA: Victor A. Duva

Mr. Duva has served as our Director of Franchising since June 2018. Mr. Duva has served on HOA Franchising's Board of Directors from August 2014 to present. Mr. Duva is currently President/Director of Corporate Staffing for CT Corporation located in Wilmington, Delaware, and has been in that position since January 1981.

Director of HOA and Hoots Franchising: Jennifer A. Schwartz

Ms. Schwartz has served on HOA Franchising's Board of Directors since August 2014 and as our Board of Directors since June 2019. Ms. Schwartz is currently a Senior Customer Staffing Specialist for the Independent Director/Manager Department of CT Corporation located in Wilmington, Delaware, and has been employed with CT Corporation since February 1998.

General Counsel and Secretary HOA and Hoots Franchising: Ben Benson

Mr. Benson has served as our General Counsel and Secretary since April 2020 and served as our Assistant General Counsel from October 2019 to April 2020 (he served in the former and serves in the same current position for us and our parent and affiliates since those same dates). From February 2008 to October 2019 he was the Senior Corporate Counsel for Mercedes-Benz USA, LLC, in Montvale, New Jersey, and then after June 2015, Atlanta, GA.

Director/ Member of the Board and Chairman: Joakim Bergander

Mr. Bergander has served on our Director/Member of the Board and Chairman of the Board since June 2019. Mr. Bergander has served on HOA's Board of Directors and Chairman since June 2019. Since June 2016, he has served as Chief Executive of Nord Bay Capital, LLC, located in Tampa, Florida. From June 2013 to June 2016, Mr. Bergander served as Chief Investment Officer of Third Lake Capital, located in Tampa, Florida.

Director/Member of the Board: Thomas Frederick

Mr. Frederick has served as our Director/Member of the Board since June 2019. Mr. Frederick has served on HOA's Board of Directors since June 2019. Mr. Frederick is currently the President of Sun Print Management, LLC, located in Holiday, Florida, and has been in that position from October 2006 to present. Mr. Frederick is also Managing Partner of Zoldco, LLC from April 2013 to the present in Tampa, FL and Managing Member of Frederick Lott, LLC from August 2003 to the present in Tampa, FL.

Director/ Member of the Board: Rohit Manocha

Mr. Manocha has served as our Director/Member of the Board since June 2019. Mr. Manocha has served on HOA's Board of Directors since June 2019. Mr. Manocha is currently a Managing Director of Triartisan Capital Advisors, located in New York, New York, and has served in that capacity since September 2016. From December 2010 to September 2016, Mr. Manocha served as Co-President of Financial Services at the Morgan Joseph Triartisan Group, located in New York, New York.

Director/Member of the Board: Albert Kotite

Mr. Kotite has served as our Director/Member of the Board since June 2019. Mr. Kotite has served on HOA's Board of Directors since June 2019. Since September 2017, Mr. Kotite has been a Consultant for AEK Consulting Group, LLC, located in Ft. Lauderdale, Florida. From August 2009 to present, Mr. Kotite has been an investor with CAK Capital, LLLP, located in Ft. Lauderdale, Florida.

Director/Member of the Board: Sidney Feltenstein

Mr. Feltenstein has served as our Director since June 2019. Mr. Feltenstein has served on HOA's Board of Directors since June 2019. Mr. Feltenstein has been a self-employed investor during the past 5 years (from November 2015 to November 2020).

Director/Member of the Board: Arthur Hogarth

Mr. Hogarth has served as our Director/Member of the Board since June 2019. Mr. Hogarth has served on HOA's Board of Directors since June 2019. Since June 2009, Mr. Hogarth has been an Investment Banker at Lindisfarne Partners, located in London, United Kingdom.

Director/Member of the Board: Rick Lott

Mr. Lott has served as our Director since December 2020. Mr. Lott has served on HOA's Board of Directors since December 2020. In the past five years, Mr. Lott has held or holds the following positions: CEO of All Florida Mechanical Services, Inc. from November 2016 to present in Plant

City, FL; Managing Member of All American Electrical, LLC from November 2017 to the present in Plant City, FL; Managing Member of Lott Capital, LLC from June 2014 to the present in Plant City, FL; Managing Member of Lott Brands, LLC from November 2020 to the present in Plant City, FL; Mayor of the City of Plant City, Florida from June 2004 to the present in Plant City, FL; Managing Member of Frederick Lott, LLC from August 2003 to the present in Tampa, FL; Managing Partner of Zoldco, LLC from April 2013 to the present in Tampa, FL; and Managing Member of Oracle Home Health Care, LLC from January 2010 to August 2017 in Plant City, FL.

Director/Member of the Board: Terry Borglund

Mr. Borglund has served as our Director since December 2020. Mr. Borglund has served on HOA's Board of Directors since December 2020. Mr. Borglund has also been CFO and Owner of McGee Tire Stores from October 1, 2005 to May 1, 2016 in Lakeland, Florida and Deputy CFO of Pallet One from December 5, 2016 to the present in Bartow, Florida.

### ITEM 3

#### LITIGATION

A. PENDING LITIGATION

Us: None.

Our Affiliates:

**Hooters of America, LLC v. Owl's Eyes, Inc. and George Heinlein, Civil Action Number 13-1-01783-99, Superior Court of Cobb County, Georgia, filed February 27, 2013.**

Owl's Eyes, Inc. ("**Owl's Eyes**") was a Hooters franchisee of multiple restaurants in Georgia, North Carolina, South Carolina and Florida. Mr. Heinlein was an owner of Owl's Eyes and personally guaranteed its obligations to HOA. Following numerous demands by HOA, HOA terminated the franchise agreement for Owl's Eyes on August 21, 2010, for its repeated failure to pay its financial obligations under the franchise agreement. In an attempt to allow Owl's Eyes to maintain its restaurants and meet its payment obligations to HOA, HOA permitted Owl's Eyes to operate the restaurants pursuant to a series of limited license agreements which expired by their terms in April 2011. On September 14, 2011, several entities that were wholly owned by Owl's Eyes filed the lawsuit referenced in the "Concluded Litigation" section below. HOA filed the instant lawsuit for breach of contract, breach of promissory notes, and breach of guaranty, to pursue its claims against Owl's Eyes and the guarantor, Mr. Heinlein. The parties filed cross motions for summary judgment which were denied in October 2014. On October 7, 2015, the court entered a default judgment against Owl's Eyes for liability, and HOA plans to move forward with proving damages in court. HOA dismissed its claims against guarantor Mr. Heinlein in February 2018.

B. PENDING ARBITRATION

Us: None.

Our Affiliates:

**HOA Systems, LLC v. Francorp, SRL, Werner Julian Guth Borda and Dennis Edwin Guth Borda, International Centre for Dispute Resolution Case No. 01-19-0004-1646, filed on November 25, 2019.**

The International Centre for Dispute Resolution (the “ICDR”) received the Notice of Arbitration on December 5, 2019, which marks the date of commencement. Francorp, SRL (“Francorp”) is a franchisee that has operated multiple Hooters franchised restaurants in the country of Bolivia pursuant to a written franchise agreement with HOA. Messrs. Werner Borda and Dennis Borda (together with Francorp, the “Respondents”) represented that they are the principal owners of Franchisee and individually executed personal guaranties of all of Franchisee’s monetary and non-monetary obligations under the franchise agreement. HOA initiated arbitration against the Respondents for (i) breach of contract for the ongoing failure to pay monthly royalties and franchise charges, (ii) breach of contract for the unauthorized abandonment of a franchised restaurant location, and (iii) breach of contract for failure to comply with post-termination obligations pursuant to the Franchise Agreement. HOA seeks past-due royalties and fees and liquidated damages for the unauthorized closure of the El Trompillo location, all totaling approximately \$202,000 (as of January 2020). HOA terminated the Franchise Agreement on January 27, 2020. As of now, Francorp has not submitted a formal response to the ICDR. Currently, there is a stay of all deadlines, activities and fee payments, effectively halting all procedures until June 22, 2020, at which time the parties will reconvene to discuss how best to move forward under the current circumstances in light of the COVID-19 pandemic. Immediately before the stay, the parties were in the process of scheduling a preliminary conference with the arbitrator but that has not yet occurred.

C. CONCLUDED LITIGATION: OTHER LITIGATION

Us: None.

Our Affiliates:

**HOA Franchising, LLC and HOA Systems, LLC v. 9177-6104 Quebec, Inc., 9315-9929 Quebec, Inc., and Shah Mohammad Naziri, ICDR Case Number 01-17-0005-3796, International Centre for Dispute Resolution, Decided January 26, 2018.**

9177-6104 Quebec, Inc. and 9315-9929 Quebec, Inc. are franchisees of Hooters restaurants near Montreal, Quebec. Mr. Naziri personally guaranteed the franchisees’ obligations to HOA Franchising and HOA Systems. HOA Franchising and HOA Systems initiated this arbitration for failure to make royalty and advertising payments, failure to obtain a proper liquor license, failure to pay outstanding amounts due to third parties, and attorneys’ fees and expenses. The arbitrator awarded HOA Systems and HOA Franchising: (a) \$9,774.9, representing past due royalties and advertising fees, for its claim against 9177-6104 Quebec, Inc.; (b) \$8,597.11, representing past due royalties, for its claim against 9315-9929 Quebec, Inc. and Mr. Naziri; and (c) attorneys’ fees and expenses. The arbitrator also required 9315-9929 Quebec, Inc. and Mr. Naziri to obtain the required liquor license and pay all outstanding amounts due to third parties. The franchisees failed to pay the award, and HOA Franchising and HOA Systems terminated the franchise agreements pursuant to a letter dated April 3, 2018. On May 30, 2018, HOA Franchising and HOA Systems filed a subsequent notice of arbitration. This action was settled between the parties by way of settlement and release agreement on or about May 8, 2019, under which Mr. Narizi paid to HOA Systems and HOA Franchising the total sum of \$125,000 to settle all of these claims against Mr. Naziri.

**HOA Franchising, LLC and HOA Systems, LLC v. Chatwoods, S.A., Carlos Chotocruz Ortiz, Edgar Majluf, Costa Rican Hott Wings, S.A., Tupac de la Cruz Picado, Maria de la Gloria Delgado Leon, and Carlos Gozales Comacho, ICDR Case Number 01-18-0002-2040, International Centre for Dispute Resolution filed on June 5, 2018.**

Chatwoods, S.A. is the franchisee of 7 Hooters restaurants in Costa Rica and Carlos Chotocruz Ortiz, Edgar Majluf, Costa Rican Hott Wings, S.A., Tupac de la Cruz Picado, Maria de la Gloria Delgado Leon, and Carlos Gozales Comacho guaranteed the obligations to HOA Franchising, LLC and HOA Systems, LLC for certain of the seven restaurants. HOA Franchising, LLC and HOA Systems, LLC initiated this arbitration for failure to make royalty payments and attorneys' fees and expenses. The parties settled the dispute in February of 2019 whereby Chatwoods, S.A. executed a Promissory Note in favor of HOA to pay amounts owed.

**Hoot Owl Restaurants, LLC v. Hooters of America, LLC, HOA Systems, LLC, HOA Franchising, LLC, Apple Gate Enterprises, LLC, Marie Azir and Joseph Azir, Civil Action Number L-304-16, Superior Court of New Jersey, Law Division: Somerset County filed September 10, 2015 and amended April 5, 2016.**

Hoot Owl Restaurants, LLC ("Hoot Owl") is a franchisee operating Hooters restaurants in New Jersey and other locations. Apple Gate Enterprises, LLC (Apple Gate Enterprises and its principals Marie Azir and Joseph Azir are collectively referred to herein as "Apple Gate") is a franchisee that is operating a Hooters restaurant in Somerset, New Jersey pursuant to a development agreement entered into in July 2015. Hoot Owl contended that it was the exclusive developer of Hooters restaurants in the state of New Jersey and that HOA breached its option agreement with Hoot Owl by entering into a development agreement with Apple Gate. HOA contended that Hoot Owl's option agreement for New Jersey (and elsewhere) expired by its terms in 2012 and that HOA, therefore, was free to enter into new development agreements with others for Hooters restaurants in New Jersey. Among other things, Hoot Owl alleged breach of contract, breach of the New Jersey Franchise Practices Act, Breach of Oral Agreement, Promissory Estoppel and Detrimental Reliance, Breach of the Implied Covenant of Good Faith and Fair Dealing, Fraud, and Violation of the New Jersey Antitrust Act. In January 2016, HOA filed an answer denying liability and asserting affirmative defenses. In April 2016, Hoot Owl filed an amended complaint adding claims that HOA interfered with Hoot Owl's contract with the franchisees' Collaborative Purchasing Organization ("CPO"), that the CPO violated the New Jersey Antitrust Act, and that HOA improperly refused to license certain point-of-sale software to Hoot Owl. On September 1, 2017, the parties entered into a settlement agreement. Among other things, the settlement agreement confirmed that Hoot Owl's prior option rights expired and that Hoot Owl had no exclusive territorial rights to prevent Apple Gate from establishing Hooters Restaurants in the prior territory. The parties entered into a new, limited development agreement.

**Hooters of America, LLC, etc., et al. v. Hoot Owl Restaurants, LLC, etc., et al.; USDC, Northern District of Georgia (Atlanta Division) Civil Action No. 1:16-cv-01825-SCJ filed June 6, 2016.**

On May 25, 2016, HOA discovered that Hoot Owl abandoned its Rehoboth Beach, Delaware restaurant. HOA also concluded that Hoot Owl had abandoned its Warwick, Rhode Island restaurant, which had been closed since March 2015 due to storm damage. In June 2016, HOA filed a complaint seeking a declaratory judgment regarding HOA's right to terminate the franchise agreement for all of Hoot Owl's restaurants based on the abandonments. HOA's complaint alleged breach of contract and violations of the Lanham Act. On August 4, 2016, Hoot Owl abandoned a third restaurant in Paramus, New Jersey, and HOA filed an amended complaint on

September 9, 2016, relating to the Paramus abandonment and added claims for breach of guaranty against Hoot Owl's investors, Phillip Moran, William Hysinger and Gary Givens. Hoot Owl moved to dismiss HOA's Amended Complaint arguing that the Georgia court should abstain from exercising jurisdiction in deference to the separate pending litigation in New Jersey. In February 2017, the federal court in Georgia denied Hoot Owl's motion to dismiss but ordered HOA to replead its Amended Complaint to correct technical deficiencies. On February 21, 2017, HOA filed its Second Amended Complaint. On September 1, 2017, the parties entered into a settlement agreement. Among other things, the settlement agreement provided for a new form franchise agreement and amendments to the existing franchise agreement to reflect remodeling deadlines for Hoot Owl's locations including Warwick. Further, the amendments to the franchise agreement provided relocation requirements for Rehoboth Beach and Paramus (the two closed locations) and payment of approximately \$126,752 from Hoot Owl to HOA, which represents imputed Continuing Royalty Fees for the two closed locations.

**Owl's Eyes of Asheville, LLC, Owl's Eyes of Kitty Hawk, LLC, Owl's Eyes of Ocala, LLC, and Owl's Eyes of Gainesville, LLC v. Hooters of America, LLC, Civil Action Number 11-1-8857-34, Superior Court of Cobb County, Georgia, filed September 14, 2011.**

Owl's Eyes, Inc. ("Owls' Eyes") was a Hooters franchisee. Owl's Eyes of Asheville, LLC, Owl's Eyes of Kitty Hawk, LLC, Owl's Eyes of Ocala, LLC, and Owl's Eyes of Gainesville, LLC ("Plaintiffs") claimed that they were affiliates of Owl's Eyes, and that they operated four of Owl's Eyes' restaurants. Owl's Eyes' franchise agreement terminated as a result of Owl's Eyes' multiple material defaults. The Plaintiffs alleged that: (i) HOA wrongfully terminated the franchise agreement as to the four restaurants; (ii) HOA did not provide the Plaintiffs with notice of Owl's Eyes' defaults and an opportunity to cure; (iii) HOA did not properly account for the payment of Continuing Royalty Fees and other amounts owed; and (iv) HOA breached the implied covenant of good faith and fair dealing. The Plaintiffs sought \$8.4 million in damages. HOA filed a motion for summary judgment in January 2014, which was denied in October 2014. In February of 2018, although HOA disputes liability, the parties reached a settlement whereby HOA paid Owl's Eyes' a total of \$190,000.00 to avoid the costs and uncertainty of trial. HOA's counterclaims are referenced in the "Pending Litigation" section above.

**Hooters of America, LLC and HI Limited Partnership v. Lags Enterprises, Inc., Country Bumpkins, Inc. and Hooters, Inc., Civil Action Number 8-14-CV-1071-T-27TGW, United States District Court for the Middle District of Florida, Tampa Division filed May 5, 2014.**

Lags Enterprises, Inc. and Country Bumpkins, Inc. (the "Lags Defendants") were former licensees of 17 Hooters restaurants. When their principal owner died in March 2014, the license agreements terminated. Rather than entering into new franchise agreements, the Lags Defendants contended that 15% of their ownership had been acquired by Hooters, Inc., and as a result, they were permitted to operate under Hooters, Inc.'s license agreement. The defendants relied on language in a 1999 Settlement Agreement, as amended, between HOA and Hooters, Inc. that permits Hooters, Inc. to acquire ownership in franchisees and licensees under limited circumstances and after following certain pre-requisites. HOA contended that the defendants failed to follow the pre-requisites, that the transaction exceeded the number of permissible restaurants to be acquired, and that the Lags Defendants license agreements terminated and, therefore, could not be acquired or extended. HOA's complaint was for trademark infringement and related claims and was amended on May 30, 2014 and again on September 8, 2014. The parties settled the lawsuit and the case was dismissed in May 2015. The Lags Defendants entered into new franchise agreements with HOA Franchising for all of their restaurants.

**In Re Cornett Hospitality, LLC, Case No. 12-36693 (Eastern District of Virginia filed November 26, 2012) and Adversary Proceeding No. 13-03017.**

An affiliate of former franchisee, Happy Owl Operations Corporation of Richmond #1, Inc. (“Happy Owl”), filed a petition for bankruptcy that included eight (8) Hooters restaurants in Virginia, West Virginia and Pennsylvania. HOA had previously terminated the franchise agreement and all operating rights for Happy Owl and HOA filed a Complaint and Motion for Temporary Restraining Order and Preliminary Injunction to prevent Happy Owl from continuing to operate as Hooters restaurants. HOA’s motion for preliminary injunction was granted on March 15, 2013. Subsequently, on July 17, 2013, Cornett Hospitality, LLC filed Adversary Proceeding No. 13-03122, alleging that a payment of \$142,000 for past due franchise royalties allegedly made by Cornett Hospitality, LLC to HOA on August 12, 2012 should be considered a fraudulent conveyance and that Debtor did not receive fair value for the payment. HOA and Cornett Hospitality, LLC have agreed to settle the matter for payment of \$2,000 by HOA.

**Brigade Leveraged Capital Structures Fund, Ltd., et al. v. Fontainebleau Resorts, LLC, et al., Case No. A-11-637835-B (District Court Clark County, Nevada filed 2011) and Fidelity National Title Insurance Company v. Jeffrey Soffer, et al., Case No. 10-20339CA-40 (Circuit Court Miami-Dade County, Florida filed 2011).**

Albert Kotite, a member of HOA’s Board of Directors, was named as a defendant in his capacity as a member of the board of managers of Fontainebleau Resorts, LLC and as a director of Fontainebleau Las Vegas Corp. The cases related to a failed project to build a Fontainebleau Las Vegas hotel and casino complex. The Brigade matter was brought by 46 lenders and the Fidelity matter was brought by 5 title insurance companies. The plaintiffs alleged fraud, misrepresentation and conspiracy to commit fraud against the defendants. The parties settled the claims, with Mr. Kotite’s defense and the settlement of the claims against him fully funded by directors and officers insurance, and the cases were dismissed. Based on the news reports published at that time, we believe the total settlement amount was \$115 million. The Brigade matter was dismissed on February 20, 2015, and the Fidelity matter was dismissed on December 23, 2013.

**Hooters of America, Inc. v. JADA Franquicias Internacionales LTDA, Wilkadner Andres Alvarez Murillo, Diego Henao Dueñas, Juan Manuel Triana Leal, and Andres Felipe Hernandez Puyo, International Centre for Dispute Resolution, Case No. 011900028486, filed on September 9, 2019.**

The International Centre for Dispute Resolution received the Notice of Arbitration on September 10, 2019, which marks the date of commencement. JADA Franquicias Internacionales LTDA (“**JADA**”) is a franchisee that has operated multiple Hooters franchised restaurants in the country of Colombia pursuant to the parties’ written Franchise Agreement. Messrs. Murillo, Dueñas, Leal and Puyo (together with JADA, the “**Respondents**”) are the principal owners of JADA and the guarantors of JADA’s monetary and non-monetary obligations pursuant to a Guaranty Agreement. HOA initiated arbitration against the Respondents for (i) breach of contract for the ongoing failure to pay monthly royalties and franchise charges, (ii) breach of contract for the unauthorized abandonment of a franchised restaurant location, (iii) breach of contract for the failure to pay monthly installments pursuant to the parties’ Promissory Agreement, and (iv) breach of contract for failure to comply with post-termination obligations pursuant to the Franchise Agreement. HOA seeks seeking monetary relief for the past-due royalties, liquidated damages, and acceleration of the promissory note entered into by JADA and Guarantors Murillo, Dueñas and Puyo in December 2018. Guarantors Murillo, Dueñas and Puyo agreed to be compensate HOA for any unpaid



amounts due and owing to HOA under the parties' Promissory Note and Franchise Agreement. JADA has not made any counterclaims. Currently, there was a stay of all deadlines, activities and fee payments, effectively halting all procedures until July 2, 2020, at which time the parties would reconvene to discuss how best to move forward under the current circumstances in light of the COVID-19 pandemic. Before the stay, discovery had been conducted and the final merits hearing was scheduled for April 21, 2020. These deadlines were extended due to COVID. On April 8 2021, the parties signed a Settlement Agreement under which: JADA agrees to pay HOA a Settlement Payment in the amount of \$235,000; the settlement payment will be secured by a promissory note that will be payable in 48 equal monthly installments with interest in 48 equal monthly installments until paid in full; the installments will begin on October 1, 2021 and be due on the first (1st) day of each consecutive calendar month thereafter until paid in full, with the last payment being made on September 30, 2025; in order to compensate HOA for its legal fees to date in enforcing its rights under the Franchise Agreement, JADA also agreed to pay HOA a Second Settlement Payment in the amount of \$55,245.53; the Second Settlement payment will also be secured by a promissory note that will be payable in 36 equal monthly installments with interest until paid in full; the installments will begin on April 1, 2023 and be due on the first (1st) day of each consecutive calendar month thereafter until paid in full, with the last payment being made on March 31, 2026; the Franchise Agreement will be reinstated as long as JADA meets all of its obligations under the Settlement Agreement; HOA will dismiss the Arbitration within 10 days of receiving the fully executed Settlement Agreement from JADA.

Our Board Members:

**Esquerra-Aguilar, Inc. and Avi Minkoff v. Shapes Franchising, LLC, Rory O'Dwyer, David Schaefers, Debbie Harris and Scott Weber** (Case No 5:20-cv-00574, N.D. Cal. and American Arbitration Association Case No. 01-20-0014-1415).

On January 25, 2020, Plaintiffs, 2 separate Shapes franchisees located in California, filed suit (the "Federal Court Litigation") against Shapes Franchising, LLC ("Shapes") and its management, Rory O'Dwyer, David Schaefers, Debbie Harris and Scott Weber, seeking damages, rescission and attorney fees. One of the Defendants, Scott Weber, was recently appointed as our Chief Legal Officer and is a member of our board of directors. He previously served as outside general counsel of Shapes. Tampa Franchise Brands Manager, LLC (a limited liability company that Mr. Weber owns and controls) is a member of Shapes' board of managers. Plaintiffs allege that the Defendants understated the estimated initial investment costs and made misleading or unlawful financial performance representations in its FDD and promotional materials. By doing so, Plaintiffs allege that Shapes: (1) violated California Franchise Investment Law; (2) violated California's Unfair Competition Law by engaging in unlawful or deceptive business practices; (3) made fraudulent and negligent misrepresentations to induce Plaintiffs to buy franchises during the sale process; (4) violated the Florida Franchise Act ("FFA") by misrepresenting the prospects or chances of success of Plaintiffs' franchises as well as their initial investment costs; and (5) violated the Florida Deceptive and Unfair Trade Practice Act ("FDUTPA"). Although the complaint is somewhat unclear, Plaintiffs alleged that all individual Defendants (regardless of their role or involvement) are all individually liable for Plaintiffs' claims for violation of California's Unfair Competition Law, negligent misrepresentation, and violation of the FFA and FDUTPA. Plaintiffs sought an unspecified amount of actual, compensatory and treble damages, and return of monies tendered. Mr. Weber, along with all Defendants, denied all claims. In light of the arbitration agreements in the franchise agreements, Defendants filed a motion with the court to stay the litigation pending arbitration. The court granted Defendants motion and stayed the litigation pending arbitration on July 9, 2020.

Faced with the court's order, on August 12, 2020, Plaintiffs initiated an arbitration action (the "CA Arbitration") alleging essentially the same claims that they asserted in the Federal Court Litigation and also alleged that the arbitration agreements in the parties' franchise agreements were unenforceable. Again, all Defendants, including Mr. Weber, denied all claims against them.

The parties agreed to settle the Federal Court Litigation and the CA Arbitration effective in April of 2021. In the settlement, Shapes (not the individual defendants) agreed to pay to Plaintiffs collectively \$645,000. As part of that settlement, Shapes agreed not to pursue its counterclaims against the Plaintiffs, Plaintiffs agreed to dismiss their claims in the legal proceedings with prejudice, and the parties exchanged general releases.

**Mensforth Enterprises, Inc., Nyah, Inc., and Eva Fitness, LLC v. Shapes Franchising, LLC, Rory O'Dwyer, David Schaeffers, Debbie Harris and Scott Weber** (American Arbitration Association Case No. 01-20-0015-0018).

On September 23, 2020, Claimants, three separate Shapes franchisees located in North Carolina, Georgia, and Las Vegas, initiated an arbitration action against all the named Respondents, including Mr. Weber, seeking damages, rescission and attorneys' fees. Claimants allege that the Respondents understated the estimated initial investment costs and made misleading or unlawful financial performance representations in its FDD and promotional materials. By doing so, Claimants alleged that Shapes: (1) made fraudulent and negligent misrepresentations to induce Claimants to buy franchises during the sale process, (2) violated the FFA by misrepresenting the prospects or chances of success of Claimants' franchises as well as their initial investment costs, and (3) violated FDUTPA. Claimants alleged that Rory O'Dwyer, David Schaeffers, and Debbie Harris are individually liable for all claims, and that Mr. Weber was only individually liable for Shapes' alleged violations of the FFA and FDUTPA. Claimants sought an unspecified amount of actual, compensatory and treble damages, and return of monies tendered. Claimants also argued that the arbitration agreements in the parties' franchise agreements were unenforceable. All Respondents, including Mr. Weber, denied all claims.

The parties agreed to settle the above arbitration matter effective in April of 2021. In the settlement, Shapes (not the individual Respondents) agreed to pay to Claimants collectively \$805,000. As part of that settlement, Shapes agreed not to pursue its counterclaims against the Claimants, Claimants agreed to dismiss their claims in the arbitration with prejudice, and the parties exchanged general releases.

Other than these 13 actions, no litigation is required to be disclosed in this Item.

#### ITEM 4

#### BANKRUPTCY

In re Fontainebleau Las Vegas Holdings, LLC, Case No. 09-21481-BKC-AJC (United States Bankruptcy Court for the Southern District of Florida). In 2013, Albert Kotite was named as a defendant, in his capacity as a director, in an adversary proceeding related to the Chapter 7 bankruptcy of Fontainebleau Las Vegas Holdings, LLC. Mr. Kotite was alleged, along with other officers and directors, to have breached his fiduciary duties to the debtor. The claims against Mr. Kotite were settled and the claims were dismissed on January 15, 2015.

Other than this 1 action, no bankruptcy information is required to be disclosed in this Item.

## ITEM 5

### INITIAL FEES

#### Individual hoots® wings restaurants

The initial franchise fees for a single hoots® wings restaurant range from \$50,250 to \$66,750, and are comprised of: the Franchise Fee of \$30,000; the Grand Opening Marketing Deposit of \$10,000; Training Expenses of \$8,500 to \$10,000; Site Selection Fee of \$0 to \$12,500; White Glove Service Fee of \$1,750 and Extension Fee of \$0 to \$2,500. The high and low range of initial franchise fees in this Item 5 assumes you do not participate in the Hooters Franchisee 1 to 1 Program.

The Franchise Fee, Grand Opening Marketing Deposit, Training Expenses, Site Selection Fee, White Glove Service Fee and Extension Fee are non-refundable. Each of these fees are described in more detail below:

#### *Franchise Fee*

When you sign the Franchise Agreement, you must pay us a “**Franchise Fee**” which is due in lump sum and is fully earned and non-refundable when paid. For each individual hoots® wings restaurant the Franchise Fee is \$30,000. But, for existing Hooters Franchisees only under our Hooters Franchisee 1 to 1 Program (which is available to qualified Hooters Franchises through the end of 2021), the Franchise Fee is reduced to \$10,000.

You must pay the entire Franchise Fee for each hoots® wings restaurant in a lump sum when you sign the Franchise Agreement for that hoots® wings restaurant (unless another date for payment is specified under a Multi-Unit Addendum, Area Development Agreement or Hooters Franchisee 1 to 1 Addendum).

Under the Area Development Agreement, we apply the corresponding portion of the Development Fee to the Franchise Fee due for each hoots® wings restaurant under the Area Development Schedule. Under the Multi-Unit Addendum there is no Development Fee to apply to each Franchise Fee.

#### *Initial Training Expenses*

Before you open your hoots® wings restaurant, you must reimburse us the expenses we incur for trainers whose costs we describe in Item 11 (“**Training Expenses**”). These Training Expenses range from \$8,500 to \$10,000 for a single hoots® wings restaurant, depending on the number of trainers we provide in our sole discretion, the trainers’ experience, how far the trainers must travel, and other factors. The Training Expenses are due within 5 days of our invoice to you and are non-refundable when paid. We will provide you with invoices for the amounts owed. In general, we will invoice you 30 days before the date you open the hoots® wings restaurant in compliance with your Franchise Agreement (“**Opening Date**”), or, for any training between that time and your Opening Date, we will invoice you 30 days before your Opening Date.

#### *Site Selection Fee*

You must also pay to us an initial non-refundable “**Site Selection Fee**” that ranges from \$0 to \$7,500. The Site Selection Fee covers some of our costs of and compensates us for

reviewing the Site(s) to determine if the Site(s) meet(s) our Site selection criteria, and also helps compensate us for the cost of our coordinating and overseeing the progress of the Site Selection process.

We may, in our sole discretion, choose not to charge the Site Selection Fee if we determine that you have adequate experience and qualifications to engage in Site selection without the need for these site selection services being provided by us or our designee. The standard Site Selection Fee is \$7,500, if charged. If the review of your proposed Site results in more than one on-site visit (of up to 2 days) or more than Sites to be evaluated by us or our authorized representative during that Site visit, then we may, in our sole discretion, charge you an additional Site Selection Fee in the amount of \$5,000 per additional on-site visit or per additional evaluation, as applicable.

We are not required to travel to the Site to provide Site selection services. In addition to the Site Selection Fee, per Site selection or per additional visit, you must reimburse us for all travel and hotel costs if we visit the Site, and these amounts are due at the same time as the Site Selection Fee.

All Site Selection Fees are due within 5 days of our invoice to you (prior to the site selection review) in lump sum and non-refundable when paid. The high range assumes only one additional Site Selection Fee is charged (\$5,000) plus the initial Site Selection Fee of \$7,500. The low range assumes no Site Selection Fee is charged.

#### *Grand Opening Marketing Deposit*

Within 5 days of our approval of the purchase or lease of the Site for your hoots® wings restaurant, you must pay us (or our authorized representative) a fee (the “**Grand Opening Marketing Deposit**”) in the amount of \$10,000. This Grand Opening Marketing Deposit does not represent the maximum you should spend; we may recommend you send more than this amount.

The Grand Opening Marketing Deposit is due in lump sum and is non-refundable when paid. At our option, the Grand Opening Marketing Deposit will be repaid to you pro rata within 15 days of your submission to us of evidence of marketing expenditures we approve. If you do not timely submit evidence of such qualified marketing expenditures in the amount of your Grand Opening Marketing Deposit, within 45 days after the end of the 60-day period described below, then the portion of the Grand Opening Marketing Deposit for which you did not timely submit qualified marketing expenditures is non-refundable. Our System Standards currently require the Grand Opening Marketing Deposit monies to be expended during the 60-day period beginning 30 days prior to your Opening Date and ending and 30 days after your Opening Date.

#### *Extension Fee*

On your written request, we may grant to you 1 30-day extension past the 12 months allotted within which to open your hoots® wings restaurant (or, if different, the date specified in your development Schedule) without charging you our non-refundable “**Extension Fee**”. All other extensions are subject to your payment of the Extension Fee, which is currently \$2,500. You must pay us the Extension Fee contemporaneously with your request for each of those extensions. We are not required to grant the extension. We will only refund the Extension Fee if we refuse to grant the extension. You must obtain all building permits, alcoholic beverage licenses (if necessary), and all other permits required to open your hoots® wings restaurant within 90 days after the Development Commencement Date. Provided that you have made full and complete

application for such permits and licenses, within 90 days after the Development Commencement Date, we may, on your written request, grant to you 1 30-day extension to obtain all necessary permits, without charging you any amounts for such extensions, if the delay was due to causes beyond your control. You must submit documentation of the status of the license and permit applications together with your request for such extension. On our grant of such extension, we will commensurately extend the Opening Date. We, in our sole discretion, may charge the Extension Fee per extension for granting additional extensions with respect to your obtaining permits and licenses.

The low range assumes no Extension Fee is charged. The high range assumes one Extension Fee is charged.

#### *White Glove Service Fee:*

When your Site is approved, we collect from you and forward to NCR/Aloha a fee in the amount of \$1,750 for the “White Glove” POS System setup service. We collect this White Glove Service fee under our agreement with NCR/ Aloha and forward it to NCR/Aloha. You are required to enter into the POS Service Agreement attached as Exhibit O. This White Service Glove Fee is nonrefundable when paid.

#### Multi-Unit Program

Our Multi-Unit Program consists of our Multi-Unit Addendum Program and the Area Development Agreement Program.

#### *Multi-Unit Addendum Program*

The range of initial franchise fees under a Multi-Unit Addendum Program (2 to 4 hoots® wings restaurants) include the initial franchise fees due for each of the hoots® wings restaurants to be developed under the Multi-Unit Addendum. Under the Multi-Unit Addendum, you sign all of the Franchise Agreements when you sign the Multi-Unit Addendum, all initial Franchise Fees are due under the terms of those Franchise Agreements, but we may defer the time to open your 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> Site under the Multi-Unit Addendum. In general, the Development Schedules under the Multi-Unit Addendum Program will require one hoots® wings restaurant opening every 7 months after the opening of the first hoots® wings restaurant.

#### *Area Development Program*

The initial franchisee fees under the Area Development Agreement Program (5 or more hoots® wings restaurants) varies based on your configuration of your Development Schedule and how many hoots® wings restaurants you develop during the initial investment period. To participate, you must sign our form of Area Development Agreement attached as Exhibit D. When you sign the Area Development Agreement, you must pay to us the “**Development Fee**” in the amount of \$15,000 multiplied by the number of hoots® wings restaurants under your Development Schedule. The Development Fee is due in lump sum and is nonrefundable when paid. For 5 to 15 hoots® wings restaurants, the Development Fee ranges from \$75,000 to \$225,000. (The Development Fee will be higher if you agree to develop more than 15 hoots® wings restaurants).

We apply the Development Fee paid for each hoots® wings restaurants under the Area Development Agreement to the Franchise Fee for the corresponding hoots® wings restaurant developed. We assume that franchisees who enter into Development Schedules for 5 to 15 hoots® wings restaurant do not develop all of them during the initial investment period.

*Typical Ranges of the Initial Franchise Fees based on Anticipated Development Schedules*

The range of initial franchise fees under the Multi-Unit Addendum for 2 to 4 hoots® wings restaurants ranges from \$100,500 to \$267,000, assuming the 2 to 4 hoots® wings restaurants are developed and opened during the initial investment period (2x \$50,250 to 4x \$66,750).

The range of initial franchise fees under the Area Development Agreement for 5 to 15 hoots® wings restaurants ranges from \$145,500 to \$483,750, assuming you develop and open at the low range 2 hoots® wings restaurants during the initial investment period and at the high range 5 hoots® wings restaurants during the initial investment period: this includes the initial franchise fees for 2 to 5 hoots® wings restaurants with the Development Fee applied (2x \$50,250 to 5x \$66,750), plus the remaining \$45,000 to \$150,000 (of the total \$75,000 to \$225,000) Development Fee that are not applied the Franchise Fees due during the initial investment period. We assume franchisees under the Area Development Agreement you develop and open at least 2 but not more than 5 hoots® wings restaurants during their initial investment period and the remaining hoots wings restaurants under the Area Development Schedule will be developed an opened after the initial investment period.

We may choose to negotiate on a prospective franchisee-specific basis the Development Fee, subject to our sole discretion and determined by negotiations and our subjective determination as to the projected competition for that area, strengths and weaknesses of the prospective franchisee and other factors. We may also offer to existing Hooters Restaurant franchisees or licensees a waiver of the some or part of the Development Fee. The Development Fee is due in lump sum unless otherwise stated in the Area Development Agreement and is non-refundable upon the signing of the Area Development Agreement. The high and low ranges in this Item 5 assume no discounts are given.

*Adjustments to the Development Commencement Date and Timing of other Fees.*

Under both the Multi-Unit Development Program and Area Development Agreement Program, in the Development Schedule we modify the Development Commencement Date. The Development Commencement Date for the first individual hoots® wings restaurant is the Agreement Date of the Franchise Agreement. For the second and subsequent hoots® wings restaurant under a Multi-Unit Addendum, the Development Commencement Date will be indicated in the Development Schedule and is subject to negotiations between you and us.

By modifying those Development Commencement Dates, under both the Multi-Unit Addendum Program and Area Development Program and we modify the timing of the certain aspects of the initial franchise fees for the second and each subsequent Franchise Agreement under each Program in the following manner:

The Franchise Fee for the second and each subsequent hoots® wings restaurant under a Area Development Agreement for 5 or more hoots® wings restaurants is due at the earlier of:

- (i) 30 days prior to your signing a lease or purchase agreement for its Site:
- (ii) within 45 days of our approving the Site: or
- (iii) on the date specified in the Development Schedule.

In contrast, under the Multi-Unit Addendums of 4 or fewer hoots® wings restaurants, we require that the Franchise Fees for each are due upon signing the Franchise Agreements for even though we modify the Development Commencement Dates for them.

All other payments of each aspect of the initial franchise fees for those hoots® wings restaurants under each Program will be due as provided under the Franchise Agreement for each hoots® wings restaurant unless we agree to modify those dates in your Development Schedule.

#### Military Veteran Incentive Program

##### *Military Veterans*

We offer qualified honorably discharged members of our military a 10% discount on the Franchise Fee. We did not include any of these discounts in the range of initial franchise fees reported in this Item.

#### Other Fee Information

The high and low fee ranges of the Franchise Fee and initial franchise fees under this Item 5 do not include the fee reductions for the Hooters Franchisee 1 to 1 Program.

Except as described in this Item 5 above, there are no other fees required to be paid or purchases required to be made from us or our affiliates prior to your beginning operations of your hoots® wings restaurant.

In the prior fiscal year, we received \$0 in initial franchise fees from hoots® wings restaurant franchisees.

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## ITEM 6

### OTHER FEES

Type of Fee <small>(Note 1)</small>	Amount	Due Date	Remarks
Continuing Royalty (non-Hooters Franchisees) Fee <small>(Notes 2 and 3)</small>	5% of Gross Sales	Due on the “ <b>Payment Day</b> ” we designate for the “ <b>Payment Period</b> ” we designate. Currently the Payment Day is the 10th day after the last day of each Payment Period. Currently, each payment period is a 4 week accounting period.	Continuing Royalty Fees are due from the date you open your hoots® wings restaurant. The Payment Period may be daily, weekly, monthly or other form of accounting period: At our option, we can make the Continuing Royalty Fees due on a monthly, weekly, or daily basis (paid in real time via the POS/Technology System).
Continuing Royalty (For Hooters Franchisees only) Fee <small>(Notes 2 and 3)</small>	3.5% of Gross Sales up to \$1,000,000 of annual Gross Sales  5% of Gross Sales if annual Gross Sales exceed \$1,000,000	Due on the “ <b>Payment Day</b> ” we designate for the “ <b>Payment Period</b> ” we designate. Currently the Payment Day is the 10th day after the last day of each Payment Period. Currently, each payment period is a 4 week accounting period.	Continuing Royalty Fees are due from the date you open your hoots® wings restaurant. The Payment Period may be daily, weekly, monthly or other form of accounting period: At our option, we can make the Continuing Royalty Fees due on a monthly, weekly, or daily basis (paid in real time via the POS/Technology System). Gross Sales thresholds for calculating the Continuing Royalty are determined based the month for which Gross Sales are due. There is no reduction of the Continuing Royalty once the \$1,000,000 Gross Sales threshold is reached, even if Gross Sales later fall below that threshold.
Technology Fee	Varies: Our then current fee. Currently, \$369.23 4-week accounting period.	Due on the “ <b>Payment Day</b> ” we designate for the “ <b>Payment Period</b> ” we designate. Currently the Payment Day is the 10th day after the last day of each Payment Period. Currently, each payment period is a 4 week accounting period.	Compensates us for supporting various technology infrastructure. The Payment Period may be daily, weekly, monthly or other form of accounting period: At our option, we can make the Technology Fees due on a monthly, weekly, or daily basis (paid in real time via the POS/Technology System).



<b>Type of Fee</b> <small>(Note 1)</small>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Training System Fee	Varies, our or our designees' then current fees. Currently \$276.92 to \$461.54 per 4-week accounting period.	Due on the "Payment Day" we designate for the "Payment Period" we designate. Currently the Payment Day is the 10th day after the last day of each Payment Period. Currently, each payment period is a 4 week accounting period.	Compensates us or our designee for hosting and maintaining an online learning management system to support our training efforts. We can make this fee payable to us, or to our designees. The Payment Period may be daily, weekly, monthly or other form of accounting period: At our option, we can make the Systems Training Fee due on a monthly, weekly, or daily basis (paid in real time via the POS/Technology System).
System Development Fee <small>(Notes 3 and 4)</small>	Up to 4.0% of Gross Sales. Currently: 2.0% of Gross Sales	Due on the "Payment Day" we designate for the "Payment Period" we designate. Currently the Payment Day is the 10th day after the last day of each Payment Period. Currently, each payment period is a 4 week accounting period.	Deposited in the System Development Fund controlled by us. The Payment Period may be daily, weekly, monthly or other form of accounting period: At our option, we can make the System Development Fee due on a monthly, weekly, or daily basis (paid in real time via the POS/Technology System). We will not increase the System Fund Fee during or prior to December 31, 2024.
Minimum Local Advertising Expenditure <small>(Notes 3, 4 and 5)</small>	An amount designated by us from time to time (currently 3% of Gross Sales), which, together with the System Development Fee and the LAC Contribution (if any), will not be required to exceed a total of 5.5% of your annual Gross Sales  For Hooters Franchisee 1 to 1 Program Participants, the Minimum Advertising Expenditure is 1% of Gross Sales.	As incurred.	This is the minimum amount you must spend on or contribute to local advertising and promotion.

Type of Fee <sup>(Note 1)</sup>	Amount	Due Date	Remarks
Local Advertising Cooperative (“LAC”) Contribution <sup>(Notes 4 and 5)</sup>	None currently. Varies: Up to 3% of your Gross Sales, except as determined by a majority of the LAC’s participants (which may then be greater than 3%).	If established, the due date will be by the 10th day after the end of each 4-week accounting period, or the date and frequency established by the LAC.	We have the right to establish a LAC within your marketing area. If we do so, we may, upon 90 days’ notice, require that some or all of your Minimum Local Advertising Expenditure be contributed instead to the LAC. More than 50% of the members of the LAC must vote in favor for the LAC Contribution to exceed 3% of Gross Sales.
Product Purchases	Will vary under the circumstances: 0% to 100%+	On receipt of invoice	Payable to us or our affiliates that are authorized suppliers for products and supplies for your hoots® wings restaurant. We or our affiliates may sell to you items or services, some of which may be required purchases, and others may be optional. We or our affiliates may earn profits/margins on them. The profits/margins vary from time to time. They compensate us or our affiliates for our or their efforts. Our predecessor or affiliates that sell items or services to us that we resell to you may also earn profits/margins on their sales to us.
Preferred Vendor Program Fees <sup>(Note 6)</sup>	Will vary under the circumstances	As incurred	We may charge you fees in the amount we may designate from time to time for participating in Preferred Vendor Programs which we evaluate or for which we provide services.
Insurance Proceeds	Will vary under the circumstances.	Within 10 days after your receipt of the proceeds	You must pay us 5% of insurance proceeds received in the event of a fire or casualty. You may terminate the Franchise Agreement if your hoots® wings restaurant is substantially destroyed by fire or other casualty. We do not require you to reconstruct the Restaurant.
Training Expense <sup>(Note 7)</sup>	Will vary under the circumstances	As incurred, within 5 days of invoice	You must reimburse us for Training Expenses, as well as all travel for that training.
Interim Operation of Restaurant (Temporary Management) <sup>(Note 8)</sup>	10% of Gross Sales during the period in which we manage your hoots® wings restaurant	On receipt of invoice	

<b>Type of Fee</b> <small>(Note 1)</small>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Evaluating New Suppliers/Products	\$1,000 plus actual cost and expenses. Will vary under the circumstances.	On receipt of invoice	We have the right to evaluate prospective suppliers you recommend and to sample their goods. We may charge you a reasonable fee, not to exceed \$1,000 plus the actual costs of inspection and testing, for this service.
Relocation of Restaurant	\$5,000	On demand	You must comply with our relocation policy, which is part of our Manuals and may be amended by us from time to time.
Transfer Fee	For transfer of the Franchise or a controlling interest: An amount equal to 50% of the then-current Initial Franchise Fee of an individual hoots® wings restaurant not under a Development Program.  For transfers of non-controlling interest or to an entity you control: \$2,500.	At the time you request our approval of the transfer.	You must pay a transfer fee if you transfer the Franchise or a controlling interest in it. We consider a controlling interest to be any interest of 25% or greater in you, your hoots® wings restaurant (or all or substantially all of its assets), the Franchise Agreement, or any interest or rights granted under this Agreement.
Transfer Application Fee	\$3,000	At the time you request our approval of the transfer	Any Transfer Application Fee you paid specifically for a proposed controlling interest transfer will be credited against the payment of Transfer Fee. The Transfer Application Fee is non-refundable.
Renewal Fee	The greater of \$12,500 or 1/3 of the then-current franchise fee.	When you send us your Successor Franchise Notice	The initial term of the Franchise Agreement is 10 years. You may renew for two additional 5-year terms.
Liquidated Damages <small>(Note 9)</small>	Will vary under the circumstances	On demand	This is in addition to all actual damages, unpaid fees and attorney fees and enforcement/ collection costs.
Audit Costs <small>(Note 10)</small>	Will vary under the circumstances	On receipt of invoice	Includes all costs related to the audit, like reasonable accountants' and attorneys' fees. We may also require you to submit audited financial statements.

<b>Type of Fee</b> <small>(Note 1)</small>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Late Fee	Varies, our then-current daily late fee. Currently \$100 per day after due date	As incurred	This fee is in addition to any interest or other remedies or damages. Payment of late fees is not a waiver of breach.
Interest <small>(Note 11)</small>	Lesser of 18% per annum or the maximum rate allowed by law	On demand	Payable on all overdue amounts.
Costs and Attorneys' Fees	Will vary under the circumstances	As incurred	Payable if we are the prevailing party in a legal proceeding, or if we incur cost due to your breach of the Franchise Agreement or Multi-Unit Addendum (even if no formal legal proceeding is initiated).
Collection Costs	Varies: Amount incurred by us to collect unpaid fees.	On demand	Includes attorneys' fees and costs. These costs may vary greatly depending upon the particular circumstances of the collection action.
De-Identification Costs	Varies: Amount incurred by us in inspecting and de-identifying your hoots® wings restaurant	Within 10 days of our demand for reimbursement	You must reimburse us for our actual costs incurred in inspecting and de-identifying your hoots® wings restaurant after the expiration of the initial term and any renewal term if you fail to deliver photographic evidence to us of your satisfactory de-identification of the hoots® wings restaurant within 10 days of termination.
Reimbursement for Taxes	Varies: Taxes paid by us based on Gross Sales of your hoots® wings restaurant	Within 10 days of our demand for reimbursement	If any taxing authority imposes on us any "franchise" or other tax that is based on the gross sales, gross revenues, business activities, or operation of your hoots® wings restaurant, except for federal or state income taxes, you must reimburse us for such taxes and related costs and expenses imposed on or paid by us, unless the tax is credited against income tax otherwise payable by us.
Indemnification	Will vary under the circumstances	As incurred	You must reimburse us if we are held liable for damages or other relief related to your hoots® wings restaurant.

<b>Type of Fee</b> <small>(Note 1)</small>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Injunctive Relief	Will vary under the circumstances	On receipt of invoice	You must pay us for all damages, costs, and expenses, including reasonable attorneys' fees, we incur in obtaining injunctive or other relief for enforcing your compliance with the Franchise Agreement.
Training Non-Compliance Fees	Varies in the amount of 2x the cost of or fee for the training program. This amount doubles for each successive violation	On receipt of invoice	If you fail to or refuse to attend any required meetings or training, you will pay to us a Training Non-Compliance Fee in the amount of 2 times the cost of such training program or meeting. If you fail to attend more than one such required meeting or required training program (or more than 5 per calendar year of our bi-weekly Training), the Training Non-Compliance Fee will double in amount each time you or your designee (subject to our approval) fail to attend a required meeting or training meeting.
System Standards Violations Fees	\$100 per day, accrues daily, plus \$1,000 for any month that you are in violation, doubling each successive month	Upon receipt of invoice	Accrued daily and monthly, as applicable, for each day and month, as applicable, you are in breach of our System Standards. Is in addition to and not in place of all of our other remedies and damages. Doubles for each subsequent System Standard Violation.
Other fees by amendment to the Franchise Agreement:	Varies: As voted on by franchisees	As incurred, as voted on by Franchisees.	If we propose a change or amendment to all Franchise Agreements, we can automatically amend all Franchise Agreements to implement that amendment if 65% of existing Hoots Franchisees vote (one vote per hoots® wings restaurant) in favor of that amendment. (There will be one vote per hoots® wings restaurant)

Type of Fee <sup>(Note 1)</sup>	Amount	Due Date	Remarks
Hoots Collaborative Purchasing Organization (“CPO”) Administrative Fees	Varies, as established by the Bylaws of the CPO, if formed.	As incurred as determined by the CPO.	<p>hoots® wings restaurant franchisees (and our company-owned hoots® wings restaurants) are allowed, but not required, to join the CPO, if formed. The CPO may charge administrative fees for its administration of the CPO.</p> <p>The CPO, if formed, is expected to operate a supply chain program for its members to seek to provide purchases at low prices and sustainable store delivered costs. Currently, membership is optional if it is formed, but we may require your membership in the CPO to be mandatory upon notice to you.</p> <p>We do not have voting control of the CPO.</p> <p>The CPO is currently designed to be managed by a 7 voting and 1 non-voting member Board of Directors. For voting directors, we currently require that we appoint 1 director, existing Hoots franchisees appoint 5 directors and a majority of the Board appoints 1 director. The form of currently approved Bylaws for a CPO is attached as Exhibit Q.</p>

**Explanatory Notes:**

1. Unless we specifically note otherwise: (i) all fees are payable to us; (ii) we impose and collect all fees; and (iii) all fees are non-refundable. In some cases, we might negotiate some of the fees that some franchisees will pay, such as franchisees agreeing to develop multiple hoots® wings restaurants or acquiring existing hoots® wings restaurants. Otherwise, except as specifically described in this Item, all fees are uniform.

2. “Gross Sales” includes all revenue related to the sale of products and performance of services in, at, about, though, or from your hoots® wings restaurant, whether for cash or credit, and regardless of collection in the case of credit, and income of every kind and nature related to your hoots® wings restaurant, including without limitation insurance proceeds and condemnation awards for loss of sales, profits, or business; and further including by way of example amounts from vending machines, sports betting, slot machines or gambling devices (if permitted in writing by us), any coin-operated machines for vending merchandise to customers, entertainment devices for the playing of electronic or manual games, pool tables, juke boxes, ATM fees, beer and wine sales, gift cards, merchandise, delivery, catering, and any off-premises consumption. “Gross Sales” also include: (i) revenues from sales taxes or other add-on taxes you collect from

guests and actually transmit to the appropriate taxing authority; and (ii) tips guests give and that are charged to the guests' credit or debit cards; and (iii) all third party delivery fees charged to the customer, including any service fees and commissions to any third-party delivery providers (such as DoorDash or Uber Eats).

3. We reserve the right to increase the System Development Fee upon 90 days written notice to you; however, we cannot increase the System Development Fee by more than 1.0% in any consecutive 12-month period. The System Development Fee that you pay during the initial term of your Franchise Agreement (if any) will not exceed 4.0% of your Gross Sales.

Your obligation to pay the Continuing Royalty Fee and the System Development Fee is not altered by the occurrence of any casualty or event that would cause a temporary closing of your hoots® wings restaurant. In the event that such a casualty or event occurs, all such fees to be paid by you to us for each 4-week accounting period in which your hoots® wings restaurant is closed will be the average of all such fees payable by you to us during the immediately preceding 13 4-week accounting periods, or such lesser period as your hoots® wings restaurant has been open if your hoots® wings restaurant has been open fewer than 13 4-week accounting periods.

4. You must expend and provide us receipts the percentage of the Gross Sales of your hoots® wings restaurant on local advertising and promotion as we periodically designate (the "**Minimum Local Advertising Expenditure**"), which we may adjust periodically; however, during the initial term of you Franchise Agreement, we cannot require you to spend more than 5.5% of your annual Gross Sales towards advertising through your combined System Development Fees, Minimum Local Advertising Expenditure and LAC Contribution, if applicable (and, during the first year, including your Grand Opening Marketing Deposit). During the term of your Franchise Agreement, we may, in our sole judgment, designate which expenditures will, or will not, count toward your required Minimum Local Advertising Expenditure. For example, amounts spent on advertising media (such as television, radio, newspaper, magazines and outdoor advertising), point-of-sale advertising materials and programs (such as in-restaurant graphics but excluding permanent signage), point-of-purchase materials (excluding packaging), brochures, catalogs and mails are qualifying expenditures. Non-qualifying expenditures include basic satellite and/or cable television subscriptions, music subscriptions, any form of video entertainment services, and salary and other compensation expenses associated with your (or your affiliate's) employees. Any promotional offer, fulfillment, coupon redemption, whether in the form of free food or price reduction, or any other discount of any kind, does not qualify toward your Minimum Local Advertising Expenditure. If you fail to provide such receipts for qualified expenditures within 6 months of the end of the previous calendar year, then you must pay to us, and we will collect from you, the shortfall, which will be deposited into the System Development Fund. Failing to meet the Minimum Local Advertising Expenditure in any year is a breach of the Franchise Agreement, regardless of whether you pay to us the shortfall.

5. We currently do not have any LACs and as a result, we have no LACs over which any company-owned hoots® wings restaurants control the voting power. If we designate a LAC, we can, upon 90 days' notice, require that some or all of your Minimum Local Advertising Expenditure be contributed instead to the LAC. We and each franchisee in a given LAC will have one vote per Restaurant in that LAC's designated area. Currently, LAC Contributions may be up to 3% of Gross Sales, unless 50% or more of the members of the LAC vote to increase the LAC Contribution to an amount greater than 3% of Gross Sales. In any event (including if we have voting control of a LAC), the minimum LAC Contribution that may be imposed is 0% of Gross Sales, and the maximum LAC Contribution is an amount that, together with the Minimum Local Advertising Expenditure and System Development Fee, is

not greater than 5.5% of Gross Sales in the aggregate. Our or our affiliates' outlets, if any, will participate on an equal basis, and will contribute on an equal basis.

We expect that if a LAC is formed, it will be operated and administered by LAC members or a hired advertising agency. We may require the LAC to operate under written governing documents, subject to our approval. As no LACs currently exist, no governing documents are available for review. We have the right to require the LAC to be formed, changed or dissolved. We may require LACs to prepare annual or periodic financial statements, and we will permit you access to the payment and expenditure records of any LAC to which you contribute. We do not have a defined area for the LAC. The size of the defined area of any LAC may vary based on industry standards for the media selected.

6. We may develop programs and terms under which we, our affiliates or hoots® wings restaurants receive negotiated benefits or terms from Approved Suppliers (“**Preferred Vendor Programs**”). We may designate one or more Approved Suppliers (“**Preferred Vendors**”) as exclusive suppliers of types, models or brands of business materials, supplies, Operating Assets, consumer goods, fixtures or materials and business services that we approve for hoots® wings restaurants. If we permit you to receive any form of rebates, contributions or remunerations from Preferred Vendors, we may require that you provide to us accountings of such monies or other remuneration you receive, in the manner we designate in the Manuals. We may charge you fees in the amount we may designate from time to time for participating in Preferred Vendor Programs which we evaluate or for which we provide services.

7. Except as otherwise mentioned in Item 11 and in the Franchise Agreement, you must pay us the expenses of our trainers. These expenses include travel expenses, business VISAs (where required), per diem, and lodging expenses. Currently, we calculate reimbursement based on the following assumptions: travel within 250 miles of a Restaurant is by automobile, and drivers are paid \$0.535 per mile or the prevailing rate established by U.S. tax guidelines; travel farther than 250 miles is by commercial airline with tickets at the class level we choose, subject to availability (air travel is booked by us); and Per Diem is currently up to \$60.00 (or equivalent) per day, and is based on location, unless we approve some other amount in advance. We choose the lodging based on proximity, availability, safety, cleanliness, and location in a business class or better. We may change the rates shown above at our sole discretion, on notice to you. We will provide you with invoices for amounts you owe us. We may require you to pre-pay all or a portion of the amounts we expect to incur. You must pay all amounts so that we receive the payment by the end of 30 days after we send you the final cost sheet.

8. If you die or are disabled, or if the principal owner of a franchisee that is a business entity dies or is disabled, and your hoots® wings restaurant is not being managed by a manager who has successfully completed our training, we have the right to appoint a manager on your behalf for the Restaurant until an assignee we approve assumes management and operation of the hoots® wings restaurant. While the hoots® wings restaurant is managed by that manager acting on your behalf, you must pay us or our designee, in addition to all other amounts due, a fee of 10% of Gross Sales, in addition to costs (including travel and living expenses of the temporary manager, and any direct expenses) of managing the hoots® wings restaurant on your behalf during the time. In addition to management expenses, we have the right to charge the account the full amount of the direct expenses we or our designee incurs in managing the hoots® wings restaurant on your behalf.

9. If we or you terminate the Franchise Agreement before the initial term expires, you must pay us, in addition to any actual damages, unpaid fees, attorneys' fees, enforcement costs



or other damages to date, an amount equal the Continuing Royalty Fees and System Development Fees payable by you for the 26 4-week accounting periods immediately before the date of the notice of termination, prorated if there are less than 26 such accounting periods remaining in the initial term. If we or you terminate the Franchise Agreement before the expiration of 26 4-week accounting periods, we will project the amount of fees payable for the 26 4-week periods. If we terminate the Franchise Agreement before your obligation to pay Continuing Royalty Fees and System Development Fees has commenced, then you must pay us the average amount of such fees payable by our franchisees in the United States generally, for the 26 4-week accounting periods prior to the effective date of our termination of this Agreement. If applicable law does not permit us to collect liquidated damages, we will be entitled to collect actual and consequential damages, attorneys' fees and costs.

10. If we conduct an audit and determine that you have understated any payment to us by 2% or more, you must reimburse us for our actual costs in conducting the audit (plus any underreported amounts due us).

11. Interest begins from the date of non-payment or underpayment.

**ITEM 7**

**YOUR ESTIMATED INITIAL INVESTMENT**

**ESTIMATED INITIAL INVESTMENT**

A. Multi-Unit Addendum Program: 2 to 4 hoots® wings restaurants.

<b>ITEM 7: YOUR ESTIMATED INITIAL INVESTMENT</b>				
<b>Type of expenditure</b> (Note 1)	<b>Amount</b> (Note 1)	<b>Method of payment</b> (Note 1)	<b>When due</b>	<b>To whom payment is to be made</b>
TOTAL ESTIMATED INITIAL INVESTMENT FOR 1 HOOTS RESTAURANT (Notes 1-15)	\$425,550 to \$1,238,750	See Table G below	See Table G below	See Table G below
Additional Initial Franchise Fees due for a Multi-Unit Addendum (2 to 4 Units) (Note 14)	\$30,000 to \$90,000	Lump Sum	At signing of Multi-Unit Addendum (at the same time as all Franchise Agreements)	Us
TOTAL ESTIMATED INITIAL INVESTMENT UNDER THE MULTI-UNIT ADDENDUM PROGRAM (2 to 4 units) (Note 15)	\$851,100 to \$4,955,000			

B. Area Development Program: 5 to 15 hoots® wings restaurants.

<b>ITEM 7: YOUR ESTIMATED INITIAL INVESTMENT</b>				
<b>Type of expenditure</b> (Note 1)	<b>Amount</b> (Note 1)	<b>Method of payment</b> (Note 1)	<b>When due</b>	<b>To whom payment is to be made</b>
TOTAL ESTIMATED INITIAL INVESTMENT FOR 1 HOOTS WINGS RESTAURANT (Notes 1-15)	\$425,550 to \$1,238,750	See Table G below	See Table G below	See Table G below
Development Fees Due under the Development Program for a Multi-Unit Addendum (5 to 15 Units) (Note 14)	\$75,000 to \$225,000	Lump Sum	At signing of Multi-Unit Addendum	Us
TOTAL ESTIMATED INITIAL INVESTMENT UNDER THE DEVELOPMENT PROGRAM (5 to 15 units) (Note 15)	\$896,100 to \$6,343,750			

C. Individual hoots® wings restaurant Franchise

Type of Expenditure <sup>(Note 1)</sup>	Estimated Amount or Estimated Range		Method of Payment	When Due	To Whom Payment Is Made
	Low	High			
Initial Franchise Fee <sup>(Note 1)</sup>	\$30,000	\$30,000	Lump sum	On signing Franchise Agreement	Us
Grand Opening Marketing Deposit <sup>(Note 1)</sup>	\$10,000	\$10,000	Lump Sum	Before opening	Us
Site Selection Fee <sup>(Note 1)</sup>	\$0	\$12,500	Lump Sum	Before opening	Us
Extension Fee(s) <sup>(Note 1)</sup>	\$0	\$5,000	Lump Sum	Before opening	Us
Training System Fee <sup>(Note 1)</sup>	\$300	\$500	Lump Sum	Before opening	Us
White Glove Service Fee <sup>(Note 5)</sup>	\$1,750	\$1,750	Lump Sum	Before Opening	Us
Real Estate Lease Payments <sup>(Note 2)</sup>	\$4,000	\$12,000	As Arranged	Monthly	Lessor
Liquor License <sup>(Note 3)</sup>	\$0	\$20,000	As Arranged	Before Opening	Governmental Authority
Improvements/Signage <sup>(Note 4)</sup>	\$140,000	\$475,000	As Arranged	Before Opening	Suppliers, Tradesmen
Technology System <sup>(Note 5)</sup>	\$15,000	\$30,000	As Arranged	Before Opening	Suppliers
Furniture, Fixtures, Equipment, Supplies, and Small wares <sup>(Note 5)</sup>	\$137,000	\$300,000	As Arranged	Before Opening	Suppliers
Construction Management Fee <sup>(Note 4)</sup>	\$0	\$22,000	As Arranged	Supplier	Suppliers
Initial Inventory <sup>(Note 6)</sup>	\$10,000	\$20,000	As Arranged	Before Opening	Suppliers
Labor and Training <sup>(Note 7)</sup>	\$25,000	\$70,000	As Incurred	During Training	Your Employees, Us, Suppliers of Transportation, Food, Lodging
Initial Advertising <sup>(Note 8)</sup>	\$5,000	\$10,000	As Incurred	Before Opening	Suppliers
Insurance <sup>(Note 9)</sup>	\$15,000	\$45,000	As Arranged	Before Opening	Third-Party Insurers
Professional Fees <sup>(Note 10)</sup>	\$2,000	\$25,000	As Incurred	Before Opening	Your Attorneys, Accountants, Third-Party Site Evaluation (if required by us)

Type of Expenditure <sup>(Note 1)</sup>	Estimated Amount or Estimated Range		Method of Payment	When Due	To Whom Payment Is Made
	Low	High			
Deposits, Licenses, and Other Prepaid Expenses <sup>(Note 11)</sup>	\$4,500	\$30,000	As Arranged	Before Opening	Suppliers, Utilities, Landlord
Additional Funds – 3 months <sup>(Note 12)</sup>	\$25,000	\$120,000	As Incurred	As Incurred	Suppliers, Employees, Tradesmen
<b>Estimated Total</b> <sup>(Note 13)</sup>	<b>\$425,550</b>	<b>\$1,238,750</b>			

**Explanatory Notes:**

1. This chart assumes that you have proceeded in a timely manner with Site selection and construction, and that you have not had to pay any fee to extend the time for opening your hoots® wings restaurant. This assumes one month of Training System Fees coming due during the initial investment period. All fees paid to us or our affiliates described in this Item 7 are non-refundable. This estimated initial investment does not assume the Franchise Fee has been reduced to \$10,000 as it would be if you participate in the Hooters Franchisee 1 to 1 Program. The extension fee estimate assumes that, on the low end, you requested no extensions, and on the high end, you requested—and we granted—2 extensions.

2. You may purchase or lease the land and building for your hoots® wings restaurant. We currently envision that a hoots® wings restaurant’s Site would be an inline location in city areas and contain 1,400 to 1,800 square feet of space. The cost to purchase or lease real estate will vary greatly from region to region and within a community, and will often depend on factors like the size, land condition, location of the proposed site, and terms available for the purchase or lease of the proposed Site. We do not estimate cost to purchase real estate or the building. The monthly rental for your Site may include common area maintenance fees (if any) and real estate taxes, as well as amortized amounts reflecting the amount provided of landlord work (work performed by the landlord) and tenant improvement allowance (work the landlord reimburses the tenant for performing) (“TI”). The estimated amount indicated also includes a one-month advanced rental payment, security deposit and prepaid expenses. The amount of rent payments, free rent period (if any) and deposits will be influenced by the landlord work and TI negotiated, if any. The low (1,400 sq. ft.) and high (1,800 sq. ft.) range as it applies to a hoots® wings restaurant assumes the landlord includes a substantial amount of TI costs in the rent. The low range as it applies to a hoots® wings restaurant assumes 3 months’ free rent and \$99,000 of the leasehold improvement costs are covered by TI or landlord work. The high range assumes for the estimated leasehold improvements needed as it applies to a hoots® wings restaurant, \$66,000 are covered by TI or landlord work, and 0 months’ free rent is provided. The amount of landlord work, TI, free rent period and other construction and build out costs will vary based on market conditions, condition of the building, engineering, architectural and acoustical requirements, federal, local or state codes, laws, or ordinances, as well as climate and weather issues impacting your building itself and building efforts. After we have approved the Site, you may purchase or lease the Site on whatever terms you can negotiate with the owner, lessor, or holder of the prime lease. The improvements you construct on the site must be consistent with the plans we approved. This assumes general contractor and construction costs consistent with these found in the Southeast United States.

3. It is solely your responsibility to obtain and maintain a liquor license for your hoots® wings restaurant (if we require you to offer alcohol). The cost of a liquor license can be significantly higher in a few states where the number of licenses is severely restricted or available only from an existing holder. You should retain legal counsel specialized in obtaining and maintaining liquor licenses.

4. Costs to construct your hoots® wings restaurant, whether as a new building or as the remodeling of an existing building, will vary depending on the condition of the takeover location, local building and zoning laws, local construction and labor (union or non-union) costs, and the amount of any landlord contribution. The figures shown include estimated costs of construction using an architect or engineer we approve to prepare site layout plans and specifications that conform to our requirements, furnishing us with these materials, obtaining approval of your plans and specifications from the landlord and local building authorities, and employing a qualified representative to supervise construction or remodeling of the hoots® wings restaurant. We recommend and may require that you use the services of a construction project management services (“CPMS”) provider. Currently, we recommend as an approved CPMS the firm, RPM 43, LLC (“RPM”), which charges \$20,000 to \$22,000, plus expenses. RPM’s form of Agreement for Services is attached as Exhibit “X.” The low range assumes you choose not to use, or we do not require you to use a CPMS provider. We require you or your CPMS to perform a construction cost proforma (an estimate of your construction costs for that Site) prior to our approval of your lease or purchase of the Site.

5. You must acquire all equipment, small wares, supplies, and fixtures you will need to operate the Restaurant, including point of sale terminals and back office computer hardware and software. You may obtain the necessary equipment, furniture, and fixtures from Approved Suppliers or other vendors you choose. We reserve the right to approve any vendor that is not one of our Approved Suppliers. You must obtain the décor package from our Approved Suppliers. All furniture, fixtures, equipment, and décor must meet our approved standards and specifications. You must pay all taxes related to your purchase of these items. The cost of furniture and fixtures will vary depending on the size, configuration, and location of your hoots® wings restaurant. We will provide you with a list of pre-opening supplies that you should have available and a list of fixtures and equipment you will need to operate your hoots® wings restaurant. This estimate also includes the cost of the Technology System, which is comprised of the POS System, Computer System, and Software and Apps. You must have the following technology components:

- a. Point-of-Sale system (“POS”). The current standard is NCR’s Aloha for Quick Service POS system and is purchased through an NCR, HOOTS® Enterprise Agreement.
- b. NCR Back Office (“NBO”) for inventory and Labor management.
- c. Aloha Insights for store reporting.
- d. OIO Online Ordering.
- e. Designated Delivery Service Providers.
- f. EMV, Chip and Pin card readers and secure payment processing through NCR Payment Services.
- g. Managers Work station running Windows 10 or higher.
- h. Network Switches and Firewalls with automatic broadband failover and failback.
- i. VoIP phone services through Bullseye Communications.
- j. Cisco Miraki WiFi and security.
- k. High Speed internet with a minimum of 25.0M x 10.0M broadband speeds.
- l. NCR Network Security Services (NSS) Elite—security, PCI compliance services, broadband failover and Business Wi-Fi System designed by us.

- m. Digital Menu Boards
- n. Punchh App
- o. SOS Training Management System

6. You must stock your hoots® wings restaurant with an opening inventory of food and beverages. The cost of your initial inventory will depend on the size of your hoots® wings restaurant, the type of products you purchase, whether your hoots® wings restaurant is first open during a busy season or a slow season, and other similar variables. We will help you plan your initial inventory.

Currently, other than distribution services, training services, and marketing materials, gift cards, you do not have to purchase goods or services from us, our predecessors or our affiliates relating to the establishment or operation of the hoots® wings restaurant. Currently, we and our affiliates are the only Approved Suppliers of certain marketing materials. We may require you to purchase any Restaurant Items (defined below) from us or our affiliates, and we may license, lease or purchase Restaurant Items from our affiliates or others and license, lease or sell them to you.

7. This amount includes compensation expenses and other expenses you and your employees will incur in attending our Initial Training. This includes, among other costs, the \$8,500 to \$10,000 training expenses for a hoots® wings, described in Item 5, Initial Investment. These expenses include transportation, lodging, meals, and wages of your attendees. Your costs may vary. Length of training may also vary. See Item 5, Initial Investment; Item 11, Training.

8. Within 45 days of opening (but not later than 90 days after your Opening Date), hoots® wings restaurants must spend a minimum of \$10,000 on initial advertising or grand opening activities for your hoots® wings restaurant in addition to the Grand Opening Marketing Purchases. In our experience, you will spend the amount shown in the chart on television, radio, print, or billboard advertising for the opening of the Restaurant. We must approve all advertising you use related to your hoots® wings restaurant before you publish it.

9. The cost of your insurance coverage will vary depending on the insurance carrier's charges, the terms of payment, and your insurance history. You must also carry workers' compensation insurance and any other insurance required by your landlord and applicable law. We may specify an insurance agency or insurer as the designed supplier for this service. You must name us as an additional insured.

10. You will need professional services to open and begin operating your hoots® wings restaurant. The estimates shown include accountant's fees for setting up your accounting and bookkeeping systems, and attorneys' fees for forming your company, reviewing our Franchise Agreement, and negotiating your lease. The CPMS provider may also provide you with various assistance relating to costs estimates for your lease and build out. Its expenses are included in the estimate in Note 2.

11. These costs include business licenses, deposits for utilities, deposits for real property leases, prepaid expenses, and other miscellaneous costs you will incur in opening your hoots® wings restaurant.

12. These are estimates of the funds you will need for a typical hoots® wings restaurant's first 3 months of operation. The figures include payroll costs (but no draw or salary for the owners of the Franchise unless they are acting in the capacity of a restaurant manager),

health insurance costs, and office support services. The variables that affect these limits include the number of employees working, rates of pay, initial sales volume, frequency of reordering supplies, the amount of your utility bills, and similar variables. Any Training System Fees in addition to the first month of those fees are assumed to be included in this estimate of additional funds. The amounts shown above are net amounts; they are set off, to some extent, by the revenues your hoots® wings restaurant generates. The amounts shown above are for your startup and your first 3 months of operation only. Except as expressly indicated otherwise, these estimates cover your initial cash investment up to the opening of your hoots® wings restaurant. They do not provide for your cash needs to cover any interest or debt service relating to financing incurred by you or for your other expenses. You should review these estimates carefully with your attorney, accountant, and other business advisors before you make any decision to enter into the Franchise Agreement with us. You should also prepare a set of estimates of your own based on your particular circumstances.

13. In compiling this chart, we relied on information provided from all of the HI Licensed Hoots and our 3 Company Owned locations in the Atlanta Area, and various estimates. We do not offer direct or indirect financing to you for any part of your investment. A bank or other lending institution may finance all or part of your investment on terms we cannot estimate. For a hoots® wings restaurant, we do expect you to have unrestricted cash holdings of at least \$500,000 per hoots® wings restaurant available to invest in your Franchise. Once you sign our Franchise Agreement, no payments you make to us are refundable except as stated in the Franchise Agreement or its Addenda.

14. See Item 5 for the calculation of the fees under the Development Program's Area Development Agreement. \$15,000 of the Development Fee is applied as a credit to each Franchise Fee due under the Development Schedule.

15. The estimate in Table A for a Multi-Unit Addendum for 2 to 4 hoots® wings restaurants assumes that, at the low range 1 hoots® wings restaurants and at the high range 4 hoots® wings restaurants, will be developed and opened during the initial investment period. The estimate in Table B for an Area Development Agreement for 5 to 15 hoots® wings restaurants assumes that, at the low range 2 hoots® wings restaurant and at the high range 5 hoots® wings restaurants, will be developed and opened during the initial investment period for Development Program. The Development Fees are applied to the Franchise Fees due for a 5 to 15 unit Development Schedule. This assumes that under the Area Development Program high and low estimate, \$30,000 to \$75,000 of the \$75,000 to \$225,000 Development Fee is applied to the Franchise Fees for the 2 to 5 due hoots® wings restaurants developed during the initial investment period, and the entire Development Fee is non-refundable.

## **ITEM 8**

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

#### Your Obligation to Purchase or Lease Items

We and our franchisees have an interest in protecting the quality and integrity of the System, and the goodwill associated with the Marks, Copyrights and Confidential Information. To protect our common interests, we place restrictions on the products, equipment, services, and supplies you purchase; the sources from which you purchase them; and the products and services you offer or sell. We reserve the right to modify these restrictions, sources, suppliers, products, and services as we deem appropriate, in our sole discretion.

### Purchases from Us or our Affiliates.

Currently, other than distribution services, training services, and marketing materials, gift cards, you do not have to purchase goods or services from us, our predecessors or our affiliates relating to the establishment or operation of the hoots® wings restaurant. Currently, we and our affiliates are the only Approved Suppliers of certain marketing materials. We may require you to purchase any Restaurant Items (defined below) from us or our affiliates, and we may license, lease or purchase Restaurant Items from our affiliates or others and license, lease or sell them to you.

### Approved Suppliers.

We have the right to approve or designate any and all suppliers (“**Approved Suppliers**”) that provide, sell or lease fixtures, furniture, signage, products, services, inventory, ingredients, equipment, supplies, items, food, or beverages, that are used, offered or sold by hoots® wings restaurants (“**Restaurant Items**”). We also have the right to approve or disapprove all Restaurant Items. The suppliers of Restaurant Items must meet our criteria, and we may change, alter, amend or discontinue the criteria at any time. We may permit you to negotiate your own purchase terms and prices with these Approved Suppliers, or we may negotiate purchase terms on national, regional or local account basis, which you must honor. We and our affiliates may earn monies or other remuneration from sales from or to Approved Suppliers: these may include rebates, fees, Restaurant Items in kind, marketing contributions and any other remuneration we choose in our sole discretion. We notify you in our Manuals or in other written communications of our criteria and the names of our Approved Suppliers. We do not have a formal program for modifying our criteria (but may develop one in the future); we modify them when we, in our sole discretion, believe it is in the best interests of the System to do so. We may require you to enter into agreements with Approved Suppliers on terms approved by us.

### Our Grant and Revocation of Approval of Other Suppliers, Products, and Services

We may permit you to purchase products, items, equipment or services from a supplier that we have not approved, provided these suppliers meet our criteria. If you would like to purchase products or services from a supplier that we have not approved, you must: (i) submit a written request to us for our consent to use the supplier; (ii) have the supplier acknowledge in writing that you are an independent entity from us and that we are not liable for debts you incur; and (iii) if the supplier will obtain access to our confidential information, have the supplier sign a confidentiality agreement in a form we approve. We have the right to inspect the proposed supplier’s facilities and require the proposed supplier to deliver samples to us, or to an independent laboratory we designate, for testing. You or the supplier must pay us a fee. The amount of the fee will not exceed our or our suppliers’ cost of inspection and testing, plus \$1,000. We may also require that the supplier comply with other reasonable requirements we deem appropriate, including payment of reasonable continuing inspection fees and administrative costs.

We will notify you of our approval or disapproval of the proposed supplier, equipment, item, product or services within 45 days after we receive the last item of information we request. If we fail to notify you, the supplier, product or services is deemed not approved. We reserve the right, following consent to use a supplier, to revoke our consent if the Approved Supplier fails to continue to meet our then-current criteria. Approval or our revocation of approval of a supplier may be conditioned on requirements relating to product quality, frequency of delivery, standards of service and concentration of purchases with one or more suppliers in order to obtain better prices and service and may be temporary, pending our further evaluation of the supplier. Our criteria for approving suppliers may be treated by us as a trade secret and not shared with our franchisees.



In other instances, we may share these criteria with you by placing it in the Manual or communicating it directly to you. If we revoke our consent, we will notify you by modifying our criteria or by otherwise telling you in writing.

### Specifications and Standards.

You are obligated to purchase certain branded and non-branded Restaurant Items we designate in the Manuals which meet our System Standards, even if we do not specify an Approved Supplier. Our standards and specifications may impose minimum requirements for quality, cost, delivery, performance, design and appearance, delivery capabilities, financing terms, and ability of the supplier to service our franchise system as a whole.

### Thirty-Party Delivery Service Providers

We may periodically designate third-party delivery service providers (each a “**Third-Party Delivery Provider**”) in our sole judgment as Approved Suppliers. If you want to use a third-party delivery service provider that we have not yet approved, you must first submit the name of such proposed provider and other sufficient information for us to evaluate whether the provider meets our criteria. We may condition our approval of a third-party delivery service provider on such provider agreeing to provide periodic delivery sales reports directly to us and such other requirements relating to reliability, consistency, standards of service (including prompt attention to complaints) and/or other criteria. We may periodically revoke our approval of any Third-Party Delivery Provider that does not continue to meet our criteria. We may limit the number of Third-Party Delivery Providers with whom you may deal, designate Third-Party Delivery Providers that you must use, and/or refuse any of your requests for any reason, including if we have already designated an exclusive Third-Party Delivery Provider for the Hoots System or if we believe that doing so is in the best interests of the Hoots System.

### Revenue or Other Consideration from Your Required Purchases or Leases

We may require you to purchase or lease products, equipment, services, and supplies from third parties under arrangements that allow us or our affiliates to receive revenue, other consideration, or other material benefit, like rebates, discounts, and allowances, as a result of consideration you or any of our other franchisees pay to the third parties.

We may require you to purchase or lease products, equipment, services, or supplies from us or our affiliates. We or our affiliates: (i) may include a markup in the price of any items we or they sell or lease to you; (ii) may derive profit from the items we or they sell or lease you; and (iii) may receive revenue, other consideration, or other material benefit, like rebates, discounts, and allowances, as a result of consideration you or any of our other franchisees pay us or our affiliates.

We and our affiliates are not currently the sole Approved Supplier for any item we require you to offer or sell at your hoots® wings restaurant other than our sublicense to you of the following software or services: MIRUS POS integration software. But we and our affiliates are an Approved Supplier for certain marketing materials and distribution services, including items bearing our brands. In 2020, we and our affiliates received \$0 from the purchase or lease of items or services where we were the Approved Supplier to hoots® restaurant franchisees. However, we reserve the right to designate ourselves or our affiliates as the sole Approved Supplier of any item or service.

We may establish cooperative buying programs with certain Approved Suppliers for food, beverages, and other items, as well as distribution and other services. We may modify or discontinue these programs at any time. Hooters Franchisors (our affiliates) currently have a cooperative buying program for Hooters Restaurants from which franchisees of hoots® wings restaurants may benefit. Some of these programs use a rebate pricing system based on the volume of purchases by all Hooters Restaurants and hoots® wings restaurants. This may allow you to receive a rebate based on the total purchases by all hoots® wings restaurants, not just your purchases. However, in keeping with the operating rules of these programs, a portion of these rebates may be used to pay for the salaries of employees who manage these programs. You are responsible for complying with the suppliers' rules for receiving the rebate. All hoots® wings restaurants participating in these buying programs, including franchised and company-owned Hooters Restaurants and hoots® wings restaurants, receive similar or geographic area specific pricing rebates or adjustments.

We and our affiliates have rebate or other remuneration programs or "Preferred Vendor" agreements with certain Approved Suppliers to company owned and franchised hoots® wings restaurants. We or our affiliates may negotiate with suppliers, distributors and manufacturers to receive rebates or other remuneration on certain items and services you must purchase. Our rebate or other remuneration programs may vary depending on the supplier and the nature of the product or service. Also, our affiliates may earn profits on the sale of goods and services to us, and to you.

In return for rebates or remuneration we receive, we assist in managing the relationship between us, our franchisees and suppliers that provide rebates or remuneration. Certain suppliers and manufacturers may pay us a variable rebate or remuneration based on the volume or value of Restaurant Items ordered.

While we may seek to establish supply relationships based on price, other considerations like strategic marketing, strength of supplier, competitive pressures, and the like, may influence our decisions to use and negotiate with those suppliers or to choose their Restaurant Items. Our System Standards require you to participate in any rebate, remuneration or other Preferred Vendor programs we may establish.

Not every supplier will pay rebates or remuneration to us. Currently, we receive a rebate or remuneration from the following Approved Suppliers:

<b>Approved Supplier</b>	<b>Formula or method of calculating Rebate or Remuneration</b>	<b>Amount received in the prior fiscal year from purchases from Hoots Franchisees.</b>
RPM	\$2,000 per hoots® wings restaurant for which it provides services for 2021.	\$0
Pepsi	\$2,000 per new hoots® wings restaurant for 2021. \$7.77 per gallon.	\$0
Dr. Pepper	\$6.66 per Gallon for 2021	\$0

You must sign and remain in compliance with the Form of Equipment Acknowledgement Agreement (the “**Pepsi Agreement**”) form of which is attached as Exhibit P. You will be required to sign the then-current form of Pepsi Agreement.

We may receive rebates for other remuneration from HOA Gift Cards, LLC in connection with gift cards purchases for your hoots® wings restaurant. In the prior fiscal year, we did not receive any rebates or remuneration from HOA Gift Cards, LLC in connection with gift card purchases by or through franchised hoots® wings restaurants.

We may deposit certain rebates, remuneration or fees we receive from Approved Suppliers into System Development Fund but are not required to do so.

All of your required purchases, which include items you must purchase from us or any affiliate or Approved Supplier of ours, and items you must purchase in accordance with our specifications, will represent approximately 90% to 95% of your total purchases in connection with the establishment of your hoots® wings restaurant and approximately 50% to 65% of your total purchases in operating the Restaurant.

We and our officers or managers do not have any ownership interest in suppliers to our Hoots franchisees. We reserve the right to use such rebate monies or remuneration in any way we choose.

We and our affiliates did not receive any payments from designated and Approved Suppliers on account of franchisee purchases or leases of required and approved items from those suppliers in our previous fiscal year. In the year ending December 31, 2020 we received \$0 in rebates from purchases or leases by hoots® wings restaurant franchisees

We do not provide material benefits to you (for example renewing or granting additional franchises) based on your purchase of particular Products or Services or use of particular suppliers. However, if you do not use Approved Suppliers, or designated suppliers or follow our System Standards, we may terminate the Franchise Agreement. You must follow and honor all of the product and service warranty and customer service policies we may establish and publish in our Manuals.

### General Matters

Except as otherwise shown in this Disclosure Document, we do not presently have purchase arrangements with suppliers, including price terms, for the benefit of our franchisees. If we believe it is in the best interests of the System, we may do so.

We do not provide you with material benefit based on your purchase of particular products or services or your use of particular suppliers.

### Computer Hardware and Software.

We require you to have a Technology System for the operation of your hoots® wings restaurant. We may require you to install and utilize computer hardware and software that we may designate for the Technology System. The Technology System may include your point of sale (POS) system, bookkeeping, inventory control and other business management functions, and any back office Computer System and other software and applications.

Insurance.

You must obtain and maintain, at your own expense, such insurance coverage that we require from time to time and meet the other insurance-related obligations in the Franchise Agreement. The insurance policy or policies must be written by a responsible carrier or carriers acceptable to us. The current specific minimum coverages and limits are described below, and may be changed, or amended by our Manuals.

You must have the following insurance coverages:

<b>Type of Coverage</b>	<b>Amount</b>
Commercial General Liability (including dram shop)	\$1 million per occurrence and \$2 million in the aggregate
Automobile Liability, for Owned, Non-Owned, and Hired Vehicles	Bodily injuries: \$100,000 per person and \$300,000 per accident Property damage: \$50,000 per occurrence
Excess Liability Umbrella	\$3 million per occurrence and in the aggregate
Comprehensive Crime and Blanket Employee Dishonesty	\$100,000
All-Risk Property	At least 80% of the replacement cost of the structure and 100% of the replacement cost of the building's contents
Employer's Liability, Workers' Compensation	As prescribed by law
Business Interruption	\$50,000 per month with at least 6 months' coverage
Employment Practices Liability Insurance	\$1,000,000 minimum coverage
Cyber Liability Insurance	\$1,000,000 minimum coverage
Dram Shop/ Alcohol Liability (only required if alcohol beverages are sold or served)	\$1,000,000 minimum coverage

You must list Hawk Parent, LLC, and its subsidiaries and affiliates including us, and HOA as additional insureds. In addition, you and your insurance company must waive all rights of subrogation against our affiliates and us under your commercial general liability, automobile liability, and excess liability umbrella policies.

You must obtain insurance policies written by an insurance company rated A-minus or better, in Class 10 or higher, by A.M. Best Insurance Ratings Service. We have the right to approve these policies. Your insurance costs may not be uniform because insurance premiums differ depending on your location, your insurance company's assessment of the risk of insuring you, the amounts of insurance you need, your insurance history, applicable law in the area where your hoots® wings restaurant is located, and general economic conditions. The amount shown in the chart is the estimated annual premiums for the insurance described in the table.

You are solely responsible for maintaining adequate insurance to cover any liability that may arise from the use of Third-Party Delivery Providers (or other delivery methods) for delivery services from your hoots® wings restaurant.

The cost of your insurance coverage will vary depending on the insurance carrier's charges, the terms of payment, and your insurance history. You must also carry workers' compensation insurance and any other insurance required by your landlord and applicable law. We may specify an insurance agency or insurer as the designed supplier for this service. You must name us as an additional insured.

Your obligation to obtain and maintain the policies that we require, in the amounts specified, will not be limited in any way by reason of any insurance maintained by us, and your performance of that obligation relieve you of your liability under the indemnity provisions in the Franchise Agreement. If you fail to procure or maintain the insurance that we require, we may (but are not obligated to) obtain the required insurance and charge the cost of the insurance to you, plus an administrative fee.

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## ITEM 9

### FRANCHISEE’S OBLIGATIONS

**This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.**

Obligation	Section in Agreements	Disclosure Document Item
a. Site selection and acquisition/lease	Sections 1 and 5 of Franchise Agreement;  Sections 1 and 3 of the Area Development Agreement; Section 4 of the Multi-Unit Addendum; Existing Hooters Addendum; Existing Restaurant Addendum	Items 7 and 11
b. Preopening purchases/leases	Section 5 of Franchise Agreement; Existing Hooters Addendum; Existing Restaurant Addendum	Items 5, 7 and 8
c. Site development and other pre-opening requirements	Sections 1 and 5 of Franchise Agreement;  Sections 1 and 3 of Area Development Agreement; Section 4 of the Multi-Unit Addendum; Existing Hooters Addendum; Existing Restaurant Addendum	Items 6, 7, 8 and 11
d. Initial and ongoing training	Sections 3 and 5 of Franchise Agreement; Existing Hooters Addendum	Items 5, 6 and 11
e. Opening	Sections 1 and 5 of Franchise Agreement;  Section 3 and Exhibit A of the Area Representative Agreement; Section 5 of the Multi-Unit Addendum; Existing Hooters Addendum; Existing Restaurant Addendum	Items 11 and 12
f. Fees	Sections 1, 2, 4, 5, 9, 10, 11, 13, 15, 25 and 26 of Franchise Agreement;  Sections 2, 3 and 5 of Area Representative Agreement; Existing Hooters Addendum; Existing Restaurant Addendum	Items 5, 6, 7, 8 and 11

Obligation	Section in Agreements	Disclosure Document Item
g. Compliance with standards and policies/operating Manuals	Sections 5, 6, 7, 8 and 26 of Franchise Agreement;  Section 5.2 of Area Representative Agreement; Existing Hooters Addendum; Existing Restaurant Addendum	Items 8, 11, and 14
h. Trademarks and proprietary information	Section 6 of Franchise Agreement Existing Hooters Addendum; Existing Restaurant Addendum	Items 13 and 14
i. Restrictions on products/ services offered	Sections 5 and 7 of Franchise Agreement	Items 8 and 16
j. Warranty and customer service requirements	Not Applicable	Not Applicable
k. Territorial development and sales quotas	Section 3 of Area Representative Agreement; Section 5 of the Multi-Unit Addendum	Item 12
l. Ongoing product/service purchases	Section 5 of Franchise Agreement	Items 8 and 11
m. Maintenance, appearance, and remodeling requirements	Sections 1, 5 and 7 of Franchise Agreement	Item 11
n. Insurance	Section 12 of Franchise Agreement	Items 6,7, and 8
o. Advertising	Sections 4 and 11 of Franchise Agreement	Items 6, 7, and 11
p. Indemnification	Sections 5, 15, 19, 26 of Franchise Agreement;  Section 11 of the Area Representative Agreement	Item 6
q. Owner's participation/ management/staffing	Section 5 of Franchise Agreement	Items 11 and 15
r. Records and reports	Sections 5 and 10 of Franchise Agreement	Item 6
s. Inspections and audits	Sections 5 and 10 of Franchise Agreement	Items 6 and 11
t. Transfer	Section 13 of Franchise Agreement;  Section 7 of the Area Representative Agreement	Item 17
u. Renewal	Section 2 of Franchise Agreement	Items 6 and 17
v. Post-termination obligations	Section 15 of Franchise Agreement	Item 17

Obligation	Section in Agreements	Disclosure Document Item
w. Non-competition covenants	Section 16 of Franchise Agreement; Individual Non-Disclosure and Non-Competition Agreement for Franchise Agreement ( <u>Exhibit H</u> to this Disclosure Document);  Section 8 of Area Representative Agreement; Individual Non-Disclosure and Non-Competition Agreement for Area Representative Agreement ( <u>Exhibit I</u> to this Disclosure Document) Existing Hooters Addendum; Existing Restaurant Addendum	Item 17
x. Dispute resolution	Section 25 of Franchise Agreement; Section 15 of Area Representative Agreement	Item 17
y. Other:		
Activists and Governmental Resistance	Not Applicable	Items 7, 11
Confidential Information	Sections 7 and 8 of Franchise Agreement; Individual Non-Disclosure and Non-Competition Agreement for Franchise Agreement ( <u>Exhibit H</u> to this Disclosure Document);  Individual Non-Disclosure and Non-Competition Agreement for Area Representative Agreement ( <u>Exhibit I</u> to this Disclosure Document) Existing Hooters Addendum; Existing Restaurant Addendum	Items 11, 14, and 17
Internet Web Sites and Listings	Section 9.5 of Franchise Agreement	Item 11
Personal Guaranty	Section 5 of Franchise Agreement; Personal Guaranty of Franchisee's Principal Owners ( <u>Exhibit E</u> to this Disclosure Document)	Item 15
Release, Estoppel, Covenant Not to Sue, and Indemnification	Sections 2 and 13 of Franchise Agreement;  Form of Release ( <u>Exhibit J</u> to this Disclosure Document)	Item 17
Delivery Services	Section 1.6 of Franchise Agreement	Items 8, 12 and 16



## ITEM 10

### FINANCING

Neither we nor our affiliates offer direct or indirect financing. Neither we nor our affiliates guarantee your note, lease or obligation.

## ITEM 11

### FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

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

As noted in Item 1, we have entered into a management agreement with HOA for the provision of support and services to franchisees. We remain, however, responsible for all of the support and services required under the various agreements described below.

#### Pre-Opening Assistance

Before you open your hoots® wings restaurant, we will:

1. Give you advice and guidance in locating a site and developing a hoots® wings restaurant. Our advice and guidance will include providing acceptable site criteria, Approved Supplier lists, approved renovation criteria and, at our option, a set of architectural plans of an existing hoots® wings restaurant. (Franchise Agreement, Sections 1.3 and 3) See "Site Selection" below in this Item 11 for more information.

2. Train your manager and provide the Initial Training described in Item 11. (Franchise Agreement, Sections 3 and 5.6.) See "Training" below in this Item 11 for further information about our training.

3. Provide you with resources for training of your hourly employees in the Manuals or otherwise in writing. We do not hire your employees for you. (Franchise Agreement, Sections 3 and 5.6.) See "Training" below in this Item 11 for further information about our training.

4. Loan you one copy of our Manuals. (Franchise Agreement, Section 3.7.) The tables of contents of our Manuals are included in this Disclosure Document as Exhibit S.

5. Provide you with our System Standards. Our System Standards may designate or approve maximum or minimum prices at which you must sell your products or services (subject to applicable law). (Franchise Agreement, Section 3.4)

6. Provide you, at your expense, with plans and materials for local advertising. (Franchise Agreement, Sections 3 and 11.2.) See "Advertising" below in this Item 11 for further information about our advertising program. We may also provide you with any merchandising, marketing, and other data and advice we believe would be helpful to you in developing, opening, and operating your hoots® wings restaurant. (Franchise Agreement, Section 3.8.)

7. Reimburse you those Grand Opening Marketing Deposit monies for which you submit receipts of approved expenditures in compliance with our System Standards or expend

those monies on your behalf if we determine you are not doing so. (Franchise Agreement, Section 4.3)

8. If your Site Selection Area is not selected when you sign the Franchise Agreement, we will either designate a Site Selection Area within 30 days of the Development Commencements or if you and we cannot agree within the 30-day period, we may terminate the Franchise Agreement. (Franchise Agreement, Sections 1.2 and 1.3)

9. If your Protected Market Area is not determined when you sign the Franchise Agreement, we will designate your Protected Area within 10 days of our approving your Site. (Franchise Agreement, Section 1.4)

10. We may grant you one 30-day extension past the 6 months allotted within which to open the Restaurant or, in our sole discretion, other extensions of time to find a Site, or the time periods specified for you to enter into a lease or purchase agreement or construct/build out the Site. You must pay us a non-refundable extension fee of \$2,500 for each extension. (Franchise Agreement, Section 1.7.)

11. If you have made full and complete application for all building permits, liquor licenses, and other permits required to open your hoots® wings restaurant within 90 days of the date of the Franchise Agreement, we may grant you, at no additional charge, extensions to obtain all necessary permits if the delay was due to causes beyond what we determine to be in your reasonable control. (Franchise Agreement, Section 1.7.) If we grant you such extensions, we will extend your Opening Date.

#### Designating the Site Selection Area, Site Selection and Protected Market Area Selection

We will provide you with Site selection guidelines, including our minimum standards for a location for your hoots® wings restaurant, and other counseling and assistance as we may decide is required. We perform the Site Selection services we designate. We do not generally own the Site and lease it to you. (Franchise Agreement, Sections 1.3 and 3.1.)

The factors we consider when we evaluate a proposed Site include population density, *per capita* income, crime, and other demographic factors near the proposed site; traffic patterns and parking; competition; the area's commercial development; the physical characteristics of existing buildings and the renovations required to the proposed site to develop your hoots® wings restaurant; and other factors.

If you and we have not agreed on a Site Selection Area when you sign the Franchise Agreement, we will provide you up to 30 days following the Development Commencement Date to obtain our approval of a proposed Site Selection Area within the state or other general area indicated in Exhibit A to the Franchise Agreement. If you and we cannot agree on the Site Selection Area within those 30 days, we in our sole discretion, can either designate it (and specify it in Exhibit A to the Franchise Agreement) or, terminate the Franchise Agreement. If we terminate the Agreement, we do not provide any refunds of fees or monies paid. If you do not have a Site approved by us at the time you sign the Franchise Agreement, you must submit to us a site selection package for at least one location for acceptance within 45 days of the Development Commencement Date. The contents of the site selection package will be determined by us, but may include a copy of the site plan, proposed lease or purchase agreement in final executable form, along with its letter of intent, a construction cost pro forma for that site, business plan, demographic information, and evidence showing your ability to obtain the Site. We will have 30

days to accept or decline the Site that you have proposed. Within 180 days of the Development Commencement Date, you must acquire or lease the Site (and obtain our approval). If we reject your proposed Site, you must propose a new Site at your expense. (Franchise Agreement, Section 1.3.)

We have the right to perform an on-site evaluation of your proposed site, and we may designate a third party to perform site selection counseling and services for us. If we designate a third party to perform these services, we may require you to pay the Approved Supplier's then current fee for its services. We may require you to submit a construction cost pro forma, as well as the lease or purchase agreement for the Site for our review before we approve or disapprove the proposed Site. (Franchise Agreement, Section 1.3.)

We may conduct a Site Selection trip to assist you with choosing or evaluating a site for the Site. We may also, in our sole discretion, choose not to conduct any Site selection trip and approve or disapprove your proposed Site based on documentation you submit to us. You must pay to us our fee (the "**Site Selection Fee(s)**") for our site selection services as well as for our coordinating and overseeing the site selection process if a third party assists you. The standard initial Site Selection Fee (if charged) of \$7,500 is due in lump sum within 5 days of our invoice to you and is nonrefundable. The initial Site Selection trip will last up to 2 days and will include up to 4 proposed Sites to be evaluated during that initial Site Selection Trip. If additional site selection trips or evaluation of additional proposed Sites during that trip are requested and provided in our sole discretion, you must pay to us our then current additional Site Selection Fees for such additional site selection trips or for additional site evaluations. (Franchise Agreement, Section 1.3.)

We may also designate an approved or designated provider of or require you to hire at your expense Construction Project Management Services ("**CPMS**"), leasing advice or other Site selection services, and you must pay that provider's then current fees for its services. We will have the right to designate a third-party designee to conduct any or all of the Site selection, construction management, leasing guidance, counseling and assistance and evaluation, and Franchisee may be required to pay such third-party designee a fee for those types of services. (Franchise Agreement, Section 1.3.)

If we accept the proposed Site, we will designate your Site on Exhibit A of the Franchise Agreement. (Franchise Agreement, Section 1.3.)

If you sign an Existing Hooters Addendum or Existing Restaurant Addendum, we may modify your Site selection criteria, allow certain operations from the existing Hooters Restaurant or existing restaurant and modify the development timing and obligations for the hoots® wings restaurant.

We will also designate a geographic area as your "**Protected Market Area.**" We will designate the Protected Market Area at the time you sign the Franchise Agreement if you choose your Site at that time, or within 10 days of our approval of your Site. We, in our sole discretion, choose the Protected Market Area and it may be irregularly shaped and may be based on Google Earth/Google Maps or other GPS or population mapping software we designate from time to time in our sole discretion. The Protected Market Area will consist of the Site and the geographic area designated in or which will be designated in Exhibit "A" to the Franchise Agreement as your Protected Market Area. After we designate the Protected Area, we are not obligated to modify your Protected Market Area if the population in it or zip code(s) associated with it, or other factors associated with it, later changes. (Franchise Agreement, Section 1.3.) If you participate in the Hooters Franchisee 1 to 1 Program, at your request, we may designate your Protected Market

Area as a 3-mile radius surrounding your corresponding Hooters Restaurant instead of a 3 mile radius around your hoots® wings restaurant.

Our acceptance of the Site Selection Area or Site is not a representation, promise or guarantee of any kind that the terms of the lease or purchase are favorable to you or that the location will be profitable. (Franchise Agreement, Section 1.3.)

Within 45 days of the Site being accepted by us, or if soon, 180 days from the Development Commencement Date, if you are leasing the property where the hoots® wings restaurant will be located, you must execute a lease accepted by us. We must be provided the lease and the opportunity to review and approve it before you sign it. We do not provide your legal advice: we review the lease to determine if it complies with your obligations to us under the Franchise Agreement. Our review and approval does not constitute real estate or legal advices to you and is not a representation, warranty or promise that the leased location or Protected Market Area will be successful or profitable in any way. You must also attach a “**Collateral Assignment of Lease**”, a form of which is attached to this Disclosure Document as Exhibit G, which will provide us with the right to take over your lease in the event of a default of the lease by you. Alternatively, you may have us as the lessee of your lease, and you will sublease the site directly from us. (Franchise Agreement, Section 1.3.)

#### Obtaining Required Permits

You must obtain all building permits, liquor licenses, and all other permits required to open your hoots® wings restaurant. (Franchise Agreement, Section 5.5.) You must comply with all laws at all times in offering delivery services, including obtaining and maintaining all required permits, licenses, consents and waivers required by any laws. (Franchise Agreement, Section 1.6.)

#### Constructing, Equipping, and Decorating Restaurant

You must construct, equip, and decorate the hoots® wings restaurant at your sole cost and expense. Before you begin construction of the Restaurant, you must submit a site plan, including a footprint of the proposed building and architectural, kitchen, and signage drawings, to us for our approval. You may use an architect or engineer approved by us to prepare the plans and specifications for your hoots® wings restaurant. We may require you to use an Approved Supplier as a construction project management services provider, and pay its then current fees for its services. In constructing or renovating the premises, you must enter into a building contract with a general contractor and you must pay the general contractor directly for the build-out of your hoots® wings restaurant, including all labor and material costs. You must provide us with the name and contact information of your qualified general contractor before you begin construction. You must construct the hoots® wings restaurant in accordance with the site plan and plans and specifications that we have approved. You are responsible for conforming the design and construction plans to meet all applicable codes, rules regulations and laws. You may not make any changes to approved plans and specifications, the design of the hoots® wings restaurant, any of the materials used, or the interior and exterior colors associated with the hoots® wings restaurant, without our consent. (Franchise Agreement, Section 5.5.)

We provide you with the names of Approved Suppliers of much of the Restaurant Items you will need to construct, equip, and decorate your Hooters Restaurant, and written specifications for these items, in our Manuals. We do not deliver or install any of these items.

### Time for Opening Your Restaurant

You must open your hoots® wings restaurant for business within 12 months after the Development Commencement Date of the Franchise Agreement (or within the time frame specified in the Development Schedule if different). We refer to your opening date as your **“Opening Date.”** The factors that affect the time period include the ability to obtain a lease, financing, building permits, liquor licenses, and other permits and licenses.

You may not open your hoots® wings restaurant for business until: (1) we approve your hoots® wings restaurant as developed according to our specifications and standards; (2) pre-opening training of you and your personnel has been completed to our satisfaction; (3) the Franchise Fee and all other amounts then due to us have been paid; (4) we have approved the manager of your hoots® wings restaurant and you have demonstrated that the conditions of the Franchise Agreement have been met; (5) we have been furnished with copies of all required insurance policies, or such other evidence of insurance coverage and payment of premiums as we request; and (6) we have approved and received signed counterparts of all required documents pertaining to your acquisition of the Site. You cannot open your hoots® wings restaurant until we are satisfied that you have completed all necessary steps to open. While we may terminate the Franchise Agreement if you fail to open in the time required, we may grant you extensions if your delay is due to your engaging in efforts to comply with laws and regulations, or if you are otherwise complying with our System Standards and you request and we approve an extension. We may at our discretion, but are not obligated to, grant extensions.

### Hiring and Training of Personnel

You must hire a salaried manager for the operation of your hoots® wings restaurant. The manager should be a full-time employee of your hoots® wings restaurant with no competing conflicts. We do not provide you with assistance in hiring. You must train and properly supervise all Restaurant personnel in a certified training location. We will provide training for your manager with our Hoots training program. We will offer additional pre-opening training and opening supervision and assistance as we deem advisable. We do not hire, fire or compensate your personnel. We do not assert the right to direct control over their employment activities. (Franchise Agreement, Sections 3.2, 3.3 and 5.6.) See “Training” below in this Item 11.

### Post-Opening Assistance

During your operation of your hoots® wings restaurant, we will:

1. Provide you with continuing advisory assistance in the operation, training, advertising, and promotion of your hoots® wings restaurant, as we consider appropriate. (Franchise Agreement, Sections 3.8, 9, 10 and 11.)
2. Provide refresher training programs for you and your employees we designate, as we consider appropriate. If you request training that is not designated, the training will be at your expense. (Franchise Agreement, Section 3.5 and 5.)
3. Furnish you, at your expense, with plans and materials for local advertising. (Franchise Agreement, Sections 3.6 and 11.2.) We may also direct you to stop using these plans and materials. We must review and approve all other advertising and promotional materials you propose using. (Franchise Agreement, Section 11.1.) See “Advertising” below in this Item 11 for further information about our advertising program.

4. Provide you with any merchandising, marketing, and other data and advice we develop that we think would be helpful to you in managing and operating your hoots® wings restaurant. (Franchise Agreement, Section 3.8.)

5. Provide you with periodic individual or group advice, consultation, and assistance, either by personal visit, telephone, newsletters, or bulletins we make available to all Hoots franchisees, as we consider appropriate. (Franchise Agreement, Section 3.9.)

6. Provide you with our System Standards, including any bulletins, brochures, manuals, and reports we publish regarding our plans, policies, developments, and activities, as we consider appropriate. We will also let you know about any new developments, techniques, and improvements we consider relevant to the operation of your hoots® wings restaurant. Our System Standards may designate, subject to applicable law maximum or minimum prices at which you may sell the products or services. (Franchise Agreement, Section 3.10.)

7. Furnish you, on your request but not more than once a year, with annual financial statements (which may be audited) of receipts and disbursements of the System Development Fund. (Franchise Agreement, Section 11.3.)

8. Establish, maintain and administer a system-wide fund (the “**System Development Fund**”). You are obligated to contribute to the System Development Fund by paying the System Development Fee in such amounts that we prescribe from time to time up to a limit set in the Franchise Agreement. (See Item 6) (Franchise Agreement – Sections 4 and 11.3)

9. Reimburse you the Grand Opening Marketing Deposit monies for which you have paid to us and submitted approved marketing receipts in compliance with our System Standards (Franchise Agreement – Section 4.3)

10. Provide you with our System Standards. (Franchise Agreement – Section 3.4)

#### Development Program.

Our pre-opening and post-opening obligations are not changed if you participate in the Development Program other than to credit the portion of the Development Fee to the applicable Franchise Fee and to establish the dates indicated in the Development Schedule for your required Development Commencement Date, Site Selection Dates, Opening Date(s) and Final Site Approval Date(s). The Final Site Approval Date is the date on which we grant you written approval of the site. Our approving you to execute a lease or purchase agreement for the Site is not our approval of the terms of the lease or purchase agreement. If you breach the Area Development Agreement or Multi-Unit Addendum, your Development Commencement Date (if the Site is not yet selected) is changed to your Agreement Date and may terminate your rights to develop those remaining hoots® wings restaurants under the Development Schedule.

#### Advertising Programs

##### Advertising Generally

We may provide advertising materials to you through the System Development Fund or other means. These materials may include posters, billboards, point of sale materials, radio scripts, sports ads, coupon ads, Hoots logos, camera-ready artwork, clip art, line drawings, and border

designs so you can create your own ads, table tents, flyers, direct mail brochures, and generic print ads. These materials allow you to customize your ads to meet your particular needs. The different formats and logo combinations provide you with flexibility in preparing your own individualized ad campaigns. Our advertising agency, with the assistance of our in-house marketing department, produces most of these materials. (Franchise Agreement, Section 11.3.)

If you decide not to use our pre-prepared advertising materials, you may choose your own advertising agency or supplier and produce your own materials. However, we must approve all your advertising before you publish it. Our right of approval extends to the type and content of the advertisements, the media in which the advertisements will appear, and any advertising programs you devise. (Franchise Agreement, Section 11.1.)

Through the System Development Fund (when established), we may conduct national and regional advertising campaigns using print and electronic media. The purpose of these programs will be to promote the Hoots System and hoots® wings restaurants system wide, without focusing on a particular franchised or company-owned hoots® wings restaurant, and to counter threats to the Hoots System. We describe the System Development Fund more fully below.

#### Local Advertising

You must, at your expense, implement a grand opening marketing program for your hoots® wings restaurant according to the requirements in the Manuals and other Hoots System Standards that contemplates your spending, for a hoots® wings restaurant, at least \$10,000, (as designated by us) on the initial promotion of your hoots® wings restaurant within the period beginning 30 days before your Opening Date and ending 30 days after your Opening Date. We collect the Grand Marketing Deposit for this purpose. We will either expend Grand Opening Marketing Deposit monies for you or reimburse you your approved pre-opening expenditures at our sole discretion.

You must also spend the Minimum Local Advertising Expenditure annually on local advertising and promotions. We do not currently have local or regional advertising cooperatives; however, if we establish a Local Advertising Cooperative, we can, upon 90 days' notice, require that some or all of your Minimum Local Advertising Expenditure be contributed instead to that Cooperative. We have the right to develop advertising programs for the promotion of the Marks or Copyrights or for any merchandise hoots® wings restaurants offer. The Minimum Local Advertising Expenditure is in addition to the System Development Fee; however we will not require you to pay a combined amount for Local Advertising, Local Advertising Cooperative contribution (if a cooperative is established) and System Development Fee of more than 5.5% of your Gross Sales. (Franchise Agreement, Section 4.)

You may not create your own web site or social media presence for your hoots® wings restaurant or containing any Marks without our approval and compliance with all of the relevant policies, standards, and requirements that we may periodically prescribe. (Franchise Agreement, Section 9.5.)

Unless approved by us, you may not advertise, promote or make any media statements about any Third-Party Delivery Provider. (Franchise Agreement, Section 1.6)

#### System Development Fund

You must contribute the System Development Fee that we specify to the System Development Fund. Either we, or our designated parent or Affiliate will operate the System Development Fund

and collect the System Fund Fees: Currently, Hoots System Development Fund, LLC does so. We reserve the right to increase the System Development Fee upon 90 days written notice to you; however, we may not increase your System Development Fee by more than 1.0% in any consecutive 12-month period. During the initial term of your Franchise Agreement, you will not be required to pay a System Development Fee of more than 4% of your Gross Sales. (Franchise Agreement, Section 4.6.) During the initial term of your Franchise Agreement, we cannot require you to spend more than a total of 5.5% of your annual Gross Sales for the System Development Fee, Minimum Local Advertising Expenditure and/or the Local Advertising Cooperative contribution, if any. (Franchise Agreement, Section 4.4.)

If we or our designee have not begun collecting the System Development Fee as of the date on which your hoots® wings restaurant opens for business, then you must spend the amount that we otherwise would require you to pay as a System Development Fee on local advertising and promotion for your hoots® wings restaurant, meaning that until we require you to pay the System Development Fee, your Minimum Local Advertising Expenditure and Local Advertising Cooperative contribution (if any) will be 5.5% of the Gross Sales of your hoots® wings restaurant. (Franchise Agreement, Section 4.4.) As of the date of this Disclosure Document, we have begun collecting System Development Fees. Also, we or our designees may, in our sole discretion, deposit rebates and similar fees we receive into the System Development Fund.

hoots® wings restaurant franchisees, as well as company-owned hoots® wings restaurants, generally contribute at the same rate to the System Development Fund. However, we reserve the right to impose a different rate upon: (1) Hooters, Inc., in connection with its operation of Licensed HI Hoots, (2) hoots® wings restaurants operating in certain captive locations such as airports, casinos, stadiums, concert venues, and similar locations, and (3) non-traditional hoots® wings restaurants such as ghost kitchens, dark kitchens, cloud kitchens, execution kitchens, preparation kitchens, host kitchens, container kitchens, concession trailers, food trucks and similar restaurant concepts.

We or our designee will maintain and administer the System Development Fund as follows:

1. We or our designee will direct all advertising and promotional programs and have sole discretion over the creative concepts, contents, endorsements, materials, media used, placement, and allocation of these programs. We will use the System Development Fund in our sole discretion to: maximize general public recognition of the Hoots System and the Marks; pay the costs of preparing audio and written advertising and marketing materials; engaging in research and development; administering regional and multi-regional advertising programs; purchasing e-commerce rights, products or services, direct mail and other media advertising; pageant and other promotional events; sports sponsorships; maintaining or paying third parties to maintain on-line ordering and fulfillment systems and advertising or promotional related software and services; supporting public relations and market research; establishing, developing, maintaining, modifying, servicing or hosting Websites, text messaging advertising, call centers or other e-commerce or communication programs or services, paying the costs of enforcement of collections of the System Development Fee; paying salaries, benefits and other general and administrative expenses associated with operating and maintaining the System Development Fund, and engaging in other advertising, promotion and marketing development and placement activities we designate or approve in our sole discretion. The System Development Fund may, at our or out designees' option, use an in-house advertising department or any local, national or regional advertising agency we choose. We or our designee will undertake no obligation, in administering the System Development Fund, to make expenditures for you that are equivalent to your contribution or to ensure that any you benefit directly or *pro rata* from the System



Development Fund's expenditures. We or our designee may use a number of our affiliated companies to facilitate the advertising and promotional programs the System Development Fund purchases.

2. We or our designee will use all System Development Fees, and any earnings from it, exclusively to meet the costs of maintaining, administering, researching, directing, executing, and preparing advertising and promotional activities, including sponsorships and other activities we designate of the System Development Fund.

3. We or our designee will maintain all System Development Fees in an account separate from our other monies. We or our designee will not use them to defray any of our expenses, except for general and administrative costs and overhead we incur in activities related to the administration or direction of the System Development Fund and advertising programs for our franchisees or for a possible in-house advertising agency as described above. We or our designee will prepare an annual statement of monies collected and costs incurred by the System Development Fund and furnish the statement to you upon written request, not less than once per year. However, the System Development Fund is not audited. Any audit of the System Development Fund is at our or our designee's sole discretion and will be at the expense of the franchisee requesting the audit. We have no obligation to provide an audit of the System Development Fund. (Franchise Agreement, Section 11.3.)

4. We or our designee may spend all System Development Fees, and any earnings from it, on advertising and promotional activities during the year that we receive the contributions and earnings. However, if excess amounts remain in the System Development Fund at the end of the particular year, we or our designee will make all expenditures in the following year first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from new System Development Fees. In administering the System Development Fund, we or our designee reserve the right for the System Development Fund to borrow from us or our affiliates or other lenders to cover deficits of the System Development Fund. We may apply your System Development Fees, in our discretion, to any obligation you owe us or our affiliate, including obligations like royalties, purchases, and interest. (Franchise Agreement, Section 11.3.)

5. The System Development Fund will not be our asset or the asset of any affiliate or designee of ours. (Franchise Agreement, Section 11.3.)

6. We retain the right to terminate or cause our designee to terminate) the System Development Fund, provided we or our designee have expended all monies in the fund for advertising and promotional purposes or have returned them to contributors on the basis of their respective contributions. (Franchise Agreement, Section 11.3.)

7. The System Development Fund will not create a trust or fiduciary relationship between us or between you and our designee. (Franchise Agreement, Section 11.3.)

8. We or our designee will not use funds from the System Development Fund to directly solicit franchise sales, but franchise sales solicitation may be an indirect result of its activities.

During the fiscal year ending December 31, 2020, the System Development Fund was not operational, and so there were no expenditures from the System Development Fund were used in the following manner:

Reimbursement Expense/Other (we reimburse franchisees for certain expenses we approve)	%
Production	0%
Media Placement	0%
Advertisement Expense	0%
Other	0%

However, in 2020 Hooters Inc. paid monies to HILP similar to System Fund Fees. Those were included in the Hooters franchise system’s equivalent of the System Development Fund. In the future, we expect those monies to be contributed to the Hoots System Development Fund. We may require you to honor rebates, giveaways, discounts, incentives and promotions in accordance with reasonable marketing programs, loyalty programs or customer survey/research programs that we establish from time to time. You must honor rebates, giveaways, discounts, incentives and promotions that are issued by other franchisees. We may also require you to participate in cooperative advertising programs with particular suppliers or approved sources of goods.

Advertising Councils.

There currently are no franchisee advertising councils that advise us on advertising policies. In our discretion, we reserve the right to establish an advisory council of franchisees that does advise us on advertising policies and other matters.

Local Advertising Cooperatives (“LACs”)

We currently do not have any LACs and as a result, we have no LACs over which any company-owned hoots® wings restaurants control the voting power. If we designate a LAC, we can, upon 90 days’ notice, require that some or all of your Minimum Local Advertising Expenditure be contributed instead to the LAC. We and each franchisee in a given LAC will have one vote per Restaurant in that LAC’s designated area. Currently, LAC Contributions may be up to 3% of Gross Sales, unless 50% or more of the members of the LAC vote to increase the LAC Contribution to an amount greater than 3% of Gross Sales. In any event (including if we have voting control of a LAC), the minimum LAC Contribution that may be imposed is 0% of Gross Sales, and the maximum LAC Contribution is an amount that, together with the Minimum Local Advertising Expenditure and System Development Fee, is not greater than 5.5% of Gross Sales in the aggregate. Our or our affiliates’ outlets, if any, will participate on an equal basis, and will contribute on an equal basis.

We expect that if a LAC is formed, it will be operated and administered by LAC members or a hired advertising agency. We may require the LAC to operate under written governing documents, subject to our approval. As no LACs currently exist, no governing documents are available for review. We have the right to require the LAC to be formed, changed or dissolved. We may require LACs to prepare annual or periodic financial statements, and we will permit you access to the payment and expenditure records of any LAC to which you contribute. We

do not have a defined area for the LAC. The size of the defined area of any LAC may vary based on industry standards for the media selected.

### Technology and Business Management System

You must purchase and use a computer system, software and information technology/communications system that meets our System Standards (the “**Technology System**”). The Technology System must be capable of integrating with our Business Management System described in more detail in the Franchise Agreement. You must upgrade or update your computer hardware and software programs during the term of the Franchise Agreement as required by us.

A general description of the technology components of the Technology System is:

- Point-of-Sale system (“POS”). The current standard is NCR’s Aloha for Quick Service POS system and is purchased through an NCR, HOOTS® Enterprise Agreement.
- NCR Back Office (“NBO”) for inventory and Labor management.
- Aloha Insights for store reporting.
- OIO Online Ordering.
- Designated Delivery Service Providers.
- EMV, Chip and Pin card readers and secure payment processing through NCR Payment Services.
- Managers Work station running Windows 10 or higher.
- Network Switches and Firewalls with automatic broadband failover and failback.
- VoIP phone services through Bullseye Communications.
- Cisco Miraki WiFi and security.
- High Speed internet with a minimum of 25.0M x 10.0M broadband speeds.
- NCR Network Security Services (NSS) Elite—security, PCI compliance services, broadband failover and Business Wi-Fi System designed by us.
- Digital Menu Boards
- Punchh App
- SOS Training Management System

There are other various components of the Technology System that will be described in our Manuals or training.

The estimated one-time cost for the POS for hoots® wings restaurants is \$17,000 - \$21,000. Year one (1) hardware maintenance for business-critical hardware components is estimated to be between \$100 and \$200. Year two (2)+ hardware maintenance for business critical hardware components is estimated to be between \$500 and \$1000. You will also have to pay a monthly software subscription cost between \$345 and \$450 for the POS system that includes software licensing, maintenance, software upgrades, and Help Desk support. And, before your POS is set up, we collect from you and pay to NCR/Aloha the White Glove Service Fee of \$1,750.

The POS for hoots® wings restaurants may include a POS kiosk that will cost between \$3,000 - \$10,000 to acquire and an estimated \$1,200 to \$1,500 annually to upgrade, maintain and support.

Currently, we require you to obtain the POS from NCR Corporation but may at any time designate a different or alternative supplier.

Currently NCR is the approved provider of credit card payment services through its NCR payment Services platform. The NCR Deployment team is the current approved provider for assisting you with your store and business credit card processing setup and your backend card reconciliation process. . You will be required to switch your then current credit card payment services to NCR Payment Services within 90 days of the general release of this system. Transaction processing cost are currently planned to be equal to or better than our then current negotiated rates.

We will require you to subscribe to our online ordering system, currently provided by OIO and management by us. OIO is directly integrated to Aloha POS for pickup and delivery of customer orders. Currently, there is a one-time activation fee of \$100 and an estimated monthly service fee and order transaction cost that will range between \$95 and \$170. You must pay to OIO these fees and any then current fees for OIO.

You are also required to participate in OIO Dispatch and Rails for delivery services. OIO Dispatch fees are currently set to \$0.50 per transaction: These fees are paid to OIO. Currently, there is no additional fee for the OIO Rails function. You may be required to fund a customer delivery service as defined by our marketing initiatives to the provider we designate or approve.

You must sign up for and participate in our designated third party delivery services and any phone app we designate for on line ordering and other services. Currently Punchh is the approved supplier of and you must sign up for its Punchh Loyalty & Ordering App. Currently you pay to Punchh \$100 to \$117 per month and a set up fee of \$75.00. Other designated and approved delivery services currently include Door Dash, Grubhub, Postmates and Uber Eats. You pay them their then current fees which vary and are currently 17% to 20% of total delivery sales.

You may be required to install Digital Menu Boards that are integrated with the Aloha POS system and purchased through NCR -Texas Digital Systems. The initial cost is estimated to be between \$7,400 for a three-menu board display system and \$9,400 for a four-menu board display system. Ongoing hardware and software maintenance is estimated to be \$1,400 per year for a three-menu board display system and \$1,900 per year for a four-menu board system.

We currently require you to use the NCR Back Office System (NBO), which provides inventory, prep, food cost, labor, and scheduling management. You will be required to use our chart of accounts, inventory costing methods, employee job codes, and labor rules. Currently, the cost for NBO inventory and labor management is included in the Aloha POS software subscription monthly cost.

Additionally, you will pay our current Technology Fee, which is an addition to the above fees and is currently \$400 per month (\$4800 per year).

You must purchase or license any applications or other software we designate from time to time, including any for the software described above (“**Software and Apps**”). You are responsible for purchasing or leasing the computer and other technology hardware necessary to operate the Software and Apps as intended, as well as all other aspects of the Technology System and Business Management System, or as directed by the Software or Apps provider. You must enter into the then current software license agreements approved by us with these Approved Suppliers for the Software or Apps required by us for your hoots® wings restaurant. You will be responsible for paying us, Approved Suppliers and/or vendors the then current licensing or other fees, costs and expenses incurred to acquire, install and implement the Technology System and any updates to the Technology System we may require. The form of agreements for certain mandatory Software and Apps are attached as Exhibit L.

The POS data will be integrated to our central office. Visibility to sales, cost of sales, and other operating metrics will be provided to us through web-based decision support and analysis tools. Your sales and other information will be automatically obtained by for the prior business day, or in real time.

We retain the right to make changes to the technology components, Software Apps and System Standards relating to any aspect of the Technology System, Business Management System or any related equipment or service at any time.

We may access the information system and retrieve, analyze, download and use all software, data and files stored or used on the information system. We may access the information system through our intranet, in your hoots® wings restaurant, or from other locations. You must store all data and information that we designate and report data and information in the manner we specify, including through our intranet, file exports, or other online communications or services. You must at all times be compliant with the applicable and then-current Payment Card Industry (PCI) standards and requirements. You must also maintain a high-speed broadband internet connection, at our current, minimum bandwidth specification, and a cellular backup that is dedicated to uninterrupted POS system and credit card processing and for the sole use of allowing the exchange of information between you, us, and any third-party vendors that are required to maintain the systems. As technology is frequently changing, you may need to purchase other software and/or services designated by us for this to occur. You must also have your hoots® wings restaurant connected to the internet using a connection method we approve, currently cable or other high-speed broadband services and maintain a phone line. You must maintain and share with us one or more permanent internet email account in the manner we designate. All data storage, phone line, internet service, any hosting services, communication software, internet email account and all additional hardware and software needed to implement and maintain these systems and services is at your cost.

You will, upon written notice from us, update the Technology System to the standards and specifications set forth in the Manuals or otherwise in writing by us.

As part of the Technology System, we will establish the standards and specifications of your management's office, telecommunications and computer equipment (the "**Computer System**"). We require that your Computer System integrate with our Business Management System and include a laptop computer, smartphone, printer, database, router, business management software and marketing software that meet our current specifications. There is no contractual limitation on the frequency or cost of this obligation, although we estimate that expenditures for Computer System upgrades or updates and Software and App upgrades or updates will generally not exceed \$2,000 each year. We currently require you to provide us continuous uninterrupted "24/7" independent access to your Computer System to monitor your social media, sales, receivables and other financial and operational data we designate. There is no contractual limitation on our right to independently access these records.

You may choose to establish a contractual relationship with a third-party supplier to provide ongoing maintenance, repairs, upgrades or updates to your Computer System, other than the POS System and other components of the Technology System, at an estimated annual cost of \$1,000 to \$3,000 per year. Your Computer System will perform word processing, accounting, record keeping, scheduling, Internet access and e-mail functions for your hoots® wings restaurant. Telecommunications equipment, computer hardware and peripherals, maintenance agreements, and computer software and operating systems are all available through commercial office and telecommunications equipment, and computer hardware and software

vendors. We will have independent access to your Computer System. We will have remote access to the information and data collected and generated by your Computer System.

As part of the Computer System, we will require you to, or recommend that you (as specified), purchase, install and implement the following information technology hardware, software and/or processes: We require that all franchisees maintain Payment Card Industry Data Security Standard (“**DSS**”) compliance as required. The process(es) in place for the franchisee to accept payment will determine the necessary level of reporting per the DSS. You are required to comply with the reporting requirements including the Self-Assessment Questionnaires (“**SAQ**”). Our current System Standards require that on an annual basis, you must provide us with an attestation of compliance certifying to us that you maintain your operations with the necessary level of PCI compliance. This will serve to communicate to us that you are performing due diligence in protecting cardholder data (“**CHD**”), which serves to protect the business and reputation of both you and us. In addition, we may require, and have you verify that all necessary specific testing is taking place and being performed by an approved third-party vendor. We also expect you to obtain an “uninterruptable power supply” (UPS) to power all networking hardware. This will ensure that power spikes or blackouts do not damage network equipment and cause the hoots® wings restaurant network to fail. We also suggest you obtain a “power distribution unit” (PDU) used for ensuring clean and properly distributed electrical power is used by the networking equipment. A lockable, wall mounted enclosure may be required to secure networking equipment (due to PCI regulations), and to prevent accidental damage from occurring to the equipment. Since your customers will wish to use Wi-Fi and because you will need Wi-Fi to access specific business applications, to ensure optimal wireless internet coverage, we require you to have a wireless access point. Your hoots® wings restaurant must utilize high-speed internet connectivity and a backup or failover internet service in case of primary internet outages. Depending on your hoots® wings restaurant’s size, additional wireless access points may need to be added throughout to ensure full coverage. The wireless access point being centrally located in the hoots® wings restaurant facilitates use of the POS system, as well as other wireless connected devices in the hoots® wings restaurant. Currently, the NSS Elite security services cost included the cost of your WiFi hardware and service.

We have the right to require you to provide us with real time “24/7” independent access to the data in your Technology System. If we exercise our contractual right to access this data, we will be able to audit the data to verify your Gross Sales and other elements of your compliance with the Franchise Agreement. Currently we require that on a daily basis we electronically transfer your sales and product mix data of all items you sell from your Aloha/NCR Enterprise System of our computer system and we will have unrestricted access to that data. You will be required to sign and NCR data transfer for or any other form we designate to give NCR or our designee permission to share your data with us. A copy of that form is attached as an addendum to the Disclosure Document (part of Exhibit X). On our request, you must report to us, in a form we approve, on a daily or other basis, a listing of the product mix of all items you sell. You must provide us with direct polling access to your POS System to allow us to review transactions in real time.

If you are an existing Hooters Restaurant Franchisee, we and our affiliate may require your existing Hooters Restaurant to change its POS System to an enterprise license from Aloha/NCR or another supplier we designate (and to make other changes to comply with our affiliate’s System Standards like an interim software solution) as a condition of our agreeing to grant you the right to obtain the hoots® wings restaurant franchise, and our affiliate approving your doing so.

### Internet Website

We have established and maintain an Internet website at the uniform resource locator (currently, [www.hootswings.com](http://www.hootswings.com)) that provides information about the System and hoots® wings restaurants (the “**Website**”). We may enhance our Website to include a series of interior pages that identify hoots® wings restaurants by address, telephone number, and owners. We may (but are not required to) include at the Website an interior page containing additional information about your hoots® wings restaurant. If we include your information on the Website, we have the right to require you to prepare all or a portion of the page, at your expense, using a template that we provide. All information is subject to our approval before posting. (Franchise Agreement- Section 9.5)

We will have sole discretion and control over the Website’s design and content. We have the sole right to approve any linking to, or other use of, the Website or other electronic media presence. We have no obligation to maintain the Website indefinitely but may discontinue it at any time without liability to you. Furthermore, as we have no control over the stability or maintenance of the Internet generally, we are not responsible for damage or loss caused by errors of the Internet. (Franchise Agreement- Section 9.5)

We also may establish and maintain one or more social media sites (e.g., [www.twitter.com](http://www.twitter.com); [www.facebook.com](http://www.facebook.com); [www.instagram.com](http://www.instagram.com); [www.pinterest.com](http://www.pinterest.com), or such other social media sites). You may not establish or maintain any website, virtual store in online games, webpage, social media sites, App sites, VPNs, or other electronic media presence or similar communications mechanisms, utilizing any usernames, or otherwise associated with the Marks or Copyrights, without our advance written consent, while we may grant or disapprove based on our sole discretion. We may designate from time to time regional or territory-specific usernames/handles that you must maintain. You must adhere to the social media policies that we establish from time to time and must require your employees to do so as well. Use of social media, including any pictures that may be posted on, using or through one or more social media sites, must be in compliance with our Manuals and System Standards, including our take-down policies. You are responsible for ensuring that all of your managers, trainers, sales associates and owners comply with our social media policies. (Franchise Agreement- Section 9.5)

You and your employees will not be allowed to establish or operate any website for your hoots® wings restaurant or establish or participate in any HOOTS® related blog or other discussion forum without our prior written consent. (Franchise Agreement- Section 9.5)

### Tables of Contents of Confidential Operations Manuals

The table of contents for our 287-page Manual is attached in Exhibit S.

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Training

Our initial training for hoots® wings restaurants consists of 15 days of training for up to 3 persons. At least one of your owners and your general manager must complete initial training to our satisfaction. Initial training must be completed before opening, and for your Operating Principal and General Manager, it must be completed within 90 days of the naming of the Operating Principal and General Manager. Initial training takes place at a location we designate, which may be our headquarters in Atlanta, GA or at another location we designate (or partially at both). You and your trainees must successfully complete the initial training to our sole satisfaction.

The following table summarizes our initial training program as of the date of this Disclosure Document (Franchise Agreement, Sections 3 and 5.6). See “Explanatory Notes” following the table for additional information about our training.

INITIAL MANAGEMENT TRAINING PROGRAM

GMIT In Atlanta In Store Experience				
Subject	Hours of Classroom Training	Hours of In Store Experience	Hours of Online	Total
GMIT Week 1 Kitchen Focus Sauce & Expo Breeding & Fryer Make & Oven Prep & Pull Thaw Safety & Sanitation Culture Focus Opening & Closing Routines	4	34	2	40
GMIT Week 2 Kitchen Focus Food Oding Beer Ordering Sales Forecasting Inventory & Variance Receiving & Storage Cashier Focus Cash Handling Expo for Cashier POS Training Guest Experience Opening & Closing Routines	4	34	2	40



GMIT In Atlanta In Store Experience				
Subject	Hours of Classroom Training	Hours of In Store Experience	Hours of Online	Total
GMIT Week 3 Cashier Focus FTG Training Dining Room & Patio Mgmt Managerial Focus NBO Back Office Figure 8 Management Opening & Closing Routines	2	36	2	40
GMIT Week 4 Managerial Focus BSA Audit P.A.S.S. Audit Perform R&M Food Cost Theoretical Analyze P&L Opening & Closing Routines	2	36	2	40
<b>Total</b>	<b>12</b>	<b>140</b>	<b>8</b>	<b>160</b>

Franchise Owner Corporate Onboarding Experience				
Subject	Hours of Classroom Training	Hours of In Store Experience	Hours of Online	Total
the hoots way executive welcome	1			1
Vision with CEO	1			1
The hoots way culture & guest experience	2			2
Finance	2			2
IT	2			2
Marketing	2			2
FTG Platform	1			1
Supply Chain	1			1
Store Visits		2		2
L&D/HR	2			2
Legal/Risk	1			1
Development/Facilities	1			1
Round Table Discussions	2			2
Knowledge Checks & Acknowledgements			1	1
eLearning Modules			7	7

Franchise Owner Corporate Onboarding Experience				
Subject	Hours of Classroom Training	Hours of In Store Experience	Hours of Online	Total
Total	18	2	8	28

Explanatory Notes:

1. All training we offer, other than initial training, is offered on an as-needed basis. One or more of your personnel may already have significant experience in restaurant operations. If your personnel already have this experience, we may, in our sole discretion, modify our standard training to meet your particular needs. You should discuss this with us. We plan to be flexible in scheduling training to accommodate our and your personnel.

2. The materials we use for training will vary with the type of training. The materials may include handouts, Power Point presentations, videos, and other media; and in-person training and coaching.

3. Cheryl Kish supervises franchisee training. Cheryl has 10 years of operational training as a General Manager and Training General Manager and over 20 years of training experience Vice President of Human Resources & Training as well as a learning and development consultant. Ms. Kish has been Senior Vice President Organizational Development and Effectiveness since October 2019. In addition to Ms. Kish, Training is conducted by Rebecca Moore, Gina Elliott and Anna McCormick. Ms. Moore has 3 years of operational training as an hourly manager and 1 year of training experience as a Learning & Development Specialist (and 7+ years supporting NSOs as a Trainer and Operations Training Coordinator). She has been with us as NSO and Training Specialist since April 2019. Ms. Elliott has 7+ years of operational training an Assistant Manager and 2+ years of training experience as a Sr. Director, Learning & Development. She has been with us in that position since September 2018. Anna McCormick has 5+ years as a Director of Training and 6+ years in operational training as a General Manager.

Other training instructors include operations and corporate representatives who conduct training in their area of expertise. The length of experience of these instructors with us (or our affiliates) will vary from less than one year to over 20 years. We may change or rotate instructors to meet the particular needs of training participants or as our scheduling and operational needs require.

4. You are responsible for all travel and living costs and expenses related to your attendees' attendance at any of our training programs, as well as your attendees' salaries and benefit costs. If we provide training at your hoots® wings restaurant, you must pay us the expenses of our trainers. These expenses include travel expenses, visa fees (where applicable), per diem, and lodging expenses. Currently, travel within 250 miles of a Restaurant is by automobile, and drivers are paid \$0.535 per mile, and travel farther than 250 miles is by commercial airline with tickets at the class level we choose, subject to availability (air travel is booked by us). The Per Diem can be up to \$60.00 per day, and is based on location and conversion rates, unless we approve some other amount in advance. You may negotiate lodging rates locally; however, you must provide/suggest lodging that is safe, secure, clean, and close to the Restaurant, with prior approval from us. If we determine that the lodging you have chosen/suggested is unsuitable, we have the right to choose our own lodging or, if after check in,

move our trainers to a different facility at your expense. We may change the rates shown above at our discretion, on notice to you. We will provide you with invoices for amounts you owe us. We may require you to pre-pay all or a portion of the amounts we expect to incur. You must pay all amounts so that we receive the payment by the end of 30 days after we send you the invoice.

Except as otherwise mentioned in Item 11 and in the Franchise Agreement, you must pay us the expenses of our trainers. These expenses include travel expenses, business VISAs (where required), per diem, and lodging expenses. Currently, we calculate reimbursement based on the following assumptions: travel within 250 miles of a Restaurant is by automobile, and drivers are paid \$0.575 per mile or the prevailing rate established by U.S. tax guidelines; travel farther than 250 miles is by commercial airline with tickets at the class level we choose, subject to availability (air travel is booked by us); and Per Diem is currently up to \$60.00 (or equivalent) per day, and is based on location, unless we approve some other amount in advance. We choose the lodging based on proximity, availability, safety, cleanliness, and location in a business class or better. We may change the rates shown above at our sole discretion, on notice to you. We will provide you with invoices for amounts you owe us. We may require you to pre-pay all or a portion of the amounts we expect to incur. You must pay all amounts so that we receive the payment by the end of 30 days after we send you the final cost sheet.

5. Upon your request, but at our sole discretion or at our direction, we may provide or require you or your employees to attend additional training programs and refresher courses (at your expense) as we consider necessary. All additional training programs and refresher courses will take place at our headquarters, at a company-owned or certified franchised Restaurant, at your hoots® wings restaurant, or in a region we designate, or at some other location we designate. A franchisee training request should be submitted, in writing, at least 5 weeks prior to the desired additional training.

In the prior fiscal year 0 (0%) hoots® wings restaurant franchisees opted for any optional or additional training provided by us.

## ITEM 12

### TERRITORY

#### hoots® wings restaurants.

##### Site and Protected Market Area

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands we control.

**Site.** The franchise is granted for a specific location that first must be approved by us (the “Site”). If your Site is not approved by us when you sign the Franchise Agreement, you must locate a suitable Site and obtain our approval of the Site in which it must be located.

**Site Selection Area.** The Site you select must be located within the “Site Selection Area” designated by us. Site Selection Areas are generally chosen as one or more zip codes. If you and we have not agreed on a Site Selection Area when you sign the Franchise Agreement, we will provide you up to 30 days following the Development Commencement Date to obtain our approval of a proposed Site Selection Area (the Franchise Agreement will indicate the state or other general area in which it will be located). If you and we cannot agree on the Site Selection Area within those 30 days, we in our sole discretion, can either in our sole discretion designate it (and specify it in Exhibit A to the Franchise Agreement) or, terminate the Franchise Agreement. If we terminate the Franchise Agreement, we do not provide any refunds of fees or monies paid.

**Protected Market Area.** We will also designate a geographic area as your “Protected Market Area”. If your Protected Market Area is not designated when you sign the Franchise Agreement, we will designate it in our sole discretion within 10 days of our approval of your Site. As long as you are in compliance with the Franchise Agreement, we will not grant a franchise for, nor ourselves operate, a hoots® wings restaurant from a fixed location within your Protected Market Area. Other than your right to operate a hoots® wings restaurant at the Site and to offer and sell the Products and Services for take-out and Delivery within the Protected Market Area, we do not grant you any territorial rights whatsoever (unless you participate in the Development Program). Unless otherwise negotiated, Protected Market Areas are the geographic areas we designate in our sole discretion. There are or may be no particular or consistent shapes or sizes of the Protected Market Areas. Protected Market Areas are not uniform among franchisees, are irregularly shaped, and determined by us by our using various mapping software, like Google maps along with US Census data and other demographic data we chose. We do not represent or guarantee that any Protected Market Area will have any minimum number or persons residing or working in it.

Factors that influence our grant of Protected Market Areas include the overall density of both residential and daytime population proximity of the Site to the malls, shopping centers, business parks, industrial parks, airports, traffic count, speed of traffic, consumer patterns, access to the Site, and competition in the Protected Market Areas. We have no obligation whatsoever to provide you a Protected Market Area with a certain minimum number of people.

Your Protected Market Area will also depend on or vary if your hoots® wings restaurant is located within an urban or non-urban location or on what we consider to be a high foot or vehicle traffic corridor (as those terms are defined by us in our sole discretion). If your hoots® wings restaurant is in an urban location or on a high traffic corridor (as determined by us), you may not be granted

any Protected Market Area, or may be granted a Protected Market Area of far more limited geographic scope. As long as you are in compliance with the Franchise Agreement, except as otherwise described below, we will not operate a hoots® wings restaurant within your Protected Market Area, and we will not authorize anyone else to do so. The Protected Market Area does not grant you any territorial rights relating to Hooters® Restaurants, and Hooters® Restaurants owned by us, our franchisees or you may operate and be located in your Protected Market Area.

In our sole discretion, we may choose not to grant any Protected Market Area to a hoots® wings restaurant.

You may face competition from other franchisees outside your Protected Market Area, and from hoots® wings restaurants we operate outside your Protected Market Area. If we or our affiliates have competitive brands, you may face competition from these other brands inside or outside your Protected Market Area; certain of our affiliates may own, establish, and/or operate and license others to establish and operate restaurants using the “Hooters®” mark inside the Protected Market Area. We reserve the right to own and operate, and license others to own and operate, hoots® wings restaurants at the Reserved Facilities in your Protected Market Area. The term “**Reserved Facilities**” refers to airports; hotels; department stores; supermarkets; cultural institutions (examples include theaters, museums, art centers and educational facilities); casinos; military bases; sports and entertainment venues and stadiums; and business and industrial complexes and offices at which the food services are managed by service providers with national or international operations. We and other parties have the right to distribute products using the Proprietary Marks, and using marks different from the Proprietary Marks, through other channels, including grocery stores, retail stores, the Internet, and other channels of distribution (including delivery services), inside or outside your Protected Market Area. We have the right to own and operate, or license others to own and operate, hoots® wings restaurants located in your Protected Market Area that we or an affiliate purchases, or as to which we or an affiliate purchases the rights as a brand owner, as part of another chain with locations both within and without the Protected Market Area, and that are converted to operate as hoots® wings restaurants. You will not receive payment of any compensation from any of this competition.

### **Delivery Services**

You must provide delivery services to end user customers through Third-Party Delivery Providers or any other delivery methods as we periodically prescribe in writing.

You will not receive any protected delivery area around your hoots® wings restaurant for engaging in delivery of the Products and Services (“**Delivery Activities**”). We and our affiliates may provide, and/or allow our or their franchisees and third parties to provide, delivery services to customers located in your Protected Market Area (and elsewhere) without any restrictions whatsoever. We will establish from time to time System Standards that may require you to concentrate your Delivery Activities within your Protected Market Area, or some other geographic area we designate or approve from time to time “**Your Delivery Area**”. We have the right, in our sole discretion to prohibit you from engaging in delivery services or for using Third Party Delivery Services to deliver the Products and Services outside of Your Delivery Area. Our System Standards may require you to direct customers for Delivery Services outside of your Delivery Area to other hoots® wings restaurants or decline to sell the Products and Services to them. Our System Standards as the relate to third party delivery services may permit them to direct and allocate Delivery Services customers among delivery service areas they or we may designate. Because of the evolving nature of the food to go/ delivery service sector, these System Standards for Delivery Activities may change and evolve at any time and in our sole discretion. We will not

be liable for any reduction in your sales as a result of these delivery activities or our System Standards for engaging in delivery activities.

### **Relocation**

You may not relocate your hoots® wings restaurant without our prior written consent. We have a relocation policy that requires you to (i) pay a \$5,000 fee and (ii) open your relocated restaurant within 6 months of closing your hoots® wings restaurant. We have not established a set of conditions or criteria under which we evaluate relocation requests. Provided that a franchisee is in compliance with its franchise agreement(s), we evaluate relocation requests based on our judgment about the franchisee's need to relocate and the best interests of the Hoots System. Although we may assist you in selecting a replacement location, and although we must accept the location before you begin construction or renovation of any Restaurant, you are solely responsible for selecting the replacement location and negotiating the lease or purchase terms. You are also responsible for construction or renovation of the Restaurant and for ensuring that it is constructed consistent with the site plan we approve and other plans and specifications we designate.

Individual single unit hoots® wings restaurants do not receive any option rights, rights of first refusal or other similar rights to acquire additional franchises.

### **Multi-Unit Program**

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands we control.

Except as described in the Multi-Unit Program, you do not receive any rights of first refusal, options, rights to acquire additional franchises or territory or other expansion rights or similar rights by signing the Franchise Agreement. Your rights under the Multi-Unit Program, unless modified by a Multi-Unit Addendum or Area Development Agreement, are the same as provided under each Franchise Agreement you sign.

If you participate in the Multi-Unit Program by signing a Multi-Unit Addendum, we require you to sign each Franchise Agreement under the Multi-Unit Addendum at the same time you sign the Multi-Unit Addendum. Otherwise, under the Area Development Agreement, you must sign the first franchise agreement when you sign the Area Development Agreement and the rest on or before the dates given in the Area Development Schedule (as described below). If you sign a Multi-Unit Addendum or Area Development Agreement with us, we will grant you a geographic area that will be in the configuration we choose in our sole discretion in which you may develop additional hoots® wings restaurants. We refer to this geographic area as your "**Development Area**." Examples of Development Areas include areas that consist of counties, zip codes, DMAs or areas surrounding specific intersections. You and we will agree on the boundaries of the Development Area before you sign the Multi-Unit Addendum or Area Development Agreement. Under the Multi-Unit Addendum or Area Development Agreement, we will not, during the term of the Multi Unit Addendum or Area Development Agreement, develop a hoots® wings restaurant in your Development Area as long as you meet your Development Schedule and while your Multi-Unit Addendum or Area Development Agreement remains in effect, and if so we will not authorize anyone else to do so, subject to captive audience exclusions and Alternative Channels of Distribution. We will have the right to approve Site Selection Area for each Site as well as each Site within the Development Area.

Your development of additional Restaurants in the Development Area will proceed according to your **“Development Schedule.”** The Development Schedule will be attached to or part of the Multi-Unit Addendum and Area Development Agreement when you sign either of them. If you fail to meet the Development Schedule, we can terminate the Multi-Unit Addendum or Area Development Agreement and your rights under it or, at our option, eliminate or terminate protections to your Development Area.

The Multi-Unit Addendum or Area Development Agreement expires, and your rights to the Development Area end, at the earlier of: (i) the termination of the Multi-Unit Addendum or Area Development Agreement due to your noncompliance with the Development Schedule; or (ii) the opening of the last hoots® wings restaurant you are required to develop under the Multi-Unit Addendum or Area Development Agreement. You will sign a Franchise Agreement for each hoots® wings restaurant to be developed under the Multi-Unit Addendum. For each hoots® wings restaurant, you will may receive a Protected Market Area, as described above. Except for the rights provided in the Multi-Unit Addendum or Area Development Agreement, you have no options, right of first refusal, or similar rights to acquire additional franchises or to establish additional hoots® wings restaurants.

Development Areas vary for metropolitan statistical areas, groups of zip codes, or other municipal or geographic boundaries.

Your territorial protections to a Development Area will not apply to any hoots® wings restaurant (and its Protected Market Area) that have been previously granted rights, which have Sites or the right to have Sites in the Development Area, or if we or our affiliate(s) currently operate one or more hoots® wings restaurants at Sites in the Development Area (individually or collectively, **“Pre-Existing Sites”**). We may exclude from your Protected Market Area and Development Area a Protected Market Area for those Pre-Existing Sites. If there are any Pre-Existing Sites/ excluded areas in your Development Areas, we will list them on an exhibit to your Multi-Unit Addendum or Area Development Agreement upon request.

We, in our sole discretion, may exclude from any Protected Market Area or Development Area an area we may designate in our sole discretion surrounding an existing Hooters Restaurant that is owned by one of our affiliates or by a franchisee or licensee. If we do so, we will treat these Restaurants as Pre-Existing Sites and notify you of those excluded areas, as well as include those exclusions in the description of your Protected Market Area or Development Area.

Your territorial rights and exclusivity for each hoots® wings restaurant under the Development Schedule are governed by the terms of those Franchise Agreements. Other than those Franchise Agreements that you sign as part of the Development Program, you do not have any options, rights of first refusal or similar rights to acquire additional franchises. Otherwise, we do not grant you any additional options, rights of first refusal or similar rights to acquire any other franchises under the Development Program. The Development Program in a way restricts where our affiliates can franchise, license or operate Hooters® Restaurants.

### **Rights We Retain.**

Under the Franchise Agreement and Development Program, we (and our affiliates) retain the right in our sole discretion to:

A. Establish and grant to our franchisees the right to establish hoots® wings restaurant anywhere outside the Protected Market Area or Development Area, on such terms and

conditions as we deem appropriate (even immediately outside the border of the Protected Market Area);

B. Operate, and grant franchises to others to operate hoots® wings restaurants, whether inside or outside the Protected Market Area or Development Area, specializing in the sale of products or provision of services, other than a Competitive Business, using certain of the Marks or Copyrights and pursuant to such terms and conditions as we deem appropriate;

C. Operate, and grant franchises to others to operate hoots® wings restaurants or other restaurants, whether inside or outside the Protected Market Area or Development Area (i) that do not use the of Marks or Copyrights or (ii) which are located at or from Alternative Channel of Distribution Locations;

D. Market and sell, inside and outside of the Protected Market Area or Development Area, through Alternative Channels of Distribution goods and services competitive with goods and services offered by hoots® wings restaurants under the Marks, Copyrights and System or under trade names, service marks, or trademarks other than Marks, without any compensation to you and in such amounts in such manner as we determine in our sole discretion; and

E. Engage in any act or exercise any right not expressly and exclusively provided to you under your Franchise Agreement, or Area Development Agreement.

Again, the rights we and our affiliates retain, described above, do not in any way restrict our affiliates' ability to operate or grant others the right to operate Hooters® Restaurants anywhere and to provide delivery services by them anywhere.

Alternative Channels of Distribution. Alternative Channels of Distribution include the offer or sale of the Products or Services at or through locations associated activities like gambling locations, casinos or sports books, sporting events, airports, mass transit terminals, malls or office building cafeterias, at sporting even venues (Alternative Channel Of Distribution Locations) as well as any offers or sales and via the, internet, intranet, catalog sales, websites, e-mail or other forms of e-commerce) ("**Alternative Channels of Distribution**"). You will not receive compensation for sales through Alternative Channels of Distribution unless we later establish a compensation program for doing so under our System Standards.

We do not operate, franchise, or have present plans to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those you will sell, but we may do so in the future.

As described in Item 1, HOA Franchising (an affiliate) and related companies own and operate Hooters® Restaurants. You will compete with the Hooters® Restaurants that are located near your hoots® wings restaurant. Hooters Franchisors share our principal business address, and we and Hooters Franchisors do not plan to maintain physically separate offices and training facilities for each franchise system. We have no formal process in place for resolving conflicts that might arise between your hoots® wings restaurant and the Hooters Restaurants owned and operated (now and in the future) by our affiliates and related companies in terms of area of operation, customers, and franchisor support. As between you and us, we and our affiliates retain all rights with respect to the licensing, franchising, development and operation of Hooters® Restaurants, or their products, services intellectual property or the like regardless if located or operating for take-out, delivery, wholesale, retail or on line sales anywhere ("Hooters Activities"). We have sole discretion to determine what constitutes Hooters Activities as compared to the



operation of a hoots® wings restaurant, and no rights, duties, covenants, promises or obligations in the Franchise Agreement or Area Development Agreement in any way restrict Hooters Activities anywhere, or grant you any rights or protections of any kind with respect to any Hooters Activities. For planning purposes, you should also assume that we or an affiliate will form or acquire other businesses, and that we or the affiliate will expand those other businesses, inside and outside your Protected Market Area. This expansion may be through the development of company-owned or affiliate-owned businesses, or through franchising.

You may not offer or sell products through Alternative Channels of Distribution without our express permission to do so.

You may solicit and serve guests who are from inside or outside your Protected Market Area. Other than restrictions on delivery areas, there are no restrictions on you, any of our other franchisees, or us to prevent any party from soliciting or serving guests from anywhere. You may receive on-line, telephone, text or other orders from anyone located anywhere for Products and Services to be purchased at, consumed at or picked up at your location. We set rules for delivery and third-party delivery and may establish delivery areas outside or which you are not permitted to engage in delivery through your activities or via a third party.

You may advertise your hoots® wings restaurant anywhere you choose subject to our system Standards. Currently our System Standards may limit you advertising your hoots® wings restaurant by certain billboards or other advertisements in another hoots® wings restaurant's Protected Market Area or via unapproved Third Party Delivery Services and other non-Approved Suppliers

No party is obligated to pay compensation to any other party for soliciting or serving guests from the other party's Protected Market Area, including the Protected Market Area of a hoots® wings restaurant we operate. Because most solicitations will take the form of advertising in print or visual media, and because you often cannot restrict certain types of advertising to a small area, the advertisements will reach an audience outside your Protected Market Area. As a practical matter, however, in general we establish Protected Market Areas with the expectation that most guests of a hoots® wings restaurant will either live or work within the Protected Market Area surrounding the Restaurant.

We have not established any minimum sales quota and do not require any specific level of sales volume or market penetration in order for you to maintain your rights to your Protected Market Area. We will not reduce the size of your Protected Market Area or Development Area even if the population in them increases. Likewise, we will not expand their size if the population in them decreases.


Your territorial protection under the Franchise Agreement and, if applicable, the Area Development Agreement, depends on your compliance with the terms of the respective agreements, including timely satisfaction of your obligation to develop and open all hoots® wings restaurants shown in your Development Schedule. We cannot unilaterally alter your Protected Market Area or Development Area; however, if we terminate the Franchise Agreement you will lose all your rights to your Protected Market Area for the hoots® wings restaurant under that Franchise Agreement. If we terminate your Area Development Agreement, you will lose all your rights to your Development Area, except for the Protected Territories of any of your hoots® wings restaurants then open in your Development Area or for which we have approved the Site (and subject to the change of the Development Commencement Date).

**ITEM 13**

**TRADEMARKS**

We grant you a license to operate a Restaurant under the trade name “Hoots” and to use the other Marks we designate with the Hoots System. Our affiliate, HILP, owns the Marks, and licenses them to us under an IP License Agreement dated February 15, 2019 (the “**License Agreement**”), with the permission to use the Marks and to sublicense the Marks to you. We will sublicense the Marks to you, and you will use them along with the other components of the Hoots System.

The following is a list of the principal trademarks HILP owns that you may use with your Franchise, subject to your use conforming to the Franchise Agreement, the Confidential Operations Manuals, and other directives. These Marks are registered on the Principal Register of the United States Patent and Trademark Office (the “**PTO**”):

Proprietary Mark	Date Registered (R) or Filed (F)	Registration No./ Serial No
HOOTS	April 18, 2017 (R)	Registration No. 5187016
HOOTS ON THE FLY	August 30, 2019(F)	Serial No. 88099439
HOOTS WINGS	May 18, 2021 (R)	Registration No. 6352644
HOOT’S CHICKEN CHIPS	August 5, 2019 (F)	Serial No. 88566490
HOOTS’ ROOST	September 6, 2018 (F)	Serial No. 88107144
	N/A	N/A

Although we have registered most of our Marks, we do not have a federal registration for our logo trademark, above (the “Logo”). Therefore, our Logo does not have many legal benefits and rights as a federally registered trademark. If our right to use the Logo is challenged, you may have to change to an alternative trademark, which may increase your expenses.

HILP has filed all affidavits that were due as of the date of this Disclosure Document. HILP intends to file affidavits of use, affidavits of incontestability, and renewals, when due, for all of the Marks listed above; however, HILP may allow its rights to any Mark to lapse where it chooses to do so.

Our initial company-owned hoots® wings restaurants in Georgia operated using a variation of the Hoots Marks that differ from our current primary Mark, as well as “Hoots Righteous Wings”. While Licensed HI Hoots have operated using the Marks we currently use and do not use “Hoots Righteous Wings.” Prior to May 2020 we were evaluating which variation of our Marks we preferred. In May 2020, we converted to the use of the primary Marks listed above and do not license to you the “Hoots Righteous Wings” Marks.

There are no currently-effective determinations of the PTO, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, nor are there pending infringement,

opposition, or cancellation proceedings, nor any pending material litigation, involving the Marks that may be relevant to your use of the Marks in any state in which we license you to operate. The situation in countries other than the U.S. is different. Outside the U.S., the process of registering the trademarks is incomplete. We have not registered or applied to register all of the Marks described in this Item 13 in countries outside the U.S., and we are unlikely to do so.

The License Agreement gives us the right to use and sublicense the System (including the Marks, whether then existing or later created) in connection with the operation of restaurants in the United States and internationally. The License Agreement has a term of 99 years. HILP may terminate the License Agreement only on notice to us and only if we fail to fully remedy a material violation of our obligations under the License Agreement. But all Franchise Agreements signed prior to the termination of the License Agreement will not be affected and the franchisees will become direct licensees of HILP.

The License Agreement requires us to maintain the System standards with regard to menus, food products, entree formats, recipes, uniforms worn by staff, and other specifications of the System. HILP has the right to inspect proposed locations and hoots® wings restaurants. HILP has the right to determine, approve, and supervise the quality of the service, the food products and ingredients, and the method of preparation of all products sold in each hoots® wings restaurant. The License Agreement also requires us to enforce each Franchise Agreement, particularly as to matters of compliance with the System.

You must comply with all our specifications, requirements, and instructions with respect to your use of the Marks. You may use the Marks only in connection with the operation of your hoots® wings restaurant. When the Franchise Agreement ends, your license to use the Marks ceases automatically without payment of any compensation to you, and you keep no rights related to the Marks. You may not take any action to question or contest our rights to license the Marks. You may not use the Marks with the sale of any unauthorized product or service or in any other way the Franchise Agreement does not authorize or that we do not expressly approve in writing. You may not use all or any portion of the Marks as part of your company name. You must comply with our instructions in filing and maintaining the required trade name or fictitious name registrations, and you must execute any documents we believe are necessary to obtain protection for the Marks or to maintain their continued validity and enforceability. Unless approved by us, you may not grant consent for any Third-Party Delivery Provider or other third party to advertise or promote its own products or services using the Marks.

There are no agreements in effect, other than the License Agreement, that significantly limit your right to use the Marks.

We are aware of one restaurant using the name “hoots” located in West Virginia under the name Hoots Snowshoe WV Bar and Grill. As of the date of this Disclosure Document, we have not yet sent them a cease and desist letter but may do so in the future.

We know of no infringing uses that could materially affect our existing use, or your potential use, of the Marks. Our rights in international jurisdictions depend on the specific trademark laws in each country and how their agencies or courts apply those laws to the circumstances of each case. We are not obligated by the Franchise Agreement, or any other document or agreement, to protect any rights we grant you to use the Marks or to protect you against claims of infringement or unfair competition because you use the Proprietary Marks. However, we have taken and will take all steps reasonably necessary to preserve and protect the ownership and validity of the Marks when it is in our best interests to do so.

If a party threatens or commences litigation involving the Marks or System against you, you must promptly notify us. We are not obligated to take over defense of the case; however, if we do so, we will control the defense, and you must cooperate fully with us in defending or settling the litigation.

The license we grant you to use the Marks is contained in the Franchise Agreement. The License is non-exclusive, in that we and HILP retain:

1. The right to use the Marks in connection with selling products and services;
2. The right to grant other licenses for the Marks, in addition to those licenses already granted to existing franchisees;
3. The right to develop and establish other systems using the same or similar marks, or any other proprietary marks, and to grant licenses or franchises without providing any additional rights or any compensation to you;
4. The right to produce, distribute, and sell products bearing the Marks, including selling products through wholesale or retail outlets, even if the outlets are located in your Protected Market Area; however, we cannot do so through another hoots® wings restaurant in your Protected Market Area as long as you are in compliance with your Franchise Agreement; and
5. All other rights we do not grant you in the Franchise Agreement.

If a licensed Mark is no longer used for any reason, including an infringement action or our decision that the Mark no longer benefits the System, we may substitute different marks for use in identifying the System and the Restaurants. If we do so, you must make the substitution at your sole cost and expense. We will not reimburse you for any loss of revenue because of the change. We have no plans at this time to change the Hoots name.

## **ITEM 14**

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

#### **Patents**

We do not own any rights in or to any patents that are material to your Franchise.

#### **Copyrights**

We do not own any rights in or to any registered copyrights that are material to your franchise. We claim copyright protection and proprietary rights in all copyrightable aspects of the System, including our Manuals, our website, correspondence and communications with you or other franchisees relating to the System, training, advertising and promotional materials, recipes, menu boards, product descriptions and other written materials used in operating a hoots® wings restaurant.

We and HILP may copyright various training, advertising and promotional materials. Other than the License Agreement, there are no agreements in effect that significantly limit our right to use or license the Copyrights. Our right to franchise the System depends on us complying with

the terms of the License Agreement. Under the License Agreement, we are obligated to adhere to and enforce the standards of the System that HILP maintains with respect to the menus, food products, entree formats, recipes, uniforms, work by the staff, and other specifications.

There currently are no effective determinations of the Copyright Office (Library of Congress) or any court regarding any of the copyrighted materials. Other than the License Agreement, there are no agreements currently in effect that limit our right to use and/or authorize franchisees to use the copyrighted materials. There are no infringing uses actually known to us which could materially affect use of the copyrighted materials in any state. We are not required by any agreement to protect or defend copyrights or confidential information, although we intend to do so when we determine doing so is in the best interest of the System. We need not participate in your defense and/or indemnify you for damages or expenses in proceedings involving a Copyright.

### **Proprietary Information**

We have proprietary rights to the contents of our Manuals and to all other materials and information we create or use in the development and operation of the System. These items include our training materials, marketing programs, site selection criteria, plans and specifications for hoots® wings restaurants, standards, methods, procedures, newsletters, policies, strategies, expansion plans, supplier lists, supplier price lists, buying strategies, advertising strategies, and all other materials, goods, and information we create or use and designate as confidential. They also include items that one would reasonably expect to be confidential, even if we do not expressly designate them as confidential. We refer to this material as the “Confidential Information.” We claim trade secret protection in the recipes that are part of the Hoots System.

You must not, during the term of the Franchise Agreement and after the term ends, communicate, divulge, or use for the benefit of any other party any confidential information, knowledge, know-how, or techniques concerning our secret recipes or methods of operation of the Restaurant that you learned while you were our franchisee. You may divulge the Confidential Information only to your employees who need the information to operate your Franchise. All information, knowledge, know-how, and techniques that we designate as confidential will be deemed confidential, except information that you can demonstrate came to your attention before we disclosed it to you; or which, after we disclosed it to you, became a part of the public domain through publication or communication by others. You must not at any time, without our prior written consent, make available in any way any of these materials or information to any unauthorized person.

If you or your owners develop or learn of any new ideas, concepts, processes, techniques or improvements relating to the operation or promotion of your hoots® wings restaurant, you must promptly notify us and give us all necessary information about such ideas, concepts, processes, techniques or improvements, without compensation. These ideas, concepts, processes, techniques or improvements will be considered our property (or if we designate, the property or HILP) and part of the System and will be considered works made-for-hire for us. You and your owners must sign whatever documents we request to evidence our or HILP’s ownership or to assist us or HILP in securing intellectual property rights in such ideas, concepts, processes, techniques or improvements.

You, together with your principal officers and managers, must execute the Confidentiality Agreement attached to the Franchise Agreement. The Franchise Agreement does not require you to notify us of any unauthorized use of our Confidential Information, although we hope you will. We are not required to take legal action where there has been an unauthorized use of our

Confidential Information. We do not have to participate in your defense or indemnify you for damages or expenses you pay if you are a party to any judicial or administrative proceeding involving your use of our Confidential Information.

You must conduct your business in accordance with our Manuals. We will loan you one copy (or otherwise make available to you in electronic form) of the Manuals for the term of the Franchise Agreement. You must at all times treat the Manuals, any other manual, electronic media, video, podcast, webinar, e-mail announcements, and other materials created for or approved for use in the operation of your Franchise, and the information in them, as confidential, and must use your best efforts to maintain this information as secret and confidential. The Manuals will at all times remain our sole property. You must keep the Manuals in a safe place on the premises of your hoots® wings restaurant, and safeguard them electronically, as well as any password and usernames to access them, and you must keep your copy of the Manuals current and up to date. The electronic copy of the Manuals we make available to you will be deemed the most up to date version of the Manuals

## ITEM 15

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

Your attention to the daily operation of your hoots® wings restaurant is important for the success of your Franchise. As a result, you and your designated General Manager, who may be the same person, must participate personally in the management and operation of the Restaurant by devoting your and the General Manager's full time, energy, and best efforts to its operation and promotion.

Only individuals who have successfully completed our initial training program (or whom you have trained if we have certified you to train additional employees), and who have successfully completed any additional training programs we may reasonably require, may manage your hoots® wings restaurant. We do not require your supervisors to successfully complete our training program, but your General Manager must do so. We do not require your General Manager to have any equity interest in your business. If you are a business entity like a corporation, partnership or limited liability company, your General Manager must be approved by us. Your General Manager must have the authority to speak with us on your behalf and make on your behalf an agreement between us and you.

If you are a business entity like a corporation, partnership, or limited liability company, we refer to certain individuals who own any equity in you as your "**Principal Owners.**" A Principal Owner is: (i) a natural person who owns or holds any equity of you; and (ii) a natural person who owns or holds any interest in any business entity that holds any equity interest in you. If there are no such natural persons, your Principal An equity holder "owns" equity whether the ownership is direct, indirect, or beneficial. Principal Owners also include spouses of Principal Owners, unless no marital assets are used to qualify for financing to develop or operate the franchise.

If you are a business entity, your Principal Owners must sign a Principal Owners Guaranty, a form of which is attached to this Disclosure Document as Exhibit E. The Principal Owners Guaranty requires those who sign it to assure us that they will pay all monetary obligations under the Franchise Agreement and that they will fulfill all your other obligations under the Franchise Agreement. If any of the direct or indirect assets of spouses or life partners of Principal Owners, jointly owned, tenancy by the entities or individual or used by the Principal Owners to qualify

financially for the purchase of the hoots® wings restaurant(s), or they will participate in the management or operating of you or the hoots® wings restaurant(s) we may treat them as Principal Owners and require those spouses or life partners to sign the Principal Owner's Guaranty.

You, your Principal Owners, directors, shareholders, partners, members, or similar equity holders, management personnel and any employee who has access to confidential information related to your hoots® wings restaurant must sign an Individual Non-Disclosure and Non-Competition Agreement if you enter into a Franchise Agreement (a form of which is attached to this Disclosure Document as Exhibit H). Similarly, if you sign an Area Development Agreement with us, you, your owners and employees must sign an Individual Non-Disclosure and Non-Competition Agreement Area Development Agreement (a form of which is attached to this Disclosure Document as Exhibit I).

The Individual Non-Disclosure and Non-Competition Agreement prohibits you and the individuals who sign it from reproducing or distributing our confidential information. It also requires you to maintain at least the same level of security for our confidential information as you maintain for your own. After the Franchise Agreement or Area Development Agreement expires or is terminated, the confidentiality provisions of the Individual Non-Disclosure and Non-Competition Agreement will remain in force for the lesser of two years or the longest time permitted by applicable law. Confidential information about our food and beverage recipes, lists of ingredients, and preparation and serving instructions will remain secret and confidential forever. The Individual Non-Disclosure and Non-Competition Agreement also prohibits you from competing with us during the term of the Franchise Agreement or Area Development Agreement and for 2 years after the Franchise Agreement or Area Development Agreement expires or is terminated. The covenants not to compete contained in the Individual Non-Disclosure and Non-Competition Agreement prohibits employees who sign it from competing with you and us during the term of their employment and for 2 years after your employment of them ends.

We have the right to modify System Standards which may accommodate regional or local variations, and any such modifications may obligate you to invest additional capital in the hoots® wings restaurant ("**Capital Modifications**") and/or incur higher operating costs. We will give you 30 days to comply with Capital Modifications but if a Capital Modification requires an expenditure of more than \$10,000, we will give you 60 days to comply. Otherwise, there is no limit on your requirement to make Capital Modifications. Capital Modifications are in addition to costs you incur to repair, replace or refurbish your equipment and fixtures. In addition, Capital Modifications do not include expenditures you are required or choose to make to comply with applicable laws, governmental rules or regulations (e.g., ADA compliance).

## ITEM 16

### RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must offer all Products and Services we designate in our sole discretion. But, we may designate some Products and Services as optional items. If we do so, they will be specified in our Manuals as optional items. You may offer these optional items, but we do not require you to do so. We have no established criteria that you must satisfy before we permit you to offer optional items.

You must offer only the Products and Services and may not offer any product or service that we have not approved. If you desire to purchase or sell any products or services that we have not

previously approved, you must submit a written request to us for approval (see Item 8 of this Disclosure Document).

We have the right to add to, delete from, and modify our list of required, optional, and unapproved Restaurant Items or Approved Suppliers. We may approve an unapproved item and make it required or optional. We may make an optional item required or unapproved. We may make a required item optional or unapproved. We may add additional items to any category. There are no limits on our right to do so.

You must conduct the business in your hoots® wings restaurant as required in the Manuals. You may use the Restaurant premises only for the operation of a hoots® wings restaurant. You may not allow slot machines, gambling devices, electronic or manual games, pool table or juke boxes or any coin-operated vending machine, online gaming, gambling or the like to be located at the hoots® wings restaurant except as described in the Manuals or as we otherwise approve in writing.

We do not limit you in the guests to whom you may sell your products and services. You may solicit any guests, no matter who they are or where they are located; however, all sales of products or services must be at your hoots® wings restaurant unless we authorize you, in writing, to offer them at another location or via delivery in a specified delivery area.

You must provide delivery services in compliance with the Manuals and the Hoots System standards that we periodically specify, but only directly to end user customers through Third-Party Delivery Providers or any other delivery methods as we periodically prescribe in writing. You must comply with the standards for independent third-party ordering and delivery services we periodically establish, including using the food containers, thermal bags or other storage devices we may designate, providing a reasonable amount of additional condiments, napkins and utensils as deemed appropriate, sealing the delivery bags with the appropriate tamper-evident sticker or other approved methods, and ensuring the food safety, quality and temperature maintenance of the products.

You may not engage in any trade practice or other activity, sell any product, or offer any service that is harmful to the goodwill or the reputation of the System. You may not engage in deceptive or unfair trade practices. You may not violate any applicable law, governmental rule or regulation. These limitations are tied closely to the Hoots image and other Marks, purpose, and marketing strategy, and if you were to change any of these, you would fundamentally change the nature of the business conducted at all hoots® wings restaurants.

We do not impose restrictions or limitations on your access to customers other than delivery outside of your Delivery Area, at Restricted Sites, via Third Party Delivery Services or via Alternative Channels of Distribution. We prohibit or limit your use of Alternative Channels of Distribution. We may designate maximum and minimum retail prices to the extent permitted by governing law.



**ITEM 17**

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

**These tables list certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this Disclosure Document.**

**THE FRANCHISE RELATIONSHIP**

Provision	Section in Franchise (or Other Agreement if applicable)	Summary
a. Length of the franchise term	Section 2 of Franchise Agreement  Section 4 of Area Development Agreement  Section 5 of the Multi-Unit Addendum	10 years after the opening of the Restaurant.  Area Development Agreement terms is as set forth in the Development Schedule.  Multi-Unit Addendum terms is as set forth in the Development Schedule.
b. Successor Franchise or extension of the term	Section 2 of Franchise Agreement	2 5-year terms.
c. Requirements for you to renew or extend	Section 2 of Franchise Agreement	You must: (i) give us notice of your intent to renew; (ii) pay us a Successor Franchise Fee in the amount of 1/3 of the then-current initial franchise fee for new franchisees, or if greater, \$12,500; (iii) be in compliance with your agreements with us and our affiliates, and with the Manuals; (iv) have been in substantial compliance with your agreements with us and our affiliates, and with the Manuals, during the Initial Term; (v) are current with respect to your obligations to you lessors, suppliers and other third parties; (vi) enter into our then-current form of franchise agreement for Successor Franchisees (or, if not available, our then-current form of franchise agreement for new franchisees), which may contain terms that vary materially from the terms of the Franchise Agreement; and (vii) together with your Principal Owners, enter into a release in substantially the form attached as <u>Exhibit J</u> to this Disclosure Document.
d. Termination by you	Sections 1 and 12 of Franchise Agreement	If you fail to obtain necessary permits and licenses for your hoots® wings restaurant or if your hoots® wings restaurant is substantially destroyed (subject to state law).

Provision	Section in Franchise (or Other Agreement if applicable)	Summary
e. Termination by us without cause	None	We do not have the right to terminate you without cause.
f. Termination us with cause	Sections 1 and 14 of Franchise Agreement  Section 6 of the Area Development Agreement  Section 7 of the Multi-Unit Addendum	We can terminate only if you fail to get your licenses or permits, or if you default or commit one or more of several listed violations.
g. "Cause" defined – curable defaults	Section 14 of Franchise Agreement  Section 6 of the Area Development Agreement	Section 14.3 defines defaults that you must cure within 10 days after written notice. Section 14.4 defines defaults you must cure within 30 days after written notice.
h. "Cause" defined – non-curable defaults	Sections 14.1 and 14.2 of Franchise Agreement  Section 6 of the Area Development Agreement  Section 7 of the Multi-Unit Addendum	You cannot cure defaults that occur where you: (i) are insolvent (termination upon bankruptcy may not be enforceable under federal bankruptcy law); (ii) fail to acquire a site for your hoots® wings restaurant within prescribed time; (iii) cease to operate for 5 consecutive days; (iv) improperly transfer your rights under the Franchise Agreement or otherwise violate the transfer restrictions in the Franchise Agreement; (v) fail to comply with non-competition agreement or fail to obtain individual non-competition agreements; (vi) are convicted of a crime; (vii) disclose our Confidential Information or Trade Secrets; (viii) maintain false books or records, or submit any false reports to us, or understate payments due to us by 4% or more; (ix) abandon the Franchised Business; (x) fail to open the Restaurant on time, after any extensions we grant you; (xi) commit an intentional, willful, or grossly negligent default of the Franchise Agreement; (xii) default under the Franchise Agreement 2 or more times during any 52-week period, whether or not you cure the defaults; (xiii) engage in fraudulent, unfair, unethical or deceptive conduct; or (xiv) if you offer or provide delivery services from your hoots® wings restaurant through a provider other than a Third-Party Delivery Provider or any other method that has not been prescribed by Hoots. You should review the full list in Sections 14.1 and 14.2 of the Franchise Agreement.

Provision	Section in Franchise (or Other Agreement if applicable)	Summary
i. Your obligations on termination/nonrenewal	Section 15 of the Franchise Agreement	You must: (i) de-identify; (ii) cease to operate Restaurant; (iii) cease to use the Confidential Information and Proprietary Marks; (iv) cancel assumed name or other registrations; (v) pay all sums owed to us or our affiliates; (vi) pay us fees payable for the 26 four-week periods prior to termination (or the fees owed for the current term, whichever is lower); (vii) return all of our property (including our Manuals and other Confidential Information); (viii) give us all your information related to operating the business; (ix) stop using our advertising; (x) pay our attorneys' fees (if any) for enforcing or terminating the Franchise Agreement; (xi) inventory all assets of business to permit us to exercise our option to purchase the assets if we want; and (xii) transfer your liquor licenses and telephone number to us.
j. Assignment of contract by franchisor	Section 13 of Franchise Agreement  Section 7 of Area Development Agreement	No restriction on our right to assign.
k. "Transfer" by you – defined	Section 13 of Franchise Agreement  Section 7 of Area Development Agreement	Includes transfer of contract or assets or any ownership change (except certain permitted transfers).
l. Our approval of transfer by you	Section 13 of Franchise Agreement  Section 7 of Area Development Agreement	You must get our approval for all transfers; we may withhold our consent if we desire.
m. Conditions for our approval of transfer	Section 13 of Franchise Agreement	Any transfer to a new Principal Owner must satisfy Principal Owner Qualifications. For any transfer, we may require the payment of any amounts due, compliance with a transfer and assignment agreement, which includes a release, signing of the then-current form of Franchise Agreement and related agreements, payment of a transfer application fee (\$3,000 per application) transfer fee in the amount of 50% of then-current form of franchise agreement (or \$2,500 for a non-controlling interest), performing renovations to hoots Restaurant, completion of training programs and subleasing of hoots® wings restaurant property, if applicable.

Provision	Section in Franchise (or Other Agreement if applicable)	Summary
n. Our right of first refusal to acquire your business	Section 13 of Franchise Agreement	We have 30 days to match any offer. We may substitute cash for any form of payment at a discounted amount if an interest rate will be charged on any deferred payments, our credit will be deemed equal to that of any proposed purchaser, we will have no less than 90 days to prepare for closing and we receive all customary representations and warranties, as we specify.
o. Our option to purchase your business	Section 15 of Franchise Agreement	If the Franchise Agreement is terminated or expires without renewal, we have the option to purchase any or all of the assets of the Restaurant at an agreed value as determined between you and us. If we cannot agree, the agreed value will be fair market value. See Section 15.8.3 of the Franchise Agreement for further calculation of fair market value.
p. Death or disability of franchisee	Section 13 of Franchise Agreement	Successors must: (i) agree to be bound by your Franchise Agreement, have all Principal Owners sign the Principal Owners Guaranty, pay the transfer fee, successfully complete initial training, and comply with all other transfer requirements; or (ii) transfer the interest to transferee that is acceptable to us.
q. Non-competition covenants during the term of the franchise	Section 16 of Franchise Agreement  Section 8 of Area Development Agreement	You must not be involved in a competing business or divert business from your hoots® wings restaurant or the System. A competitive business means any business or facility owning, operating or managing or granting franchises or licenses to others to do so, any restaurant, cafeteria, ghost kitchen store or facility (on a fixed or mobile basis), business, service, event, that features as a primary offering chicken wings (bone-in or boneless), chicken sandwiches, chicken tenders or salads (other than a hoots® wings restaurant under a then valid franchise agreement with us) in a fast-casual or counter-service environment. A Competitive Business also includes any business acting as an area representative, franchise broker, business broker, franchise seller, area representative or the like for any business franchising or licensing Competitive Businesses other than us. No franchise offered by our affiliates will be deemed a Competitive Business.

Provision	Section in Franchise (or Other Agreement if applicable)	Summary
r. Non-competition covenants after the franchise is terminated or expires	Section 16 of Franchise Agreement  Section 8 of Area Development Agreement	You must not have any involvement in any competing business for 2 years and will not divert business from your hoots® wings restaurant or System within your former Protected market Area, or the Protected Market Area of any franchisee or affiliate of ours. This non-competition covenant includes your having no interest in Competitive Businesses for 2 years at, or within 15 miles of, the Site or Protected Market Area, or at, within or within 15 miles of the Site or Protected Market Area any other hoots® wings restaurant granted, in operation or under construction at the time of the termination or expiration of the Franchise Agreement or enforcement of the non-competition covenant (same restrictions apply after assignment).
s. Modification of the agreement	Sections 7 and 22 of Franchise Agreement  Section 13 of Area Development Agreement	No modifications without all parties' written agreement, but we may periodically change the Manuals and other directives.
t. Integration/merger clause	Section 22 of Franchise Agreement  Section 13 of Area Development Agreement	Only the terms of the Franchise Agreement are binding (subject to state law). All representations or promises made outside the scope of the Disclosure Document and Franchise Agreement may not be enforceable.  Nothing in the Franchise Agreement or in any related agreement is intended to disclaim representations made in this Disclosure Document.
u. Dispute resolution by arbitration or mediation	Section 25 of the Franchise Agreement  Section 15 of Area Development Agreement	Except for disputes relating to (a) use of the Marks or Copyrights, and breaches of the restrictive covenants; (b) obligations upon termination or expiration, except the obligation to pay liquidated damages, (c) violation of Confidentiality and non-competition provisions, all disputes and controversies are to be resolved by arbitration, governed by the Federal Arbitration Act and resolved according to the code of procedure of American Arbitration Association (subject to state law). All arbitration must be conducted on a single plaintiff basis and not via a multi-party or class basis.

Provision	Section in Franchise (or Other Agreement if applicable)	Summary
v. Choice of forum	Section 25 of Franchise Agreement Section 15 of Area Development Agreement	Litigation must be conducted in the judicial district or circuit where we have our principal place of business (currently Georgia), <b>subject to state law</b> . The exclusive forum for Arbitration is the American Arbitration Association location closest to our headquarters.
w. Choice of law	Section 25 of Franchise Agreement Section 15 of Area Development Agreement	Law of the state where we have our principal place of business (currently Georgia) applies, <b>subject to state law</b> .

A provision in your Franchise Agreement that terminates the franchise on your bankruptcy may not be enforced under Title 11, United States Code Section 101.

See Exhibit "Z" for State Specific Addenda and Exhibits.

## ITEM 18

### PUBLIC FIGURES

We do not use any public figures to promote our franchise.

## ITEM 19

### FINANCIAL PERFORMANCE REPRESENTATIONS

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations, whether orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Scott P. Weber, Chief Legal Officer, 1815 The Exchange, Atlanta, Georgia 30339, (770) 951-2040; sweber@hooters.com, the Federal Trade Commission, and the appropriate state regulatory agencies.

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**ITEM 20**

**OUTLETS AND FRANCHISEE INFORMATION**

**ITEM 20 TABLE NO.1**

**SYSTEM WIDE OUTLET SUMMARY  
FOR FISCAL YEARS 2018 TO 2020**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
Franchised <sup>(1)</sup>	2018	1	1	0
	2019	1	2	+1
	2020	2	4	+2
Company-Owned	2018	0	0	0
	2019	0	1	+1
	2020	1	3	+2
Total	2018	1	0	1
	2019	1	3	+2
	2020	3	7	+4

(1) We include Licensed HI Hoots in the Tables 1-5 of this Item 20. See Item 1.

**ITEM 20 TABLE NO.2**

**TRANSFERS OF OUTLETS FROM FRANCHISEES  
TO NEW OWNERS (OTHER THAN THE FRANCHISOR)  
FOR FISCAL YEARS 2018 TO 2020**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
All States	2018	0
	2019	0
	2020	0
Total	2018	0
	2019	0
	2020	0

**ITEM 20 TABLE NO.3**

**STATUS OF FRANCHISED OUTLETS  
FOR FISCAL YEARS 2018 TO 2020**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at the End of the Year
Florida	2018	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
	2020	0	1	0	0	0	0	1
Illinois	2018	1	0	0	0	0	0	1
	2019	1	1	0	0	0	0	2
	2020	1	1	0	0	0	0	3
Totals	2018	1	0	0	0	0	0	1
	2019	1	1	0	0	0	0	2
	2020	2	2	0	0	0	0	4

Explanatory Note:

1. This table includes Licensed HI Hoots. As of December 31, 2020, we had no international franchisees operating hoots® wings restaurants internationally.

**ITEM 20 TABLE NO.4**

**STATUS OF COMPANY-OWNED OUTLETS  
FOR FISCAL YEARS 2018 TO 2020**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at the End of the Year
Georgia	2018	0	0	0	0	0	0
	2019	0	1	0	0	0	1
	2020	1	2	0	0	0	3
Totals	2018	0	0	0	0	0	0
	2019	0	1	0	0	0	1
	2020	1	2	0	0	0	3



**ITEM 20 TABLE NO.5**

**PROJECTED OPENINGS AS OF DECEMBER 31, 2020**

<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Open</b>	<b>Projected New Franchised Outlets in the Next Fiscal Year</b>	<b>Projected New Company-Owned Outlets in the Next Fiscal Year</b>
Florida	0	3	0
Georgia	0	0	2
New Jersey	0	1	0
Pennsylvania	0	2	0
Texas	0	8	0
<b>Total</b>	0	14	0

Note to Table No. 5: as of the date of this Disclosure Document, there are 5 hoots® wings franchisees who have signed development agreements: one in Florida (7 outlets), one in the New Jersey and Pennsylvania area (6 outlets), one in the Pennsylvania area surrounding Philadelphia (16 outlets), one in California (18 outlets) and one in Texas (60 outlets). These development agreements provide for the development of a total of 106 outlets. In addition to the development agreements, the Texas franchisee has signed 12 franchise agreements, where one outlet is open as of the date of this Disclosure Document. The Florida franchisee and the Pennsylvania/New Jersey franchisee, the Greater Philadelphia franchisee and the Southern California franchisee have also each signed one franchise agreement, none of which are open as of the date of this Disclosure Document. Finally, the license agreement for Licensed HI Hoots does not restrict the number of Restaurants that Hooters, Inc. is permitted to develop.

Exhibit T is a list of franchisees and/or licensees as of December 31, 2020, and as of the date of this Disclosure Document, and the addresses and telephone numbers of each of their outlets. There were no franchisees who had hoots® wings restaurants terminated, canceled, or not renewed, or who otherwise voluntarily or involuntarily ceased doing business under our Franchise Agreement or Area Development Agreement/Multi-Unit Addendum, during our last fiscal year or who have not communicated with us within 10 weeks of this disclosure document's issuance date. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last 3 fiscal years, no current or former franchisees have signed confidentiality clauses restricting them from discussing with you their experiences as a franchisee in our franchise system. There are no trademark-specific franchisee organizations associated with the Hoots franchise system.

**Optional Item 20 Information Regarding Licensed Hoots Franchises.**

As of December 31, 2020, there are 4 Licensed HI Hoots in operation and one under development. No Licensed HI Hoots has closed or been transferred as of December 31, 2020. The Opening Dates of each Licensed HI Hoots or Projected Opening Dates for the fiscal year

ending December 31, 2020 of each Licensed HI Hoots is set forth below. We obtained this information from Hooters, Inc.

Location	Opening Date (OD) or Projected Opening Date (POD)
Hoots of Cicero, Inc. 2201 S. Cicero Cicero Illinois 60804	2/13/2017 OD
Hoots of Diversey, Inc. 4059 W. Diversey Chicago, Illinois 60639	12/09/2019 OD
Hoots on 1 <sup>st</sup> , Inc. 204 1 <sup>st</sup> Avenue N. St. Petersburg, Florida 33701	5/05/2020 OD
Hoots of South Loop, Inc. 1238 S. Canal St. Chicago, Illinois 60607	7/30/2020 OD

As of December 31, 2020, no Licensed HI Hoots has closed or been transferred, terminated, not renewed or left the system, or who otherwise voluntarily or involuntarily ceased doing business under the License Agreement or have not communicated with us in the past 10 weeks. Since the Licensed HI Hoots are under a License Agreement granted by HILP (not us), we do not have any company-owned Licensed HI Hoots, and no company-owned Licensed HI Hoots has opened, closed or been transferred, or is projected to open in fiscal year 2020.

The names, address and phone number of each Licensed HI Hoots is listed in alphabetical order by state in Exhibit T.

## ITEM 21

### FINANCIAL STATEMENTS

Our indirect parent company and affiliate, HOA Restaurant Group, LLC absolutely and unconditionally guarantees the performance of HOA's obligations under the management agreement with Hoots. Therefore, a copy of the Guarantee of Performance signed by HOA Restaurant Group, LLC is attached to this Disclosure Document as Exhibit U.

The franchisor has not been in business for 3 years and cannot include the requisite financial statements.

Attached to this Disclosure Document as Exhibit U are:

- (a) the audited financial statements of Hoots Franchising, LLC as of December 29, 2019 and December 27, 2020, and the unaudited financial statements of Hoots Franchising, LLC as of July 11 2021; and
- (b) the audited consolidated balance sheets of HOA Restaurant Group, LLC and subsidiaries as of December 27, 2020, December 29, 2019, December 30, 2018, and the unaudited financial statements as of July 11, 2021.

## ITEM 22

### CONTRACTS

The following agreements are attached to this Disclosure Document in the following order:

Agreement	Exhibit
Application for Prospective Franchisees	Exhibit A
Franchise Agreement	Exhibit B
Multi-Unit Addendum	Exhibit C
Area Development Agreement	Exhibit D
Principal Owners Guarantee	Exhibit E
Principal Owners Statement	Exhibit F
Collateral Assignment of Leases	Exhibit G
Individual Non-Competition and Non-Disclosure Agreement (Franchise Agreement)	Exhibit H
Individual Non-Competition and Non-Disclosure (Multi-Unit Addendum)	Exhibit I
Form of Release	Exhibit J
Construction Project Management Service Supplier Agreement	Exhibit K
Form of Software and Apps Agreement	Exhibit L
Form of Third-Party Delivery Agreement	Exhibit M
Hooters Franchisee 1 to 1 Addendum	Exhibit N
POS Service Agreement	Exhibit O
Form of Pepsi Agreement	Exhibit P
Bylaws of Collaborative Purchasing Organization (CPO)	Exhibit Q
CPO Membership Agreement	Exhibit R
Services Agreement	Exhibit X
State Specific Addenda	Exhibit Z

## ITEM 23

### RECEIPTS

The last 2 pages of this Disclosure Document (Exhibit AB) are identical pages acknowledging receipt of this entire Disclosure Document. You must sign and date each Receipt. Please sign and return to us one copy at the following address; please keep the other copy along with this Disclosure Document. If you are missing these Receipts, please contact us at the following address or telephone number:

HOOTS FRANCHISING, LLC  
ATTN.: LEGAL DEPARTMENT  
1815 THE EXCHANGE  
ATLANTA, GEORGIA 30339  
770-951-2040

**EXHIBIT A**  
**HOOTS FRANCHISING, LLC**  
**APPLICATION FOR PROSPECTIVE FRANCHISEES**



# FRANCHISE APPLICATION

## PERSONAL INFORMATION

\_\_\_\_\_  
Last First Middle

Address \_\_\_\_\_

Home Phone \_\_\_\_\_ Email \_\_\_\_\_  
Bus Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile Phone \_\_\_\_\_ Other \_\_\_\_\_

Social Security No. \_\_\_\_\_ DOB \_\_\_\_\_  
Drivers License \_\_\_\_\_ State \_\_\_\_\_  
Citizenship \_\_\_\_\_ Country ID (If Other than U.S.) \_\_\_\_\_  
Country of Birth \_\_\_\_\_

Spouse's Name (If Applicable) \_\_\_\_\_  
Education: High School \_\_\_\_\_  
College \_\_\_\_\_ Other \_\_\_\_\_

## WORK AND PROFESSIONAL BACKGROUND INFORMATION

### Present Position

Company \_\_\_\_\_ Telephone \_\_\_\_\_  
Type of Business \_\_\_\_\_ Employed From \_\_\_\_\_ To \_\_\_\_\_  
Address \_\_\_\_\_

May we contact your employer?  Yes  No

Describe duties and responsibilities: \_\_\_\_\_

### Previous Position

Company \_\_\_\_\_ Telephone \_\_\_\_\_  
Type of Business \_\_\_\_\_ Employed From \_\_\_\_\_ To \_\_\_\_\_  
Address \_\_\_\_\_

May we contact your employer?  Yes  No

Describe duties and responsibilities: \_\_\_\_\_

Have you ever owned a restaurant?  Yes  No Franchised?  Yes  No

If yes, are you still involved with the restaurant or franchise?  Yes  No

Why or why not? \_\_\_\_\_

Do you have restaurant or retail management experience?  Yes  No

If yes, please describe where and for how long:  
\_\_\_\_\_

**OTHER PARTIES TO BE INVOLVED IN THIS BUSINESS**

\_\_\_\_\_

Last	First	Middle
------	-------	--------

Address \_\_\_\_\_

Home Phone \_\_\_\_\_ Email \_\_\_\_\_  
Bus Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile Phone \_\_\_\_\_ Other \_\_\_\_\_  
Percent of Ownership in franchised entity: \_\_\_\_\_ %  
Will this partner devote full time to this business?  Yes  No

\_\_\_\_\_

Last	First	Middle
------	-------	--------

Address \_\_\_\_\_

Home Phone \_\_\_\_\_ Email \_\_\_\_\_  
Bus Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile Phone \_\_\_\_\_ Other \_\_\_\_\_  
Percent of Ownership in franchised entity: \_\_\_\_\_ %  
Will this partner devote full time to this business?  Yes  No

\_\_\_\_\_

Last	First	Middle
------	-------	--------

Address \_\_\_\_\_

Home Phone \_\_\_\_\_ Email \_\_\_\_\_  
Bus Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile Phone \_\_\_\_\_ Other \_\_\_\_\_  
Percent of Ownership in franchised entity: \_\_\_\_\_ %  
Will this partner devote full time to this business?  Yes  No

**PERSONAL FINANCIAL STATEMENT**

The following statement includes all of my assets and liabilities as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The amounts listed below are my best available estimates as of this date.

<b>ASSETS</b>		<b>LIABILITIES AND NET WORTH</b>	
Cash on Hand and in Banks <i>(Schedule 1)</i>	\$	Notes Payable to Banks – Unsecured <i>(Schedule 1)</i>	\$
U.S. Government Securities <i>(Schedule 2)</i>	\$	Notes Payable to Banks – Secured <i>(Schedule 1)</i>	\$
Trade Accounts and Loans Receivable <i>(Schedule 4)</i>	\$	Notes, Loans and Advances Payable to Relatives	\$
Non-Trade Accounts and Loans Receivable <i>(Schedule 4)</i>	\$	Notes, Loans and Advances Payable to Others	\$
Notes Receivable – Secured <i>(Schedule 4)</i>	\$	Contracts Accounts Unpaid	\$
Notes Receivable – Unsecured <i>(Schedule 4)</i>	\$	Interest and Rents Payable	\$
Life Insurance, Cash Surrender Value <i>(Schedule 5)</i>	\$	Loans Against Life Insurance <i>(Schedule 4)</i>	\$
Stocks and Bonds – Marketable <i>(Schedule 2)</i>	\$	Accounts Payable	\$
Stocks and Bonds – Non-marketable <i>(Schedule 2)</i>	\$	Taxes and Assessments Payable <i>(Schedule 5)</i>	\$
Real Estate <i>(Schedule 3)</i>	\$	Mortgages Payable on Real Estate <i>(Schedule 3)</i>	\$
Automobiles – Market Value – Registered in Own Name, Number of Vehicles	\$	Broker’s Margin Accounts <i>(Schedule 5)</i>	\$
Other Assets, Property or Investments <i>(Itemize)</i>	\$	Liens on Real Estate <i>(Schedule 4)</i>	\$
401(k) or IRA	\$	Federal and State Taxes on Current Income	\$
	\$	Other Indebtedness <i>(Itemize)</i>	\$
	\$		\$
	\$		\$
	\$		\$
	\$		\$
	\$		\$
	\$	Total Liabilities	\$
	\$	Net Worth	\$
Total Assets	\$	Total Liabilities and Net Worth	\$

**COPIES OF YOUR LAST TWO YEARS TAX RETURNS ARE REQUIRED WITH YOUR COMPLETED PERSONAL FINANCIAL STATEMENT.**

**Verification of funds will be required in a form satisfactory to Hoots Franchising, LLC at the appropriate time.**



**SUPPLEMENTAL SHEETS**

(Attach supplemental sheets if inadequate space available here)

**No. 1 – Banking Accounts**

<u>Bank Name</u>	<u>City, State</u>	<u>Cash Assets</u>	<u>Type of Account</u>	<u>Loan Liabilities</u>	<u>Monthly Payments</u>

**No. 2 – Publicly Traded Stocks, Bonds and Securities**

<u>No. Shares of Stocks / Face Value</u>	<u>Description</u>	<u>Present Market Value</u>	<u>Are Securities Pledged?</u>	<u>Amount of Obligation</u>

**No. 3 – Real Estate**

<u>Type of Property</u>	<u>Location</u>	<u>Original Cost</u>	<u>Market Value</u>	<u>Mortgages or Liens</u>	<u>Monthly Payment</u>

**No. 4 – Accounts, Notes and Loans**

<u>Nature of Transaction</u>	<u>Amount</u>	<u>Receivables Due</u>	<u>Payables Due</u>

**No. 5 – Other Assets/Liabilities**

<u>Description</u>	<u>Estimated Cash Value</u>	<u>Amount of Liability</u>

**Present Source(s) of Regular Income**

**Source**

**Amount**

	Salary	\$
	Bonus and Commission	\$
	Dividends	\$
	Real Estate Income	\$
	Other Income – Itemized	\$
	Total	\$

**Contingent Liabilities**

**Unpaid Taxes**

Guarantor Obligations	\$	Description	Year	Amount
Legal Claims	\$			\$
Endorser or Co-Maker Obligations	\$			\$
Leases or Contracts	\$			\$
Liens or Special Debt	\$			\$
Provision for Federal or Other Taxes	\$			\$
Other Liabilities (Alimony, Child Support, Maintenance, etc.) <i>(Itemize)</i>	\$			\$
Total	\$			\$

**Will your franchise investment come from your own capital?**

**Available Capital to invest in this franchise**      \$ \_\_\_\_\_

**PERSONAL REFERENCES**

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Home Phone \_\_\_\_\_  
 Mobile Phone \_\_\_\_\_

Relationship \_\_\_\_\_  
 Email \_\_\_\_\_  
 Business Phone \_\_\_\_\_  
 May we contact? \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Home Phone \_\_\_\_\_  
 Mobile Phone \_\_\_\_\_

Relationship \_\_\_\_\_  
 Email \_\_\_\_\_  
 Business Phone \_\_\_\_\_  
 May we contact? \_\_\_\_\_

**BANKING REFERENCES**

Name \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 Name \_\_\_\_\_  
 Telephone \_\_\_\_\_

Title \_\_\_\_\_  
 Fax \_\_\_\_\_  
 Title \_\_\_\_\_  
 Fax \_\_\_\_\_

**What, specifically, drove you to contact Hoots at this time (e.g., advertisement, independent research, website – please be specific)?** \_\_\_\_\_

**Location Preference(s):**

1. First Choice \_\_\_\_\_
2. Second Choice \_\_\_\_\_
3. Third Choice \_\_\_\_\_

**Management:**

If approved, how involved will you be with the management of the restaurant(s)?

\_\_\_\_\_

**Percent of Ownership in franchised entity:** \_\_\_\_\_ %

---

During the past ten years, have you and/or any applicable partners, officers, directors, shareholders, or other principals of your business ever been convicted, entered a plea of no contest, had prosecution deferred, or adjudication withheld for any crime other than a minor traffic violation?

Yes                      No

Been adjudicated bankrupt or reorganized due to insolvency?

Yes                      No

If yes to any of the above, please explain:

\_\_\_\_\_

# Authorization Form

**Current Subject Name**

Last Name

First Name

Middle Name

**Former Names / Maiden Name / Married Names / Alias(es)**

Last Name

First Name

Middle Name

Dates Used

**Social Security Number** (if applicable)**Driver License # / State or Country****Date of Birth** (please write the name of the month, e.g. January 15, 1960)**For Non-US Residents Only**

Passport Number / Country of Issuance

National ID Number / Country of Issuance (if applicable)

**Current Address****Prior Addresses (In the last 20 years) (City/State or City/Country and Approximate Date Ranges will Suffice)**

Address

Date Range

## AUTHORIZATION TO RELEASE INFORMATION

I understand that I am a party to a potential business transaction. I understand that the counterparty(ies) in this potential business transaction will utilize an agent, Heartland Investigative Group "Heartland".

I understand that Heartland will conduct reasonable and necessary research to confirm that the above information is true and correct.

I understand that Heartland may conduct public record research and perform verifications of my identity, educational history, employment history, corporate affiliations, occupational licenses, certifications, credentials, professional association memberships, etc.

I understand that Heartland will deliver the above referenced information to the counterparty(ies).

I hereby authorize any governmental agency, quasi-governmental agency, regulatory body, sanctioning body, educational institution, licensing body, credentialing body, employer, professional association, organization, or society to release any and all information requested by Heartland for the purposes of conducting the research and verifications noted above.

I understand and authorize that any processing of my data within the European Union will be carried out in accordance with the requirements of GDPR and all relevant national data protection requirements.

I understand that I may withdraw my consent at any time by contacting Heartland Investigative Group at [backgrounds@heartlandinfo.com](mailto:backgrounds@heartlandinfo.com) or (800) 967-1882.

**X**

Signature

Date

**EXHIBIT B**  
**HOOTS FRANCHISING, LLC**  
**FRANCHISE AGREEMENT**

**HOOTS® FRANCHISE AGREEMENT**

**BETWEEN**

**HOOTS FRANCHISING, LLC  
1815 THE EXCHANGE  
ATLANTA, GEORGIA 30339  
(770) 951-2040**

**AND**

**HOOTS FRANCHISING, LLC  
FRANCHISE AGREEMENT  
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**EXHIBITS**

- A - SITE INFORMATION
- B - AUTHORIZATION AGREEMENT FOR ACH PAYMENTS
- C - LIST OF YOUR PRINCIPAL OWNERS
- D - SPECIAL STIPULATIONS
- E - SBA ADDENDUM



**HOOTS FRANCHISING, LLC**  
**FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT (the "**Agreement**") is made and entered into \_\_\_\_\_ (the or this "**Agreement Date**"), by and between HOOTS FRANCHISING, LLC, a Delaware limited liability company with its principal business address at 1815 The Exchange, Atlanta, Georgia 30339 (hereinafter "**Hoots Franchising**," "**we**," "**us**," or "**our**"), and \_\_\_\_\_, a(n) \_\_\_\_\_ with its principal business address at \_\_\_\_\_ (hereinafter "**Franchisee**," "**you**" or "**your**").

**RECITALS**

A. Through the expenditure of considerable time and effort, we have developed a distinctive system for the development and operation of "**hoots® wings restaurants**" which are fast food/ fast casual type restaurants, offering only the Products and Services via limited dine in, take out or delivery using our System, Copyrights and Marks.

B. "**hoots® wings restaurants**" are fast food/fast casual style restaurants that offer and sell via dine in, catering, take-out and delivery a limited menu of chicken wings and other foods and beverages we may designate or approve from time to time.

C. hoots® wings restaurants operate under, and are developed under and using distinctive business formats, methods, procedures, designs, interior and exterior décor, advertising and promotional programs, training, operating procedures, layouts, signs, product and service mix, standards, specifications, all of which we may improve, further develop or otherwise modify from time-to-time (the "**System**"). The mandatory rules and our suggestions and guidance for our System are our "**System Standards**". Our Manuals and our System Standards will define the System in more detail. We may change, alter, amend, modify or discontinue any aspect of the System or System Standards from time to time, as we determine appropriate.

D. The "**Products and Services**" currently include a menu featuring chicken wings and other food and beverage offerings that we designate or approve from time to time in our sole discretion. We may create new Products or Services or change, alter, amend, substitute or discontinue any Products or Services in our sole discretion from time to time.

E. We use, promote and license certain trademarks, service marks and other commercial symbols in the operation of hoots® wings restaurants, including the trade and service marks "**HOOTS®**" (wordmark and design mark), and other associated trademarks, service marks, logos, designs, symbols and trade dress, which have gained and continue to gain public acceptance and goodwill, and we may create, use and license additional trademarks, service marks, trade dress and commercial symbols in conjunction with the operation of hoots® wings restaurants (collectively, the "**Marks**"). As we determine periodically, we will designate or approve which of our Marks you may use in the operation of your hoots® wings restaurant and how they may be used. We may license, create or designate new Marks and change, alter, amend, substitute or discontinue any of them at any time as we determine appropriate.

F. We also use, promote and license in the operation of hoots® wings restaurants certain information capable of being rendered into tangible form that we claim as our Copyrights, including advertising, menus, spreadsheets, forms, marketing materials, labels, manuals, pricing lists, vendor lists, our website, social media publications, training materials, checklists, designs,

drawings, floorplans, and any other written materials, marketing materials, advertisements, or slogans (including the look, compilation, feel and content of them) (collectively, the “**Copyrights**”). We may license, create or designate new Copyrights and change, alter, amend, substitute or discontinue any Marks at any time in our sole discretion.

G. You desire for us to grant you a franchise to operate a hoots® wings restaurant, using the Marks, Copyrights and System, and for us to provide you with certain training and other assistance in connection with the development and operation of the hoots® wings restaurant, all as set forth in and subject to this Agreement.

In consideration of the foregoing and the mutual promises and commitments set forth in this Agreement, you and we agree as follows:

## 1. GRANT, SITE, CONSTRUCTION, AND PERMITTING

1.1 Grant. Subject to the terms of, and upon the conditions contained in this Agreement, we grant you, and you accept the grant of, a franchise (the “**Franchise**”) for the right, license and privilege to: (a) operate a single (one) hoots® wings restaurant at and provide delivery or take out sales from a location we approve (the “**Site**”), and at no other location (temporary or permanent); and (b) use the Marks, Copyrights and System solely in connection with operating the hoots® wings restaurant at and from the Site according to this Agreement and our System Standards. Your signing this Agreement does not grant you any right of first refusal or other rights to acquire additional hoots® wings restaurants or additional Protected Market Area(s). By accepting this grant of the Franchise you undertake the obligation to operate a business to develop, open, and operate a hoots® wings restaurant (“**your hoots® wings restaurant**”), using the Marks, Copyrights and System, only at, and to offer the Products and Services for delivery and take out from the Site (collectively, the “**Franchise**”).

1.2 Site. Your “**Site**” will be designated in Exhibit “A” to this Agreement and made a part of this Agreement by reference. If it has not been chosen by you and approved by us before you sign this Agreement, you must locate it within the “**Site Selection Area**” we designate in Exhibit A.

1.3 Site Selection. If, when this Agreement is signed, you have not yet found a suitable proposed Site for your hoots® wings restaurant that we have accepted in writing as your Site, you must lease, sublease, or acquire the Site, subject to our acceptance, in accordance with the following procedure:

1.3.1 Time to Locate the Site: You (with or without our assistance) must (a) within 180 days of the Development Commencement Date, locate a proposed Site within the approved Site Selection Area, obtain our approval of that Site, and either sign a lease for the Site or purchase the Site according to our System Standards; and (b) within 12 months of the Development Commencement Date, open the hoots® wings restaurant according to our System Standards. Time is of the essence. We may terminate this Agreement effective on notice if you do not timely accomplish both actions required under subsection 1.3.1(a) and (b) above. If so, we will not be required to refund to you any of the Franchise Fee. But, if you are purchasing multiple hoots® wings restaurant under our Development Program, we will designate the Site approval dates and Opening Dates for the 2<sup>nd</sup> and subsequent hoots® wings restaurant in the Development Schedule in the Development Agreement. Unless you and we execute a Development Agreement, you do not acquire the right to operate multiple hoots® wings restaurants.) Your Development Commencement Date will

be the Agreement Date unless otherwise specified in a Development Agreement signed by you and us or if the Development Agreement, and that Development Agreement or its Development Schedule is terminated prior to our approving your Site. Once we approve the Site, we will insert the Site address into Exhibit A. We may grant or withhold acceptance of any proposed Site as we determine in our judgment for any reason.

a. The Site must meet our criteria for demographic characteristics, traffic patterns, parking, character of neighborhood, competition from and proximity to other stores and other hoots® wings restaurants or Hooters Restaurants, the nature of other businesses in proximity to the site and the size, appearance and other physical and commercial characteristics of the proposed site. You must use the Site solely for the operation of a hoots® wings restaurant and must not directly or indirectly operate or engage in any other business or activity from the Site.

b. We will approve or disapprove a Site you propose for a hoots® wings restaurant within thirty (30) days after we receive from you all of the materials we request. If you do not select, or we do not approve, the sites reviewed during the initial Site selection trip, any additional Site selection trips, if any, are at our sole discretion.

c. We may conduct a Site selection trip to assist you with choosing or evaluating a site for the Site. We may also, in our sole discretion, choose not to conduct any Site selection trip and approve or disapprove your proposed Site based on documentation you submit to us. In any event, you must pay to us our Site Selection Fee as set forth in Section 4. The initial Site selection trip will last one day and include up to 4 proposed Sites to be visited and evaluated during such initial Site selection trip. If additional Site selection trips or evaluation of additional proposed Sites during that trip are requested and provided in our sole discretion, you must pay to us our then current additional Site Selection Fees for such additional site selection trips or for additional site evaluations. All Site Selection Fees and expenses are due within 5 days of our invoice to you.

1.3.2 Effect of Approval: You acknowledge and agree that: (a) our or your acceptance of the Site does not constitute any assurance, representation, or warranty of or by us or our affiliates of any kind, that your hoots® wings restaurant located at the Site or for take-out and delivery within the Protected Market Area (or if operated at or from any other location) will be or is likely to be profitable or successful; (b) our recommendation or approval of the Site, does not imply, guaranty, assure, warrant or predict profitability or success, express or implied; (c) our recommendation or approval of the Site indicates only that we believe that the Site falls within the acceptable demographic and other criteria for sites and premises that we have established as of the time of our recommendation or approval of the Site; (d) application of criteria that have appeared effective with respect to other sites and premises may not accurately reflect the potential for all sites and premises, and, after our approval of a Site, demographic and/or other factors included in or excluded from our criteria could change to alter the potential of a Site and premises; and (e) the uncertainty and instability of such criteria are beyond our control, and we will not be responsible for the failure of a Site we have recommended or approved to meet expectations as to potential revenue or operational criteria.

1.3.3 Site Evaluation Services: We or our or designee will provide you our then current site selection guidelines, including our minimum standards for a location for your

hoots® wings restaurant, and such site selection counseling and assistance as we may deem advisable from time to time. We may also designate and require you to hire at their then-current fees: (a) an approved or designated provider of Construction Project Management Services (“**CPMS**”), leasing advice or other Site selection services; and/or (b) a third-party designee to conduct any or all of the Site selection, construction management, leasing guidance, counseling and assistance and evaluation. Your hiring a CPMS provider or other designated service does not in any way waive or reduce the Site Selection Fees due us.

1.3.4 Site Selection Package Submission and Site Acceptance: You must submit to us in a form designated or approved by us, a completed Site selection package, which may include a Site selection form prescribed by us, a construction cost proforma for that site, copy of the site plan for the Site, business plan, demographic statistics and information regarding the surrounding businesses, and such other information or materials as we may require, together with an option contract, letter of intent or other evidence satisfactory to us which confirms your favorable prospects for obtaining the right to possess the Site. You acknowledge that time is of the essence. We will have thirty (30) days after receipt of such information and materials from you to accept or decline the proposed Site. In the event we do not accept a proposed Site by written notice to you within said thirty (30) days, such proposed Site will be deemed declined/ not approved by us.

1.3.5 Lease Responsibilities: Within the sooner of forty-five (45) days of site acceptance by us of the proposed Site or 180 days after the Development Commencement Date, you must execute a lease which will be coterminous with this Agreement, or a binding agreement to purchase the Site. You must provide to us a copy of the actual lease or sublease to be executed for your Site, which must be approved in writing by us, and which will provide us the right to enter the Site to make any modifications necessary to protect the Marks, Copyrights and System.

1.4 Protected Market Area and our Reserved Rights. We will also designate a geographic area as your “**Protected Market Area**.” We will designate the Protected Market Area at the time you sign this Agreement if you choose your Site at that time, or within 10 days of our approval of your Site. We will specify the Protected Market Area as we deem appropriate in our judgment. The Protected Market Area may be irregularly shaped and may be based on Google Earth/Google Maps or other GPS or population mapping software. The Protected Market Area will consist of the Site and the geographic area designated in Exhibit “A” as your Protected Market Area. After we designate the Protected Area, we are not obligated to modify your Protected Market Area if the population in it or zip code(s) associated with it, or other factors associated with it, later changes. Except as otherwise provided in this Agreement, during the Term of this Agreement, so long as you are in compliance with this Agreement, we will not establish or operate, or license any other person to establish or operate, a HOOTS® Restaurant at any location within the Protected Market Area. We retain all other rights not expressly granted to you in this Agreement. Among other things, and on any terms and conditions as we deem appropriate in our judgment, and without granting you any rights therein, we may:

1.4.1 Own, acquire, establish, and/or operate and license others to establish and operate, hoots® wings restaurants at any location outside the Protected Market Area notwithstanding their proximity to the Protected Market Area or the Site or their actual or threatened impact on sales at your hoots® wings restaurant;

1.4.2 Own, acquire, establish, and/or operate, and license others to establish and operate, hoots® wings restaurants under the Marks at Reserved Facilities (as defined below) at any location within or outside the Protected Market Area. As used in this Agreement, “**Reserved Facilities**” will mean: airports; hotels; department stores; supermarkets; cultural institutions (examples include, but are not limited to, theaters, museums, art centers and educational facilities); casinos; military bases; sports and entertainment venues and stadiums; and business and industrial complexes and offices at which the food services are managed by service providers with national or international operations;

1.4.3 Own, acquire, establish, and/or operate and license others to establish and operate businesses: (a) using the Marks (but not the “Hoots®” mark) and other marks in connection with the operation of such businesses; (b) which businesses may be similar to or different from hoots® wings restaurants; and (c) which may be located within or outside the Protected Market Area, despite the proximity of such businesses to the Site (but this clause will not allow us to operate or license others to operate a hoots® wings restaurant from a fixed location inside the Protected Market Area, unless permitted pursuant to Section 1.4.2 above). For the avoidance of doubt, certain of our affiliates may own, establish, and/or operate, and license others to establish and operate restaurants using the “Hooters®” mark inside the Protected Market Area. As between you and us, our affiliates and we retain all rights with respect to the licensing, franchising, development and operation of Hooters® Restaurants, or their products, services intellectual property or the like regardless if located or operating for take-out, delivery, wholesale, retail or on line sales anywhere (“**Hooters Activities**”). You acknowledge that Hooters® Restaurants are not hoots® wings restaurants. Our permitting you to use any trademarks service marks, copyrights or other intellectual property also used in Hooters Activities for any reason temporary or permanent, does not make your hoots® wings restaurant part of Hooters Activities or a Hooters Restaurant. We have sole discretion to determine what constitutes Hooters Activities as compared to the operation of a hoots® wings restaurant, and no rights, duties, covenants, promises or obligations in this Agreement in any way restrict Hooters Activities anywhere, or grant you any rights or protections of any kind with respect to any Hooters Activities;

1.4.4 Market, sell and distribute, directly or indirectly, or license others to sell and to distribute, directly or indirectly, any goods, services or products (including, without limitation, the Products), whether or not bearing the Marks or using the Copyrights or System, from any location (in the Protected Market Area or elsewhere) to any business or customer, including, without limitation, through retail kiosks, grocery or convenience stores or other retail outlets, and any other distribution channels without any compensation or obligation to you (including, without limitation, through retail, wholesale, mail order, delivery services, toll free numbers, or the Internet); however, this clause will not allow us to operate or license others to operate a hoots® wings restaurant physically located within the Protected Market Area under: (a) the System; and (b) the Marks, unless permitted pursuant to Section 1.4.2 above;

1.4.5 Own and operate, or license others to own and operate, hoots® wings restaurants located in the Protected Market Area that we or an affiliate purchases, or as to which Hoots Franchising or an affiliate purchases the rights as a brand owner, as part of another chain with locations both within and without the Protected Market Area, and that are converted to operate as hoots® wings restaurants; and

1.4.6 Engage in any act or exercise any right not expressly and exclusively provided to you under this Agreement.

1.5 You must offer and sell Products and Services only from your hoots® wings restaurant; only in accordance with the requirements of this Agreement, the procedures set forth in the Manuals, or as otherwise set forth by us in writing; and only to: (a) retail customers for consumption at or in common seating near to your hoots® wings restaurant; (b) retail customers for personal carry-out consumption of Products and Services sold at your hoots® wings restaurant; and (c) through delivery services to customers that purchase Products and Services for delivery to (and consumption in) their home or office, as described this Agreement, below. You must not engage, unless expressly permitted by us in writing, in any other type of sale of, or offer to sell, or distribution of Products and Services, including, but not limited to, selling, distributing, or otherwise providing, any Products and Services at wholesale, or for resale or distribution by any third party, or through satellite locations, sales or mail order catalogs, temporary locations, carts or kiosks, the Internet, or through any other electronic or print media.

1.6 Delivery Services.

1.6.1 You must provide delivery services in compliance with the Manuals and the System Standards that we periodically specify, but only through you, directly to end user customers through approved third-party delivery service providers (each a “**Third-Party Delivery Provider**”) or such other delivery methods as we approve in advance.

1.6.2 You will not receive any exclusive or protected delivery area around your hoots® wings restaurant for engaging in delivery or sale for delivery of the Products and Services (“**Delivery Activities**”). We and our affiliates may provide, and/or allow our or their franchisees and Third Party Delivery Providers to provide, delivery services to customers located in your Protected Market Area (and elsewhere) without any restrictions whatsoever. We will establish from time to time System Standards that may require you to concentrate your Delivery Activities within your Protected Market Area, or some other geographic area we designate or approve from time to time “**your Delivery Area**”. We may restrict where you may engage in Delivery Activities, and we may designate one or more Third-Party Delivery Providers as the sole or designated Third-Party Delivery Provider(s), and require you to contract with and comply with your agreements for them. Our System Standards may require hoots® wings restaurants to direct customers for Delivery Services outside that hoots® wings restaurants’ Delivery Area to other hoots® wings restaurants, or decline to sell the Products and Services to them. Our System Standards may permit Third-Party Delivery Providers to direct and allocate Delivery Activities among delivery service areas they or we may designate. Because of the evolving nature of the food to-go and delivery service sector, these System Standards for Delivery Activities may change and evolve at any time. We will not be liable for any reduction in your sales or profits as a result of these delivery activities or our System Standards for engaging in delivery activities.

1.6.3 You must comply with all Laws at all times in offering Delivery Activities, including, but not limited to, obtaining and maintaining all required permits, licenses, consents and waivers required by any Laws. You also agree to comply fully with the standards for independent third-party ordering and delivery services as established by us from time to time, including, but not limited to: using such food containers, thermal bags or other storage devices we may designate to the Third-Party Delivery Provider or you; providing such amount of additional condiments, napkins and utensils as we deem appropriate; sealing the delivery bags with the appropriate tamper-evident sticker or other

approved methods; and ensuring the food safety, quality and temperature maintenance of the Products and Services. You are solely responsible for maintaining adequate insurance to cover any liability that may arise from the use of Third-Party Delivery Providers (or other delivery methods) for Delivery Activities from your hoots® wings restaurant and comply with our requirement for same.

1.6.4 Unless approved in advance in writing by us, you will not: (a) advertise, promote or make any media statements about any Third-Party Delivery Provider; or (b) purport, authorize or consent to any Third-Party Delivery Provider to advertise or promote its own products or services using the Marks or Copyrights.

1.6.5 We reserve the right to periodically designate Third-Party Delivery Providers in our sole judgment. If you want to use a third-party delivery service provider that we have not yet approved, you must first submit the name of such proposed provider and other sufficient information for us to evaluate whether the provider meets our criteria. We may condition our approval of a third-party delivery service provider on such provider agreeing to provide periodic delivery sales reports directly to us and such other requirements relating to reliability, consistency, standards of service (including prompt attention to complaints) and/or other criteria. We may receive fees from Third-Party Delivery Providers in return for designating them as approved or designated for hoots® wings restaurants and may negotiate with them for our benefit or that of hoots® wings restaurants. We reserve the right periodically to revoke our approval of any Third-Party Delivery Provider that does not continue to meet our criteria. Notwithstanding the foregoing, you agree that we may limit the number of Third-Party Delivery Providers with whom you may deal, designate Third-Party Delivery Providers that you must use, and/or refuse any of your requests for any reason, including if we have already designated an exclusive Third-Party Delivery Provider for the System or if we believe that doing so is in the best interests of the System.

1.6.6 You agree to grant us access to, or otherwise collect and report in the form and manner desired by us, all operational, financial and other information concerning the Delivery Activities provided from your hoots® wings restaurant, including, but not limited to, all sales, transactions and guest count data, Product mix, service time data and financial results. We will have permission to access sales, guest count, and other operational data, including, without limitation, staffing and customer satisfaction data from the relevant Third-Party Delivery Provider and your hoots® wings restaurant.

## 1.7 Construction, Permitting, and Licensing.

1.7.1 You must complete the construction of your hoots® wings restaurant in accordance with the provisions and requirements of this Agreement (the “**Construction**”) and must open your hoots® wings restaurant for business within twelve (12) months after the Development Commencement Date (the “**Opening Date**”). On your written request, we may grant to you one (1) thirty (30)-day extension past the six (6) months allotted within which to open your hoots® wings restaurant without charging you our Extension Fee. All other extensions are subject to your payment of the Extension Fee. You must pay us a non-refundable Extension Fee of Two-Thousand Five Hundred Dollars (\$2,500) contemporaneously with your request for each of those extensions. We are not required to grant the extension. We will refund the Extension Fee if we refuse to grant the extension.

1.7.2 Provided that you have made full and complete application for all building permits, alcoholic beverage licenses, and all other permits required to open your hoots®

wings restaurant within 90 days after the Development Commencement Date. Provided that you have made full and complete application for such permits and licenses, within 90 days after the Development Commencement Date, we may, on your written request, grant to you one (1) thirty (30) day extension to obtain all necessary permits, without charging you any amounts for such extensions, if the delay was due to causes beyond your control. You must submit documentation of the status of the license and permit applications together with your request for such extension. On our grant of such extension, we will commensurately extend the Opening Date. We, in our sole discretion, may charge the Extension Fee per extension for granting additional extensions.

1.7.3 Should you be unable to obtain all necessary permits and licenses during the stated period and extension time periods, you will be in breach of this Agreement and we may terminate this Agreement.

1.8 Destruction of Site. In the event your hoots® wings restaurant is damaged or destroyed by fire or other casualty, or is required by any governmental authority to be repaired or reconstructed, you must commence repair or reconstruction of the building within ninety (90) days after the date of such casualty or notice of governmental requirement (or such lesser period as such governmental requirement may specify) and will complete all required repair or reconstruction as soon as possible thereafter, but in no event later than one hundred eighty (180) days after the date of such casualty or governmental requirement. In the case of reconstruction due to casualty, the minimum acceptable appearance for the restored building will be that which existed immediately prior to the casualty; provided, however, that you must use its best efforts to have the restored building include the then-current image, design, and specifications of new hoots® wings restaurants.

1.9 No Subfranchising. YOU HAVE NO RIGHT TO GRANT SUBFRANCHISES TO OTHERS. YOU MUST NOT, AND MUST NOT ATTEMPT TO, GRANT SUBFRANCHISES TO OTHERS.

1.10 Alternative Channels of Distribution. Alternative Channels of Distribution include the offer or sale of the Products or Services at or through locations associated with activities like gambling locations, casinos or sports books, sporting events, airports, mass transit terminals, malls or office building cafeterias, at sporting even venues (Alternative Channel Of Distribution Locations) as well as any offers or sales and via the, internet, intranet, catalog sales, websites, e-mail or other forms of e-commerce) ("**Alternative Channels of Distribution**"). You do not receive any right to engage in any Alternative Channels of Distribution at, from or through your hoots® wings restaurant. You must not engage in any Alternative Channels of Distribution unless expressly permitted to do so by us. You will not receive compensation for sales through Alternative Channels of Distribution unless we later permit you to engage in them and establish a compensation program for doing so under our System Standards.

1.11 Hooters Activities Are Unrestricted. Without limiting any rights we reserve above, as between you and us, our affiliates and we retain all rights with respect to the licensing, franchising, development and operation of Hooters® Restaurants, or their products, services intellectual property or the like regardless if located or operating for take-out, delivery, wholesale, retail or on line sales anywhere ("**Hooters Activities**"). We determine what constitutes Hooters Activities as compared to the operation of a hoots® wings restaurant, and no rights, duties, covenants, promises or obligations in this Agreement or any Development Agreement in any way restrict Hooters Activities anywhere, or grant you any rights or protections of any kind with respect to any Hooters Activities.



## 2. TERM; RENEWAL

2.1 Initial Term. This Agreement will commence on the Effective Date and will continue in effect for a period of ten (10) years after the opening of your hoots® wings restaurant (the “**Initial Term**”), subject to earlier termination as set forth in this Agreement.

2.2 Renewal Term. You may renew the Franchise as to your hoots® wings restaurant for two (2) additional five (5)-year terms (such additional terms being referred to in this Agreement as the “**Renewal Terms**,” and the Initial Term, together with the Renewal Terms, being referred to collectively in this Agreement as the “**Term**”), provided that:

2.2.1 You deliver written notice (the “**Renewal Notice**”) fewer than eighteen (18) months but more than six (6) months before the end of the Initial Term, of your intent to renew the Franchise for the Renewal Term;

2.2.2 You pay us a renewal fee in the amount of the greater of \$12,500 or one-third (1/3) of the then-current Franchise Fee (as defined in Section 4.1, below), delivered contemporaneously with your delivery of the Renewal Notice, for renewal of the Franchise for your hoots® wings restaurant;

2.2.3 You are, at the time you deliver the Renewal Notice, in compliance with all other agreements to which we or our affiliates on the one hand, and you or you affiliates on the other hand, are parties;

2.2.4 You are and have been, at all times during the Initial Term, in compliance with: (i) this Agreement and all amendments to it; and (ii) our confidential operations manuals (the “**Manuals**”);

2.2.5 You are, at the time you deliver the Renewal Notice, current with respect to its obligations to its lessor, suppliers, and any other parties with whom it does business.

2.2.6 You enter into our then-current form of franchise agreement for renewal franchisees (or, if not available, our then-current form of franchise agreement for new franchisees), including all schedules, exhibits, addenda, and attachments to it (collectively, the “**Renewal Franchise Agreement**”), all of which may contain terms that vary materially from the terms of this Agreement; and

2.2.7 You and our Principal Owners (as defined in Section 13.2, below) execute and deliver to us a general release in the form we prescribe (the “**Release**”).

2.3 Non-Renewal By you. You will be deemed to have declined to renew the Franchise as to your hoots® wings restaurant, and the option to renew the Franchise set forth in Section 2.2 of this Agreement will expire automatically and without notice as to your hoots® wings restaurant, if you do not deliver to us all items required for renewal, including, without limitation, the Renewal Fee, the executed Renewal Franchise Agreement, and the executed Release, to us within thirty (30) days after Hoots Franchising delivers the Renewal Franchise Agreement and Release to Franchisee for execution.

2.4 Effect of Non-Renewal or Expiration. Non-renewal or expiration of this Agreement will end the Franchise as to your hoots® wings restaurant described in this Agreement. Upon

non-renewal or expiration of this Agreement, you must meet all of the obligations upon termination or expiration, as set forth in Section 15, below.

### 3. OUR OBLIGATIONS

3.1 We will provide Franchisee with guidance relating to the opening of your hoots® wings restaurant, including, without limitation, providing acceptable site criteria, approved supplier lists, and approved renovation criteria and, at our option, a set of architectural plans of an existing hoots® wings restaurant.

3.2 We will provide Franchisee with the manager training program described in Section 5.6 of this Agreement. You must pay the expenses of our personnel that provide training to Franchisee and your employees at your hoots® wings restaurant. Expenses will include, without limitation, travel expenses, business visas (where required), per diem, and lodging expenses.

3.3 We will offer Franchisee additional pre-opening training and opening supervision and assistance as we deem advisable, provided that you must give us adequate prior written notice of its proposed opening date. We do not hire or fire your employees for you, direct their day to day activities, control the terms and conditions of their employment, or compensate them. Those activities are your responsibility.

3.4 We will provide you with access to use our System Standards, along with such continuing advisory assistance to Franchisee in the operation, advertising, and promotion of your hoots® wings restaurant as we deem appropriate.

3.5 We will provide such refresher training programs for Franchisee and your employees designated by us, as we deem appropriate. If you request training that is not designated, the training will be at your expense.

3.6 We may provide Franchisee with advertising and promotional plans and materials for local advertising as described in Section 11 of this Agreement.

3.7 We will provide Franchisee, on loan, with one (1) copy of the Manuals, as set forth in Section 7 of this Agreement.

3.8 We may provide Franchisee with such merchandising, marketing, training, and other data and advice as we may develop and deem to be helpful in the management and operation of your hoots® wings restaurant.

3.9 We may provide Franchisee with such periodic individual or group advice, consultation, and assistance, rendered by personal visit or telephone, through newsletters, bulletins or other communications (delivered in hard copy or digitally), or by utilizing mystery-shopper or other similar programs; such advice, consultation and assistance will be made available from time to time to all Hoots Franchising franchisees, as we deem appropriate.

3.10 We will provide Franchisee with such bulletins, webinars, brochures, manuals, and reports, as we may publish for franchisees generally regarding our plans, policies, developments, and activities. In addition, Hoots Franchising will provide such communication concerning new developments, techniques, and improvements in food preparation, equipment, food products,

packaging, and restaurant management, that we deems relevant to the operation of your hoots® wings restaurant.

#### 4. FEES

4.1 Franchise Fee. You must pay to us an initial fully earned non-refundable franchise fee (the “**Franchise Fee**”) in the amount of Thirty Thousand Dollars (\$30,000) on your execution of this Agreement and delivery of this Agreement to us. You must pay to us the Franchise Fee in a lump sum in immediately-available bank funds. The Franchise Fee is paid in consideration of the administrative and other expenses we incur in granting Franchisee its Franchise and in further consideration of our lost or deferred opportunities to grant System franchises to others. The Franchise Fee is fully earned and non-refundable upon your execution of this Agreement.

4.2 Continuing Royalty Fee. You must pay to us a continuing royalty fee (the “**Continuing Royalty Fee**”) of five percent (5%) (the “**Royalty Percentage**”) of your Gross Sales (as defined in Section 4.13, below).

4.2.1 Unless otherwise stated in our System Standards, Continuing Royalty Fees are due and must be paid so that we actually receive payment in full for the Continuing Royalty Fee by the end of ten (10) days after the end of each four (4)-week accounting period. However, at our option, we may specify that, or allow, the Continuing Royalty Fees may be on a monthly, weekly, or daily basis (paid in real time via the Computer System/POS).

4.2.2 If a state or local law in which your hoots® wings restaurant is located prohibits or restricts in any way your ability to pay, or our ability to collect, Continuing Royalty Fees or other amounts based on Gross Sales derived from the sale of beer and wine at your hoots® wings restaurant, then you and we will adjust the Continuing Royalty Fees and other provisions to provide the same basic economic effect to both you and we as otherwise provided in this Agreement, with a corresponding change to the definition of Gross Sales.

4.3 Grand Opening Marketing Deposit. Within 5 days of our approval of the purchase or lease of your Site, you must pay to us \$10,000 as the “**Grand Opening Marketing Deposit.**” If you comply with our reimbursement policies in our System Standards, we will reimburse you the pro rata amounts of the Grand Opening Marketing Deposit (in the amounts for which you have complied with our reimbursement policies). Our System Standards currently require the Grand Opening Marketing Deposit expenditures occur during the 60-day period beginning 30 days prior to your Opening Date and ending 30 days after you Opening Date. If within 45 days after such 60-day period, you have not provided approved proof of expenditures in compliance with our reimbursement System Standards, those amounts of the Grand Opening Marketing Deposit are not refundable/reimbursable, and we may expend them as we deem appropriate, in our sole discretion. If you spend less than \$10,000 on approved expenditures, the difference is not refundable.

#### 4.4 Local Advertising.

4.4.1 In addition to any Grand Opening Marketing Deposit, you will, at your expense, implement a grand opening marketing program for your hoots® wings restaurant in accordance with our System Standards.

4.4.2 You must spend each calendar year at least a percentage of the Gross Sales of your hoots® wings restaurant on qualifying local advertising and promotion as we may

designate from time to time (the “**Minimum Local Advertising Expenditure**”). We will not require that the aggregate of the Minimum Local Advertising Expenditures, Local Advertising Cooperative contributions and System Development Fee exceed 5.5% of your Gross Sales. Within 6 months of the end of each calendar year, you must provide receipts evidencing qualified expenditures toward your Minimum Local Advertising Expenditure. If you fail to meet the Minimum Local Advertising Expenditure in any year, then you must pay to us an amount equal to the Minimum Local Advertising Expenditure for such year *minus* the amount of qualifying expenditures you actually spent on local advertising and promotion in such year (the “**Shortfall Payment**”). Notwithstanding the foregoing, your failure to meet the Minimum Local Advertising Expenditure is a breach of this Agreement and your payment of the Shortfall Payment will not cause us to waive any rights we have with respect to such breach under this Agreement.

4.4.3 **Local Advertising Cooperatives.** If a local advertising cooperative or LAA (defined below) is established for an area that includes your Protected Area (the “**Designated Area**”), you will be required to contribute to it an amount determined by the local or regional advertising cooperative as set forth in this Section, and upon 90 days’ notice from us, we may require that some or all of you Minimum Local Advertising Expenditure be contributed to the LAA. We may require that such a local advertising cooperative or LAA is established for your local area or region, and may require that advertising cooperative rules, governing documents and expenditures be subject to our approval. When two or more hoots® wings restaurants, including your hoots® wings restaurant, are opened in your Designated Area (or other Designated Area designated by us), you will become a “Member” of and participate in a local advertising group (the “**Local Advertising Association**” or the “**LAA**”) which will conduct and administer media advertising, promotion, marketing and public relations (“**Advertising and Marketing**”) for the benefit of the hoots® wings restaurants located in the Designated Area, subject to the following terms and conditions:

a. The LAA will consist of all hoots® wings restaurants in the Designated Area, including the hoots® wings restaurants owned by us or an affiliated company in the Designated Area. Each hoots® wings restaurant in the area governed by it must make its required contributions and participate in its activities and be subject to its governing documents.

b. Each hoots® wings restaurant in the Designated Area, including the hoots® wings restaurants owned by us or an affiliated company, will be a Member of the LAA. Each Member will have one vote for each franchised or company-owned hoots® wings restaurant owned by it in the Designated Area on all matters to be voted upon at duly convened meetings.

c. Each Member will be given five days written notice of any proposed meeting. A quorum consisting of a majority of all Members of the LAA will be required to convene any meeting of the LAA. A majority vote by the Members present at a duly convened meeting will be required to pass any proposed resolutions or motions. All meetings will be conducted according to Robert’s Rules of Order.

d. The purpose of the LAA will be to conduct Advertising and Marketing for the benefit of all hoots® wings restaurants located in the Designated Area.

e. The LAA will not conduct any Advertising and Marketing program or campaign for the hoots® wings restaurants in the Designated Area unless and until we have given the LAA prior written approval for all concepts, materials or media proposed for any such Advertising and Marketing program or campaign.

f. On or before the 10th day of each month, each Member of the LAA will contribute up to 3% of the monthly Gross Revenues generated during the previous month by the Member's hoots® wings restaurant to the LAA (the "**Local Advertising Cooperative Fee**"). The Local Advertising Cooperative Fee may be increased to greater than 3% of Gross Sales if 50% or more of its members vote in favor of doing so. The Local Advertising Cooperative Fee contributed by the Members will be used by the LAA for Advertising and Marketing programs and campaigns for the benefit of all hoots® wings restaurants in the Designated Area. The cost of all Advertising and Marketing in the Designated Area must be approved by a majority vote of all Members present at a duly convened meeting. If the cost of the Advertising and Marketing approved by the Members exceeds the amount of funds available to the LAA, then the Local Advertising Cooperative Fee payable by you and all other Members to the LAA pursuant to this provision may be increased by vote of a majority of the Members present at a duly convened meeting. You will contribute the amount of the Local Advertising Fee agreed to by the Members to the LAA in accordance with this provision.

g. The LAA will, within 20 days after the end of each calendar quarter, furnish to us and its Members in the form prescribed by us, a written summary of the Members' contributions to the LAA and an accurate accounting of the LAA's expenditures for approved Advertising and Marketing.

h. The Local Advertising Cooperative Fee paid by you to the LAA may be applied to the 5.5% Minimum Local Advertising Expenditure requirement in this Agreement. Otherwise, contributions to the LAA by you pursuant to this provision will be in addition to the payment of the System Development Fees and your other advertising obligations set forth in this Agreement.

4.5 Site Selection Fee. You must pay to us an initial "**Site Selection Fee**" of in the amount designated in Exhibit A, unless waived by us if indicated as waived in Exhibit A. If the review of your proposed Site results in more than 4 on-site visits or more than 4 Sites to be evaluated by us or our authorized representative, then we may, in our sole discretion, charge you an additional Site Selection Fee in the amount designated in Exhibit A per additional on-site visit or per additional evaluation. The Site Selection Fee is due within 5 days of our invoice to you (usually prior to the site selection review) and is due in lump sum and non-refundable when paid. The Site Selection Fee covers our costs of reviewing the Site(s) to determine if the Site(s) meet(s) our Site selection criteria. The Site Selection Fee also covers the cost of us coordinating and overseeing the progress of the Site Selection process. We are not required to travel to the Site to provide Site selection services, and the Site Selection Fee is not reduced or waived if we conduct the Site Selection review or visit on a remote or virtual basis. We may utilize designated or approved outside suppliers to perform many or all of these Site selection services. In addition to the Site Selection Fee, per Site selection or per additional visit, you must reimburse us for all travel and hotel costs if we visit the Site, and these amounts are due at the same time as the Site Selection Fee.

4.6 System Development Fee. You must pay to us or our designee, to be actually received by the end of ten (10) days after the end of each four (4)-week accounting period, a national advertising fee in an amount equal to a percentage of the Gross Sales of your hoots® wings restaurant that we may designate from time to time (the “**System Development Fee**”) during such four (4)-week accounting period. We or our designee reserve the right to change the amount of the System Development Fee upon ninety (90) days written notice to Franchisee; provided, however, that the System Development Fee may not be increased by more than one hundred (100) basis points (1.0%) in any consecutive twelve (12)-month period, and the System Development Fee may not exceed four percent (4%) of your Gross Sales for the Initial Term. We or our designee will maintain and administer the System Development Fund as otherwise provided in this Agreement.

4.7 Initial Fees and Training Expenses: Initial Restaurant. Before you open your hoots® wings restaurant, you must pay us (reimburse us) the expenses we incur for trainers (“**Training Expenses**”). These Training Expenses range, depending on the number of trainers you need, the trainers’ experience, how far the trainers must travel, and other factors. The Training Expenses are due within 5 days of our invoice to you. We will provide you with invoices for the amounts owed. In general, we invoice you 30 days before the Opening Date and will invoice you for any training between that time and the Opening Date, within 5 days of your Opening Date. You must pay to us or our designee the then current fee we designate for supporting ongoing development of training programs and for maintaining and supporting an online learning management system (the “**Training System Fee**”). The current Training System Fee as of the Agreement Date will be set forth in Exhibit A. The Training System Fee can be due monthly, daily or at any other periodic dates we specify.

4.8 Extension Fee. If we grant an extension to you under the Development Agreement, or for you finding a Site, to obtain a lease, or for the construction of and opening of your hoots® wings restaurant, you must pay to us an Extension Fee of designated in Exhibit A for each extension. The Extension Fee is due at the time of the grant of the extension and is due in lump sum and is non-refundable. Each extension is up to 30 days, and any extension beyond 30 days is deemed an additional extension requiring your payment to us of an additional Extension Fee.

4.9 Casualties. Your obligation to pay the Continuing Royalty Fee and the System Development Fee (collectively, the “**Fees**”) is not altered by the occurrence of any casualty or event that would cause a temporary closing of your hoots® wings restaurant. In the event that such a casualty or event occurs, all Fees to be paid by you to us for each four (4)-week accounting period in which your hoots® wings restaurant is closed will be the average of all Fees payable by you to us during the immediately preceding thirteen (13) four (4)-week accounting periods, or such lesser period as your hoots® wings restaurant has been open if your hoots® wings restaurant has been open fewer than thirteen (13) four (4)-week accounting periods.

4.10 Transfer Application Fee. You must pay to us a Transfer Application Fee of \$3,000 when you request us to consider an applicant for a transfer. It is due upon invoice at the time of that request and is non-refundable regardless of whether the proposed transfer is approved.

4.11 Transfer Fee. Prior to the consummation of a transfer of you, you must pay to us a Transfer Fee of 50% of our then current Franchise Fee. If the transfer is what we deem to be a non-controlling interest in you, the Transfer Fee is \$2,500.

4.12 Past-Due Payments. Any payment that we do not actually receive by the end of the specified date will be deemed past due. If any payment is past due, in addition to our right to exercise all rights and remedies available to us under this Agreement, you must pay to us, the past-due amount, plus interest on such amount from the date it came due until the date we actually receive such payment. The rate of such interest will be the lesser of: (i) eighteen percent (18%) per annum; or (ii) the maximum rate allowed by applicable state laws (hereinafter the “**Default Rate**”), until paid in full. In addition to such interest payment, you must pay to us \$100 per day for each day that such past-due payment remains outstanding, whether outstanding in full or in part.

4.13 Gross Sales. As used in this Agreement, “**Gross Sales**” will include all revenue related to the sale of Products and performance of services in, at, about, through, or from your hoots® wings restaurant, whether for cash or credit, and regardless of collection in the case of credit, and income of every kind and nature related to your hoots® wings restaurant, including, without limitation, insurance proceeds and condemnation awards for loss of sales, profits, or business; and further including, without limitation, amounts from vending machines, slot machines or gambling devices (if permitted by us in writing), any coin-operated machines for vending merchandise to customers, entertainment devices for the playing of electronic or manual games, pool tables, juke boxes, ATM fees, sports betting, or in-store advertising of sports betting, beer and wine sales, gift cards, merchandise, delivery, catering, and any off-premises consumption; provided, however, that “Gross Sales” will not include: (i) revenues from sales taxes or other add-on taxes Franchisee collects from guests and actually transmits to the appropriate taxing authority; and (ii) tips guests give and that are charged to the guests’ credit or debit cards. Service fees and commissions to the Third-Party Delivery Providers are not excluded from Gross Sales.

4.14 Payment of Amounts Owed.

4.14.1 You will pay to us all Continuing Royalty Fees, System Development Fees, and all other sums Franchisee owes Hoots Franchising by Automatic Clearing House payment (“**ACH Payment**”). You agree to sign and return to us the current form of “Authorization Agreement for ACH Payments,” a copy of which is attached to this Agreement as Exhibit B, and you must comply with the payment and reporting procedures specified by us in the Manuals.

4.14.2 You must pay all amounts due to us under this Agreement without counterclaim or set-off.

4.15 Training Non-Compliance Fee: If you fail to or refuse to attend any required meetings or training, you will pay to use a “**Training Non-Compliance Fee**” in the amount of 2 times the cost of such training program or meeting. If you fail to attend more than one such required meeting or required training program (or more than 5 per calendar year of our bi-weekly Training), the Training Non-Compliance Fee will double in amount each time you or your designee (subject to our approval) fail to attend a required meeting or training meeting. Nothing in this section limits our right to terminate or take other action against you for such breach of this Agreement.

4.16 Relocation Fee. You may not relocate your hoots® wings restaurant without our prior written consent. Pursuant to our relocation policy, we will only approve your relocation (but, for the avoidance of doubt, will not be required to so approve) if you (i) pay a \$5,000 fee and (ii) open your relocated restaurant within 6 months of closing your hoots® wings restaurant. We may, but will not be required to, assist you in selecting a replacement location, you may not begin construction or renovation of any Restaurant until you have received our written approval of such

relocation. You are solely responsible for selecting the replacement location and negotiating the lease or purchase terms, all subject to our approval. You are also responsible for construction or renovation of the Restaurant and for ensuring that it is constructed consistent with the site plan we approve and other plans and specifications we designate.

4.17 White Glove Service Fee. You must pay to us or designee (which we or our designees will forward to a third-party service provider) the then-current service fee associated with the set up and activation of your POS system and related systems (the “**White Glove Service Fee**”). We or our designee may collect the White Glove Service Fee as a convenience for the third party and forward it to the third party, and treat it as not paid to us. The then-current White Glove Service Fee and its due date will be indicated on Exhibit A.

## 5. DUTIES OF FRANCHISEE

5.1 You acknowledge and agree that every detail of your hoots® wings restaurant, including, without limitation, the uniformity of appearance, service, products, and advertising of your hoots® wings restaurant, is important to you, us, the System, and our other franchisees, in order to maintain the System’s high and uniform operating standards, to increase the demand for the products and services, and to protect our reputation and goodwill.

5.2 If you are, or organize the Franchisee as, a corporation, limited partnership, general partnership, limited liability company, or other business entity, you must comply with the following requirements:

5.2.1 You must confine your activities exclusively to the development, opening and operation of your hoots® wings restaurant and your governing documents must so reflect.

5.2.2 Your Certificate or Articles of Incorporation, Bylaws, Partnership Agreement, Articles of Organization, Operating Agreement, or comparable governing documents will at all times provide that: (i) your activities must be confined exclusively to the development, opening, and operation of your hoots® wings restaurant; and (ii) the issuance, redemption, purchase for cancellation, and transfer of voting stock, partnership interests, membership interests, or other equity interests in Franchisee, are restricted by the terms of this Agreement.

5.2.3 You must provide to us copies of your Certificate or Articles of Incorporation, Bylaws, Partnership Agreement, Articles of Organization, Operating Agreement, or comparable governing documents, and any other documents we may reasonably request, and any amendments to any of them, so that we actually receive such copies by the end of ten (10) days after we request such copies.

5.2.4 You must maintain stop transfer instructions against the transfer on your record of any equity securities (voting or otherwise) you issue. All securities you issue must bear the following legend, which will be printed legibly and conspicuously on each stock certificate or other evidence of ownership interest:

THE TRANSFER OF THESE SECURITIES IS SUBJECT TO THE TERMS AND CONDITIONS OF A FRANCHISE AGREEMENT WITH HOOTS FRANCHISING, LLC DATED [INSERT DATE]. REFERENCE IS MADE TO SUCH AGREEMENT AND TO THE RESTRICTIVE PROVISIONS OF THE [INSERT TYPE OF CERTIFICATE] OF THIS [INSERT TYPE OF ENTITY].



5.2.5 You must maintain a current list of all owners of record and all beneficial owners of any class of voting equity of Franchisee and must furnish the list to us upon request so that we actually receive such list by the end of ten (10) days after Hoots Franchising requests such list.

5.2.6 If you are a partnership, you must maintain a current list of all general and limited partners, and a list of all owners of record and all beneficial owners of any class of voting equity of Franchisee and such general and limited partners, and must furnish such list to us so that we actually receives such list upon request by the end of ten (10) days after we request such list.

5.2.7 Each Principal Owner (as defined in Section 13.2.1, below) of Franchisee, and such of your other Owners as we may specify, must enter into a continuing guaranty agreement in a form acceptable to us (the “**Guaranty**”). We may amend or modify the form of such Guaranty from time to time as to Owners signing the Guaranty after the Effective Date of this Agreement.

5.3 You assume all costs, liability, expense, and responsibility for locating, obtaining, and developing the Site for your hoots® wings restaurant and for constructing and equipping your hoots® wings restaurant at such Site. You must not make any binding commitment to a prospective vendor or lessor of real estate with respect to the Site unless Hoots Franchising accepts such Site in accordance with the procedures set forth in this Agreement and unless the lease documents for such Site provide, without limitation: (i) that the landlord will provide Hoots Franchising with notice of any default thereunder at least thirty (30) days prior to any termination of the lease, specifying such default and granting Hoots Franchising the right (but not the obligation) to cure any such default within such period; and (ii) that the landlord accepts Hoots Franchising as an assignee of your interest thereunder. You must agree to a collateral assignment of the lease for the Site, in a form acceptable to us (the “**Collateral Assignment of Lease**”). Under the Collateral Assignment of Lease, upon default by you of the lease for the Site, this Agreement, or the document securing this Agreement, Hoots Franchising will have right to take possession of the Site, and you will have no further right, title or interest in the lease.

5.4 You must, at your expense, and to our satisfaction, comply with all of the following requirements:

5.4.1 Before commencing Construction of your hoots® wings restaurant, you must submit a site plan to us, including a footprint of the proposed building, and architectural, kitchen, and signage drawings, for our approval. You must use an architect or engineer approved by us to prepare detailed plans and specifications for the Construction of your hoots® wings restaurant.

5.4.2 You will: (i) use a qualified general contractor or construction supervisor to supervise the Construction of your hoots® wings restaurant and the completion of all improvements; and (ii) submit to us a statement providing the name and contact information of such general contractor or construction supervisor.

5.4.3 You will cause such Construction to be performed only in accordance with the site plan and the plans and specifications Hoots Franchising approved. No changes will be made to such approved plans and specifications, or to the Construction, or to any of the materials used in your hoots® wings restaurant, or to interior and exterior colors of your hoots® wings restaurant, without our express prior written consent.

5.4.4 You must obtain and will thereafter maintain all licenses, permits, and certifications required for lawful Construction of your hoots® wings restaurant, including, without limitation, building, zoning, access, parking, driveway access, sign, and occupancy permits and licenses, and must certify in writing to us that you have obtained all such licenses, permits, and certifications.

5.4.5 You must obtain and will thereafter maintain all health, life, safety, alcoholic beverage, and other licenses, permits, and certifications required for operation of your hoots® wings restaurant and must certify in writing to us prior to the Opening Date that you have obtained all such licenses, permits, and certifications.

5.4.6 You must complete Construction of your hoots® wings restaurant in order to meet the requirements to open your hoots® wings restaurant in compliance with Section 1.7.1, above.

5.5 You must hire a salaried manager for the operation of your hoots® wings restaurant. The manager must be a full-time employee of your hoots® wings restaurant with no competing conflicts. We do not provide assistance in hiring of your personnel. You must train and properly supervise all your hoots® wings restaurant personnel in a certified training location. Hoots Franchising will provide training for your manager with our training program.

5.6 You must designate one (1) Owner as the operating principal with overall operating responsibility (the “**Operating Principal**”) for your hoots® wings restaurant and, if applicable, all other hoots® wings restaurants that you own. If you are an individual, you must serve as the Operating Principal. The Operating Principal must serve as the general manager of your hoots® wings restaurant who will have authority over the other managers (the “**General Manager**”), or designate a qualified individual to serve as the General Manager. Both the Operating Principal and the General Manager must devote his or her full time, energy, and best efforts to the management and operation of your hoots® wings restaurant (and, with respect to the Operating Principal, the management and operation of other hoots® wings restaurants that Franchisee owns, if applicable). Such Operating Principal and General Manager (and their respective replacement) will be required to complete, to our sole satisfaction, a Hoots Franchising-approved manager training program by the end of ninety (90) days after such individual’s appointment to serve as the Operating Principal or the General Manager (as applicable). If you are a corporation or other business entity, the Operating Principal must be an Owner in Franchisee, appointed by you and approved by us. Hoots Franchising will offer Franchisee training resources for your hourly employees as described in the Manual or otherwise in writing. If your hoots® wings restaurant opened under this Agreement is not the first hoots® wings restaurant you have opened under the System, we may waive certain training requirements, at our sole discretion.

5.7 You must use the Site solely for the operation of your hoots® wings restaurant. You must not use or permit the use of the Site for any other purpose or activity at any time without first obtaining our written consent. You must keep your hoots® wings restaurant open and in normal operation as designated by us in the Manuals or otherwise in writing. You must not locate or permit to be located on or about your hoots® wings restaurant premises or any other area of the Site any slot machines or gambling devices, or any coin-operated machines for vending of any merchandise, entertainment devices for the playing of electronic or manual games or for any similar purpose, pool tables or juke boxes, except as prescribed in the Manuals or as we may otherwise approve in writing. You must not permit the sale of products or services that we have not approved or authorized as part of the System without our prior express written consent. We

may prescribe conditions as we determine appropriate under which you may sell such products or services.

5.8 You must display all signs and other promotional materials we may require, to the extent permitted by applicable laws, ordinances, rules, regulations, court orders, and decisional authority of all federal, state, and local governmental authorities having jurisdiction over your hoots® wings restaurant (collectively, the “**Laws**”). The color, size, design, and location of such signs will be as Hoots Franchising specifies or approves. You must not place additional signs, posters, or other décor items in, on, or about the Site without our prior written consent.

5.9 You must comply with, and will cause the Site and your hoots® wings restaurant to comply with, any and all Laws. You are solely responsible for ensuring that all requirements set forth in this Agreement and all other requirements related to the development, opening, and operation of your hoots® wings restaurant, including, without limitation, all requirements related to employment, employment discrimination, wage and hour rules, building design, building construction, hygiene, food and beverage products, and alcoholic beverages, comply with any and all Laws. Franchisee acknowledges and agrees that it has taken any and all steps necessary to ensure that this Agreement and all other requirements related to the development, opening, and operation of your hoots® wings restaurant comply with all Laws.

5.10 You must maintain the interior and exterior of your hoots® wings restaurant, and all other areas of the Site, in first-class repair and condition, and in compliance with all of our maintenance and operating standards. In connection with such maintenance, you must make such additions, alterations, and repairs to the Site, and such replacement of items in and about your hoots® wings restaurant, as we may require, which additions, alterations, and repairs may include, without limitation, periodic repainting, refinishing, and repairing of your hoots® wings restaurant interior and exterior and replacing of obsolete or worn signs, furnishings, fixtures, and equipment. We have the right to modify System Standards which may accommodate regional or local variations, and any such modifications may obligate you to invest additional capital in the hoots® wings restaurant (“**Capital Modifications**”) and/or incur higher operating costs. We will give you 30 days to comply with Capital Modifications, but if a Capital Modification requires an expenditure of more than \$10,000, we will give you 60 days to comply. Otherwise, there is no limit on your requirement to make Capital Modifications. For the avoidance of doubt, Capital Modifications are in addition to costs you incur to repair, replace or refurbish your equipment and fixtures. In addition, Capital Modifications do not include expenditures you are required or choose to make to comply with applicable laws, governmental rules or regulations.

5.11 Franchisee acknowledges and agrees that it is in your best interests, and in the best interests of the System, that your hoots® wings restaurant be clean, up-to-date, well-maintained, and well-appointed. Therefore, Franchisee acknowledges and agrees that you must, at our request, remodel, redecorate, equip, improve, and modify (collectively, “**Renovate**”) your hoots® wings restaurant to conform such Restaurant to: (i) the building design, trade dress, color schemes, signage, and presentation of trademarks and service marks consistent with our then-current image; (ii) the requirements set forth in the Manuals; and (iii) the condition, state of repair, and general appearance of hoots® wings restaurants that we reasonably deems desirable. You and us acknowledge and agree that the obligation to Renovate is intended to be periodic remodeling, redecorating, equipping, improvement to, and modification of, your hoots® wings restaurant, and that nothing contained in this Agreement will affect your obligation to maintain your hoots® wings restaurant in compliance with the other provisions of this Agreement and the Manuals. However, we will not require you to Renovate your hoots® wings restaurant more often

than once every 5 years. Upon request by us, you must perform equipment upgrades, as determined by us, within ninety (90) days after receipt of notice from us to upgrade equipment.

5.12 You must operate your hoots® wings restaurant in strict compliance with such methods, standards, and specifications as we may from time to time prescribe in the Manuals or otherwise in writing, to maintain maximum efficiency and productivity and to ensure that the highest degree of quality, appearance, and service is consistently maintained. Without limiting the generality of the foregoing, Franchisee specifically agrees:

5.12.1 To maintain in sufficient supply, and to use at all times, only such products, materials, supplies, ingredients, and like items as we may require, and to refrain from deviating therefrom by using nonconforming items without our prior written consent;

5.12.2 To use at all times only such methods of preparation, methods of service, and like methods as we may require, including, without limitation, our standards and specifications for preparation and presentation of products served; and to refrain from deviating therefrom by using nonconforming methods without our prior written consent;

5.12.3 To maintain the highest standards of cleanliness, health, and sanitation;

5.12.4 To obtain such products, equipment, services, and supplies as we may require, for the appropriate handling, preparation, presentation, selling, and service of any food or beverage products;

5.12.5 To require clean uniforms conforming to such specifications as to color, design, and like factors as we may designate from time to time, to be worn by all of your personnel at all times while working at, in, through, or on behalf of your hoots® wings restaurant, and to cause all personnel to present a clean, neat appearance and to render competent and courteous service to guests;

5.12.6 To permit us, at any time, to remove from your hoots® wings restaurant samples of items without payment therefor, in amounts reasonably necessary for testing by us or an independent laboratory to determine whether such samples meet our then-current standards and specifications. We may require you to bear the cost of such testing if we have not previously approved the supplier of the item, or if the sample fails to conform to our specifications;

5.12.7 Not to install or permit to be installed on or about your hoots® wings restaurant premises, without our prior written consent, any furnishings, fixtures, equipment, décor, signage, or other improvements not previously approved as meeting our standards and specifications;

5.12.8 To deliver Products to customers using Third-Party Delivery Providers or other methods prescribed by us in compliance with our procedures, and to account for (in the manner Hoots Franchising specifies) delivery and catering charges not included in the price of the Products;

5.12.9 To employ a sufficient number of trained and qualified personnel to operate your hoots® wings restaurant. You are responsible for hiring, firing, compensating and directing the activities of your employees/staff. We do not have the right to hire, fire, direct the activities of or supervise your employees and other staff. If you or your affiliates operate

multiple hoots® wings restaurants under a Development Agreement, you must employ a sufficient number of qualified regional managers for them so as to meet our System Standards;

5.12.10 To maintain sufficient inventories to operate your hoots® wings restaurant; and

5.12.11 To honor all credit, charge, courtesy or cash cards or other credit devices required or approved by us. You must obtain the written approval of Hoots Franchising prior to honoring any previously unapproved credit, charge, courtesy or cash cards or other credit devices. You must ensure that your hoots® wings restaurant adheres to the standards applicable to electronic payments including PCI (Payment Card Industry) standards or any equivalent thereof. If required by us, you must provide Hoots Franchising with evidence of compliance with the applicable standards and provide, or make available to us copies of an audit, scanning results or related documentation relating to such compliance. Any costs associated with an audit or to gain compliance with these standards will be borne by you. You must immediately (in any event within twenty-four (24) hours) notify Hoots Franchising if it suspects or has been notified by any third party of a possible security breach related to the cashless system (or related cashless data) used in your hoots® wings restaurant.

5.13 We may require you to purchase or lease certain products (including food and beverages), equipment, services, and supplies, including furnishings, fixtures, equipment, signage, and other items required for the operation of your hoots® wings restaurant, solely from suppliers (including manufacturers, distributors, and other sources), that demonstrate, to our continuing sole satisfaction, the ability to meet our then-current standards and specifications for such items; that possess adequate quality controls and capacity to supply your needs promptly and reliably; and that we has first approved in writing and has not thereafter withdrawn from the approved supplier list. We have the right, in our sole discretion, to designate approved suppliers (“**Approved Suppliers**”) who may provide, sell or lease furniture, fixtures, signage, products, services, inventory, ingredients, equipment, supplies, items, food or beverages that are used, offered or sold by hoots® wings restaurants (“**Restaurant Items**”). We have sole discretion to approve or disapprove any or all Restaurant Items. We will list such items and suppliers in the Manuals or in periodic bulletins and newsletters we may supply. If you desires to purchase any items from an unapproved supplier, you must submit to us a written request for our consent to use such supplier, and will have such supplier acknowledge in writing that you are an independent entity from us and that we are not liable for debts you incur. We will have the right to require that our representatives be permitted to inspect the supplier’s facilities, and that samples from the supplier be delivered to us or to an independent laboratory that we designate for testing. You must pay a charge not to exceed the sum of \$1,000 plus the cost of the inspection and the actual cost of the test. We may also require that the supplier comply with such other requirements as we may deem appropriate, including payment of continuing inspection fees and administrative costs. We reserve the right, following our consent to use any Approved Supplier, to reinspect the facilities and products of such supplier and to revoke its consent on the supplier’s failure to continue to meet any of our then-current System Standards. If, in providing products, equipment, services, or supplies to Franchisee, any third party may obtain access to any of our confidential information or trade secrets, we may require, as a condition of approval of such supplier, that the supplier execute covenants of non-disclosure and non-competition in a form we provide.

5.14 You recognize that we will have the right to appoint only one manufacturer, distributor, reseller, and/or other vendor for any particular Restaurant. We may, in some

instances, be the only designated supplier of an item. We and our affiliates may earn income for the sale or lease to you of Restaurant Items.

5.15 We may require you to purchase or lease products, equipment, services, and supplies from us, our affiliates, or third parties we designate or approve. You acknowledge and agree that we and our affiliates may enter into agreements with third parties, including, without limitation, suppliers and distributors, under which we and/or our affiliates may derive revenue, profits, and other benefits, including, without limitation, rebates, credits, discounts, allowances, monies, payments, or marketing assistance (collectively, “**Allowances**”) as a result of consideration you pay to such third parties for purchases or leases we require you to make. These Allowances may be based on individual or System-wide purchases of food, beverages, paper goods and other items. You assign to us or our designee all of your right, title and interest in and to any and all such Allowances and authorizes us or our designee to collect and retain any or all such Allowances without restriction (unless otherwise instructed by the supplier).

5.16 You grant us, as well as any third-party representative which we may from time to time designate, the right to enter your hoots® wings restaurant premises at any time to inspect, photograph, audiotape, or videotape your hoots® wings restaurant and the equipment and operations at your hoots® wings restaurant, to ensure compliance with this Agreement, the System Standards and the Manuals; provided, however, that we and our designated third-party representative, in the exercise of this right, will use reasonable efforts to prevent what we deem to be unnecessary disruption or interference with the operation of your hoots® wings restaurant. You must cooperate with us and our designated third-party representative in such inspections by rendering such assistance as we and our designated third party representative may request, and must enforce and comply with all inspection standards we may establish; and, on notice from us, and without limiting our other rights under this Agreement, will take such steps as may be necessary to correct immediately the deficiencies detected during any such inspection, including, without limitation, immediately desisting from the further use of any products, equipment, services, or supplies, including, without limitation, advertising material, that do not conform to our then-current standards or specifications.

5.17 You must not engage in any trade practice or other activity, and will not offer any product or service, that we determine to be harmful to the goodwill of, or to reflect unfavorably on the reputation of, you, us, your hoots® wings restaurant, the Products sold at your hoots® wings restaurant, or the System; or that constitutes a deceptive or unfair trade practice; or that otherwise violates any Law.

5.18 In any equipment or trade fixture lease or financing that you enter into in connection with your hoots® wings restaurant, you must include a provision approving us as transferee without any right to accelerate or to modify such lease or financing, and requiring the lessor or lender to send notice of any default of such lease or financing to us at our then-current address and to give us thirty (30) days from the date we receive such notice of default to cure such default. We are under no duty or obligation whatsoever to cure such default, but should we elect to cure such default, you must reimburse and indemnify us for any costs and expenses we incur in connection with the cure of such default, on its written request, so that it actually receives such reimbursement by the end of ten (10) days after it requests such reimbursement.

5.19 In order to secure payment of all amounts you are obligated to pay under this Agreement, by your signing this Agreement, you grant to us a first priority, unsubordinated security interest in all of your trade fixtures, equipment, inventory, and accounts receivable, and

in the proceeds of the foregoing. You must execute all documents Hoots Franchising reasonably deems necessary to perfect its security interest in such items.

5.20 You must immediately notify us, in writing, of any act, omission, or circumstance that: (i) would constitute a default by you of this Agreement or any other agreement to which you and we are parties; or (ii) would reasonably be expected to impair your ability to fulfill its obligations to us. You must not intentionally, willfully, or negligently: (a) misrepresent any matter to us; or (b) fail to immediately notify us of any matter as to which this Agreement requires you to notify us.

5.21 You must offer for sale, and will honor for purchases by customers, any incentive or convenience programs which we may institute from time to time, and you must do so in compliance with our standards and procedures for such programs. Additionally, you must sell, issue, and redeem gift cards ("**Gift Cards**") and (whether as a part of, or separate from, Gift Cards) loyalty cards ("**Loyalty Cards**") that have been prepared utilizing the standard form of Gift Card or Loyalty Card provided or designated by us, and only in the manner specified in the Manuals or otherwise in writing. You must fully honor all Gift Cards and Loyalty Cards regardless of whether a Gift Card or Loyalty Card was issued by us or another franchisee and regardless of whether the Gift Card or Loyalty Card has been discounted for third-party retailer fees pursuant to arrangements that we has established with such retailers for the sale of Gift Cards and Loyalty Cards.

5.22 **Compliance with System Standards:** You acknowledge and agree that your operation and maintenance of your hoots® wings restaurant in accordance with System Standards are essential to preserve the goodwill of the Marks and all hoots® wings restaurants. Therefore, at all times during the term of this Agreement, you agree to operate and maintain your hoots® wings restaurant in accordance with each and every System Standard, as we periodically modify and supplement them during the term of this Agreement. If you fail to comply with our System Standards, then in addition to any other right we have under this Agreement, you will also pay to us \$1,000 for the first month in which System Standards are violated or not met (the "**Monthly System Standard Violation Fee**"): each subsequent month, consecutive or otherwise, in which System Standards are violated or not met by you, you will pay to us a System Standard Violation Fee in an amount equal to double the prior System Standard Violation Fee due. In addition to the Monthly System Standards Violation Fee, you must pay to us \$100 per day for each day in which System Standards are violated or not met (the "**Daily System Standards Violation Fee**"). System Standards may regulate any one or more of the following with respect to the hoots® wings restaurant:

5.22.1 design, layout, décor, appearance and lighting; periodic maintenance, cleaning and sanitation; periodic remodeling; replacement of obsolete or worn-out leasehold improvements, fixtures, furnishings, equipment and signs; periodic painting; and use of interior and exterior signs, emblems, lettering and logos, and illumination;

5.22.2 quantities, types, models and brands of Approved Products or Services, and other required fixtures, furnishings, equipment, signs, Software, materials and supplies;

5.22.3 required or authorized products and product categories including for all Approved Products and Services;

5.22.4 designated or approved suppliers of fixtures, furnishings, equipment, signs, Software, products, materials and supplies including for all Operating Assets and Restaurant Materials;

5.22.5 terms and conditions of the sale and delivery of, and terms and methods of payment for, products, materials, supplies and Approved Products and Services, including direct labor, that you obtain from us, unaffiliated suppliers or others;

5.22.6 sales, marketing, advertising and promotional programs and materials and media used in such programs;

5.22.7 use and display of the Marks and Copyrights;

5.22.8 minimum staffing levels, and the qualifications, training, dress and appearance of employees;

5.22.9 days and hours of operation and programs offered at the hoots® wings restaurant;

5.22.10 participation in market research and testing and product and service development programs and customer satisfaction programs;

5.22.11 acceptance of credit cards, gift certificates, coupons, frequent customer or membership programs, and payment systems and check verification services;

5.22.12 bookkeeping, accounting, data processing and record keeping systems, including Software, and forms; methods, formats, content and frequency of reports to us of sales, revenue, financial performance and condition; and furnishing tax returns and other operating and financial information to us;

5.22.13 types, amounts, terms and conditions of insurance coverage required to be carried for the hoots® wings restaurant and standards for underwriters of policies providing required insurance coverage; our protection and rights under such policies as an additional named insured; required or impermissible insurance contract provisions; assignment of policy rights to us; periodic verification of insurance coverage that must be furnished to us; our right to obtain insurance coverage for the hoots® wings restaurant at your expense if you fail to obtain required coverage; our right to defend claims; and similar matters relating to insured and uninsured claims;

5.22.14 complying with applicable laws; obtaining required licenses and permits; adhering to good business practices; observing high standards of honesty, integrity, fair dealing and ethical business conduct in all dealings with customers, suppliers and us; and notifying us if any action, suit or proceeding is commenced against you or the hoots® wings restaurant; and

5.22.15 regulation of such other aspects of the operation and maintenance of the hoots® wings restaurant that we determine from time to time to be useful to preserve or enhance the efficient operation, image or goodwill of the Marks and hoots® wings restaurants.



5.23 **Preferred Vendor Programs:** We may develop certain programs and terms under which we, our affiliates or hoots® wings restaurants receive certain negotiated benefits or terms from Approved Suppliers (“**Preferred Vendor Programs**”). You must follow all of our policies and procedures which we designate from time to time for participation in or termination of Preferred Vendor Programs (“**Program Rules**”). We can refuse or terminate your participation in Preferred Vendor Programs without terminating this Agreement. Our Program Rules may require that you only place or display at the Site (interior and exterior) such signs, emblems, lettering, logos and display materials that we periodically approve. We may designate one or more Approved Suppliers (“**Preferred Vendors**”) as exclusive suppliers of types, models or brands of business materials, supplies, Operating Assets, consumer goods, fixtures or materials and business services that we approve for hoots® wings restaurants. We may receive compensation from Approved Suppliers, fees, rebates or other consideration for such purchases. Certain Preferred Vendors may require that you enter into agreements with them (subject to our approval) in connection with our designation or your use of them as Preferred Vendors or participation in their Preferred Vendor Program (“**Preferred Vendor Agreements**”). You agree to enter any Preferred Vendor Agreements. We may be a party to such Preferred Vendor Agreements. We may, but are not obligated to, contribute a portion of such fees or rebates received by us from such agreements to System Development Fund. However, with respect to such contributions to the System Development Fund, if any, we will not be obligated to offset or reduce your obligation to pay to us System Fund Fees. If we permit you to receive any form of rebates, contributions or remunerations from Preferred Vendors, we may require that you provide to us accountings of such monies or other remuneration you receive, in the manner we designate in the Manuals. We may charge you fees in the amount we may designate from time to time for participating in Preferred Vendor Programs which we evaluate or for which we provide services. If we cancel your participation in any Preferred Vendor Program, we will direct the Preferred Vendor to stop doing business with you on the same terms as it does for other franchisees.

5.24 **Music and Other Audio and Visual Entertainment:** You agree to play only the type(s) of music and display only the types of visual entertainment, at the decibel levels and in the manners that we may periodically prescribe or approve. You must acquire any and all copyright and broadcast licenses to do so at your expense. You must acquire and install any audio or visual equipment that we designate or require for use by hoots® wings restaurants and you must subscribe to music and video services as we may periodically specify, whether with an Approved Supplier or Preferred Vendor. You must, to the extent and at the times and manners we designate, permit live performances of music and other entertainment at your hoots® wings restaurant and must obtain our prior written consent prior to your doing so, in accordance with our System Standards.

5.25 **Business Management System:** You must use and follow all of the rules and regulations, specifications and System Standards for and in connection with any purchase order system, scheduling, cost control, e-commerce, record keeping, payroll, inventory control, and accounting system we designate from time to time (collectively, the “**Business Management System**”). You must utilize the Information Technology System, and adhere to any policies and procedures if any, which we may designate or approve, in the manner we approve in your utilization of the Business Management System. You must use our standard supplier or vendor agreements and other agreements related to the Business Management System that we designate from time to time. The Business Management System will incorporate and consist of such functions as we designate from time to time, which may include a mandatory purchase order system and cash register systems and rules for participation and use of them, if any, which we may designate. Through, and as part of, the Business Management System we may require that you establish an operating account with a bank or other financial institution that we designate or

approve (the “**Operating Account**”). You must utilize the Operating Account in accordance with the System Standards as we designate (e.g. Business Management System rules and electronic funds transfers). We may change, alter or amend the functions, components, System Standards, Information Technology System and any other aspect of the Business Management System from time to time.

5.26 **Signage.** All exterior and interior signs at the hoots® wings restaurants (the “**Signs**”) must comply with the standard sign plans and specifications established by us and provided to you. You will, at your expense, prepare or cause the preparation of complete and detailed plans and specifications for the Signs and will submit them to us for written approval. We will have the absolute right to inspect, examine, videotape and photograph the Signs at the hoots® wings restaurant during the term of this Agreement. You will be responsible for any and all installation costs, sign costs, architectural fees, engineering costs, construction costs, permits, licenses, repairs, maintenance, utilities, insurance, taxes, assessments and levies in connection with the construction, erection, maintenance or use of the Signs including, if applicable, all electrical work, construction of the base and foundation, relocation of power lines and all required soil preparation work. You will comply with all federal, state and local laws, regulations, building codes and ordinances relating to the construction, erection, maintenance and use of the Signs. You may not alter, remove, change, modify, or redesign the Signs unless approved by us in writing. We will have the right to redesign the specifications for the Signs without the approval or consent of you. Within 90 days after receipt of written notice from us, you will, at your expense, either modify or replace the Signs so that the Signs displayed at the hoots® wings restaurant will comply with the new specifications. You will not be required to modify or replace the Signs more than once every five years. At no time during or after the expiration of the Term may you “drape”, obscure, paint over, remove or modify approved signage bearing our Marks without our express prior written consent and without complying with our instructions on how to do so.

## 6. MARKS AND COPYRIGHTS

6.1 An affiliate has granted us the exclusive right to use and to license others to use the Marks and the System to establish hoots® wings restaurants in the jurisdiction in which your hoots® wings restaurant is to be located. We have taken, and will take or cause to be taken, all steps we consider reasonably necessary to preserve and protect the ownership and validity of the Marks that we has designated for use in the System.

6.2 Franchisee covenants, warrants, represents, and agrees that:

6.2.1 You must use only the Marks and Copyrights we designate, and will use Marks and Copyrights only in the manner Hoots Franchising authorizes and permits. and agrees that any unauthorized use of the Marks and Copyrights will constitute an infringement of our rights.

6.2.2 You must use the Marks only for the operation of your hoots® wings restaurant, and only at your hoots® wings restaurant or in advertising for your hoots® wings restaurant.

6.2.3 You must operate and advertise your hoots® wings restaurant only under the name “Hoots” or if permitted by us, “HOOTS® Righteous Wings” without prefix or suffix, except as otherwise authorized or required by us.

6.2.4 You must identify yourself as the owner of your hoots® wings restaurant in connection with any use of the Marks, including, without limitation, on invoices, order forms, receipts, menus, employee forms, and contracts, and at such conspicuous locations on the premises of your hoots® wings restaurant as we may require with our standards and specifications.

6.2.5 You must not use any Mark or Copyright: (i) to incur any obligation or indebtedness on behalf of Hoots Franchising; (ii) as a part of your corporate or other legal name; (iii) in any part of a web site domain name without our prior written consent, which consent Hoots Franchising will not unreasonably withhold; or (iv) on a web site, including, without limitation, a social media site, without our prior written consent.

6.2.6 You must file for and maintain, at your sole cost and expense, all trade name or business name registrations required by us or by Law.

6.2.7 You must promptly execute any powers of attorney or other documents Hoots Franchising deems necessary to obtain or enhance protection for the Marks, to maintain the continued validity and enforceability of the Marks and Copyrights, to further our exercise of its rights under this Agreement, or otherwise.

6.2.8 In the event that any person or entity commences or threatens litigation against Franchisee related to the Marks or Copyrights or the System, you must promptly notify Hoots Franchising and will cooperate fully in defending or settling such litigation, as determined exclusively by us.

6.3 You expressly acknowledge and agree that:

6.3.1 As between you and us, we have the sole and exclusive right and interest in and to the Marks and Copyrights and the goodwill associated with and symbolized by them.

6.3.2 The Marks are valid, distinctive, and serve to identify us as the source of the goods and services offered pursuant to those marks and by those who are authorized to operate under the System.

6.3.3 You must not directly or indirectly contest the validity, distinctiveness, or ownership of the Marks, or our right to license the Marks, either during the Term or thereafter.

6.3.4 You have no ownership interest or other interest in or to the Marks, except the license granted by this Agreement.

6.3.5 In the event we substitute different Marks or Copyrights for the Marks or Copyrights you are then using, you must promptly effect such substitution at your sole cost and expense.

6.3.6 Any and all goodwill related to your use of the System, Copyrights or the Marks will inure solely and exclusively to the benefit of us, and on termination or expiration of this Agreement and the license granted under this Agreement, no monetary amount will be assigned as attributable to any goodwill associated with your use of the System, the Marks or Copyrights.

6.3.7 The license of the Marks granted to Franchisee under this Agreement is nonexclusive, and we retain the rights, among others:

- a. To use the Marks and Copyrights ourselves in connection with selling products and services;
- b. To grant other licenses for the Marks and Copyrights, in addition to those licenses already granted to existing franchisees and otherwise; and
- c. To develop and establish other systems using marks the same or similar to the Marks or Copyrights, or any other marks or copyrights, and to grant licenses or franchises thereto at any locations whatsoever, without providing any rights or compensation to you.

## 7. HOOTS FRANCHISING MANUALS

7.1 In order to protect our reputation and goodwill and the Marks, to maintain the high standards of operation under the System, and to protect the investments of Hoots Franchising and our other franchisees, you must conduct your hoots® wings restaurant in compliance with this Agreement, the Manuals, and such other written directives as we may issue from time to time whether or not such directives are made part of the Manuals, and any other manuals, videotapes, or materials we may create or approve for use in the operation of the System or your hoots® wings restaurant.

7.2 The Manuals, written directives, other manuals and materials, and any other confidential communications Hoots Franchising provides or approves, will at all times remain the sole property of Hoots Franchising and at all times you will keep and maintain them in a secure place on your hoots® wings restaurant premises.

7.3 We may add to, delete from, or modify the contents of the Manuals and any other written directives, manuals, and materials created or approved for use in the operation of the System, or your hoots® wings restaurant at any time and from time to time. Franchisee expressly agrees that such contents will be deemed effective on receipt by you or at such other time as we may otherwise specify.

7.4 You must at all times ensure that your copy of the Manuals is kept current and up-to-date. In the event of any dispute as to the contents of the Manuals, the master copy of the Manuals that we maintain will be controlling. Hoots Franchising reserves the right to provide the Manuals in hard copy, electronic or such other form as it may select, including through an intranet portal. You must at your expense ensure that you have the necessary equipment to receive and use the Manuals in its various forms.

## 8. CONFIDENTIAL INFORMATION

8.1 “**Confidential Information**” means any information that we disclose to Franchisee that we designate as confidential or that, by its nature, would reasonably be expected to be held in confidence or kept secret, whether such disclosure occurred prior to or after the Agreement Date. Without limiting the definition of “Confidential Information,” all the following will be conclusively presumed to be Confidential Information whether or not Hoots Franchising designates them as such: (i) all information that we has marked or designated as confidential; (ii) our Marketing Manual, Promotions Management Manual, Concept Overview Manual, and all other

System Manuals, including, without limitation, those on the subjects of Franchise Operations, Employee Relations, Finance and Administration, Field Operations, Purchasing, and Marketing, together with all similar directives and documentation; (iii) our training programs and the material contained in them; (iv) our rules, guidelines, standards, specifications, plans, programs, procedures, and agreements, related to the development, opening, and operation of hoots® wings restaurants; (v) our cost information; and (vi) all other information that we provides to Franchisee in confidence, except where such information is a Trade Secret.

8.2 **“Trade Secrets”** means information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from its disclosure or use, whether Franchisee obtained such information prior to or after the Effective Date of this Agreement. Without limiting the definition of “Trade Secret,” all the following will be conclusively presumed to be Trade Secrets whether or not Hoots Franchising or any judicial or other administrative body has designated them as such: (i) the System’s guest lists, and the contact information of such guests, including, without limitation, guest lists and contact information compiled by you; (ii) our food and beverage recipes, lists of ingredients, preparation instructions, and serving instructions; (iii) our advertising, marketing, and public relations strategies; (iv) our marketing analyses; (v) products and services that we proposes to introduce, but that it has not yet introduced; and (vi) our expansion plans.

8.3 Confidentiality. You must not, during the Term of this Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any Confidential Information, Trade Secret, knowledge, or know-how concerning the methods of operation of the business franchised hereunder which may be communicated to Franchisee or of which Franchisee may be apprised by virtue of your operation under the terms of this Agreement. You must divulge such Confidential Information only to such of its employees as must have access to it in order to operate your hoots® wings restaurant. Any and all information, knowledge, know-how, and techniques which Hoots Franchising designates as confidential will be deemed confidential for purposes of this Agreement, except information which Franchisee can demonstrate came to its attention before disclosure thereof by us or which, at or after the time of disclosure by us to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others. Any employee who may have access to any Confidential Information regarding your hoots® wings restaurant must execute a covenant that s/he will maintain the confidentiality of information s/he receives in connection with her/his association with Franchisee. Such covenants will be on a form provided by us (an **“Individual Non-Disclosure and Non-Competition Agreement”**), which form will, among other things, designate Hoots Franchising as a third party beneficiary of such covenants with the independent right to enforce them.

8.4 Franchisee-Developed Concepts. You agree to disclose to us all ideas, trademarks, service marks, trade dress, copyrightable works, recipes, concepts, methods, techniques and products conceived or developed by you, your affiliates, owners or employees during the Term of this Agreement relating to the development and/or operation of your hoots® wings restaurant (**“Improvements”**). You grant to us all right, title and interest in and to, including moral rights and rights to sue for past infringement, the Improvements and they are deemed owned by us as if our creation. In the event for any reason applicable law will not enforce our ownership of the Improvements, Franchisee grants to us and agrees to procure from its affiliates, owners or employees a perpetual, non-exclusive, and worldwide right to use any such ideas, concepts, copyrightable works, trademarks, service marks, trade dress, recipes, methods, techniques and products in all food and beverage service businesses operated by us or our

affiliates, franchisees and designees. We will have no obligation to make any payments to Franchisee with respect to any such ideas, concepts, methods, techniques or products. You agree that you must not use or allow any other person or entity to use any Improvement without obtaining our prior written approval.

## 9. TECHNOLOGY

9.1 Computer Systems and Software. With respect to computer systems and required software:

9.1.1 We will have the right to specify or require that certain brands, types, makes, and/or models of communications, computer systems, and hardware to be used by, between, or among hoots® wings restaurants, including, without limitation: (a) back office and point of sale systems, data, audio, video, and voice storage, retrieval, and transmission systems for use at hoots® wings restaurants, between or among hoots® wings restaurants, and between and among your hoots® wings restaurant and Hoots Franchising, our designee and/or Franchisee; (b) cash register systems; (c) physical, electronic, and other security systems; (d) printers, “media wall” systems, and other peripheral devices; (e) archival back-up systems; and (f) internet access mode (e.g., form of telecommunications connection) and speed (collectively, the “**Computer System**”).

9.1.2 We will have the right, but not the obligation, to develop or have developed for it, or to designate: (a) computer software programs and accounting system software that you must use in connection with the Computer System (“**Required Software**”), which you must install; (b) updates, supplements, modifications, or enhancements to the Required Software, which you must install; (c) the tangible media upon which such you must record or receive data; and (d) the database file structure of your Computer System.

9.1.3 You must install and use the Computer System and Required Software in the manner required by us.

9.1.4 You must record all sales on the computer-based point of sale system specified by us in the Manuals or otherwise in writing, which will be deemed part of your Computer System.

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

9.1.6 You must comply with all specifications issued by us with respect to the Computer System and the Required Software, and with respect to Computer Upgrades, at your expense. You must also afford us unimpeded access to your Computer System and Required Software as we may request, in the manner, form, and at the times requested by us.

9.2 Data. All data provided by you, uploaded to our system from your system, and/or downloaded from your system to our system is and will be owned exclusively by us, and Hoots Franchising will have the right to use such data in any manner that we deem appropriate without compensation to Franchisee. In addition, all other data created or collected by you in connection with the Computer System, or in connection with your operation of the business (including, but not limited to, consumer and transaction data), is and will be owned exclusively by us during the

Term of, and following termination or expiration of, this Agreement. Copies and/or originals of such data must be provided to us upon our request. Hoots Franchising licenses use of such data back to Franchisee, at no additional cost, solely for the Term of this Agreement and solely for your use in connection with the hoots® wings restaurant franchised under this Agreement.

9.3 Data Requirements and Usage. We may, from time to time, specify in the Manuals or otherwise in writing the information that you must collect and maintain on the Computer System installed at your hoots® wings restaurant, and you must provide to us such reports as we may reasonably request from the data so collected and maintained. You must download daily, or in such other intervals as we may require, all information and materials we may require in connection with the operation of your hoots® wings restaurant, and will display such information and materials in the manner we may prescribe, including, without limitation, to employees of your hoots® wings restaurant, or on media displayed at your hoots® wings restaurant. During and subsequent to the Term of this Agreement, we will have the right to use all data pertaining to, derived from, or displayed at your hoots® wings restaurant (including, without limitation, data pertaining to or otherwise related to your hoots® wings restaurant customers).

9.3.1 You must abide by all Laws pertaining to the privacy of consumer, employee, and transactional information (“**Privacy Laws**”).

9.3.2 You must comply with our standards and policies pertaining to Privacy Laws. If there is a conflict between our standards and policies pertaining to Privacy Laws and actual applicable Laws, you must: (a) comply with the requirements of applicable Laws; (b) immediately give us written notice of said conflict; and (c) promptly and fully cooperate with us and our counsel in determining the most effective way, if any, to meet our standards and policies pertaining to Privacy Laws within the bounds of applicable Law.

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

9.4 Electronic Identifiers; E-Mail. You must not use the Marks or any abbreviation or other name associated with us and/or the System as part of any e-mail address, domain name, and/or other identification of Franchisee in any electronic medium without our prior consent. You agree not to transmit or cause any other party to transmit advertisements or solicitations by e-mail or other electronic media without first obtaining our written consent as to: (a) the content of such e-mail advertisements or solicitations; and (b) your plan for transmitting such advertisements. In addition to any other provision of this Agreement, you must be solely responsible for compliance with any Law pertaining to sending e-mails including but not limited to the “CAN-SPAM Act of 2003.”

9.5 Internet web Sites and Listings. You must not create your own web site or social media presence for your hoots® wings restaurant or containing any Marks without our approval and compliance with all of the relevant policies, standards, and requirements that we may prescribe from time to time. We have established and maintain an Internet website at the uniform resource locator (currently, [www.hootswings.com](http://www.hootswings.com)) that provides information about the System and hoots® wings restaurants (the “**website**”). We may enhance our website to include a series of interior pages that identify hoots® wings restaurants by address, telephone number, and owners. We may (but are not required to) include at the website an interior page containing additional information about your hoots® wings restaurant. If we include your information on the website, we have the right to require you to prepare all or a portion of the page, at your expense, using a template that we provide. All information is subject to our approval before posting.

We control the website's design and content. We have the sole right to approve any linking to, or other use of, the website. We have no obligation to maintain the website indefinitely but may discontinue it at any time without liability to you. Furthermore, as we have no control over the stability or maintenance of the Internet generally, we are not responsible for damage or loss caused by errors of the Internet.

We also may establish and maintain one or more social media sites (e.g., www.twitter.com; www.facebook.com; www.instagram.com; www.pinterest.com, or such other social media sites). You may not establish or maintain any website, virtual store in online games, webpage, social media sites, App Sites, VPNs, utilizing any usernames, or otherwise associated with the Marks, without our advance written consent. We may designate from time to time regional or territory-specific usernames/handles that you must maintain. You must adhere to the social media policies that we establish from time to time and must require your employees to do so as well. Use of social media, including any pictures that may be posted on, using or through one or more social media sites, must be in compliance with our Manuals and System Standards, including our take-down policies. You are responsible for ensuring that all of your managers, trainers, sales associates and owners comply with our social media policies.

You and your employees will not be allowed to establish or operate any website for your hoots® wings restaurant or establish or participate in any HOOTS® related blog or other discussion forum without our prior written consent.

9.6 Technology Fee and Changes. You and we acknowledge and agree that changes to technology are dynamic and not predictable within the Term of this Agreement. In order to provide for inevitable but unpredictable changes to technological needs and opportunities, you agree that we will have the right to establish, in writing, new standards for the implementation of technology in the System. You also agree that you will abide by those new standards we established. You must pay to us our then current fees for supporting the Technology System (the "**Technology Fee**"). The current Technology Fee as of the Agreement Date will be set forth in Exhibit A. We may change, alter or amend it any time via our System Standards.

## 10. **ACCOUNTING AND RECORDS**

10.1 You must maintain, and will preserve for at least four (4) years after the dates of their preparation, full, complete, and accurate books, records, and accounts, prepared in accordance with generally-accepted accounting principles consistently applied, in the form and manner Hoots Franchising prescribes.

10.2 You must submit to us :

10.2.1 After the opening of your hoots® wings restaurant: (i) a royalty report, on a four (4)-week accounting period basis, in the form we prescribe, that accurately states all Gross Sales during each preceding four (4)-week accounting period and that provides such other data or information as we may require, so that we actually receives such report by the end of ten (10) days after the end of each such four (4)-week accounting period; (ii) profit and loss statements and balance sheets prepared in a form that we will designate and in accordance with generally-accepted accounting principles consistently applied for each accounting period, so that we actually receives such information by the end of fifteen (15) days after the end of each period covered by the report; and (iii) copies of all tax returns that you are required by Law to file related to your hoots® wings restaurant, so that we actually



receive such returns by the end of ten (10) days after the end of the applicable tax reporting period.

10.2.2 Reports of daily receipts, vendor purchases, payroll payments, and such other forms, reports, records, and information as we may request from time to time, and reports of all rebates, discounts, allowances, marketing assistance, or other benefits received from vendors, on forms we provide to Franchisee or in the form we specify.

10.2.3 Such records, reports, documents, data, certificates, and other information related to this Agreement, your obligations or your hoots® wings restaurant, as we may require, so that we actually receives such items by the end of ten (10) days after our request.

10.3 You must, at your expense, provide to us a profit and loss statement and balance sheet, accompanied by a review report certified by your chief executive officer or chief financial officer, within ninety (90) days after the end of each of your fiscal years, showing the results of operations of your hoots® wings restaurant during such fiscal year. Hoots Franchising reserves the right to require Franchisee to have such review report prepared by an independent certified public accountant satisfactory to us.

10.4 Hoots Franchising and its designated agents will have the right, at all times, to examine and copy, at our expense, the books, records, tax returns, and tax filings of Franchisee and your hoots® wings restaurant. We will also have the right, at any time, to have an independent audit made of the books of your hoots® wings restaurant. If an inspection reveals that any payments to us have been understated in any report to us, you must immediately pay to us the amount understated on our demand, plus interest on such amount from the date such amount came due until paid, at the Default Rate, calculated on a daily basis. If an inspection discloses an understatement in any payment to us of two percent (2%) or more, you must, in addition, reimburse us for any and all costs and expenses related to the inspection (including, without limitation, travel, food, lodging, and wage expenses of our personnel, and accounting and legal fees and costs); and, at our discretion, will submit audited financial statements prepared, at your expense, by an independent certified public accountant satisfactory to us. If an inspection discloses an understatement in any payment to us of four percent (4%) or more, such act or omission will constitute grounds for termination of this Agreement. The foregoing remedies will be in addition to any other remedies we may have pursuant to this Agreement or at law, in equity, or otherwise.

10.5 You must comply with the daily accounting and reporting procedures Hoots Franchising prescribes, as modified from time to time, and will purchase the accounting and reporting equipment, including, without limitation, point of sale equipment, that we require.

10.6 Franchisee hereby grants permission to us to release to your landlord, lender(s) or prospective landlord(s) and lender(s), any financial and operational information relating to Franchisee and/or your hoots® wings restaurant; however, we have no obligation to do so. Additionally, Franchisee grants permission to us to request and obtain information from its landlord(s) and lender(s) and for such landlords and lenders to respond to any and all questions from Hoots Franchising regarding Franchisee.

## 11. **ADVERTISING**

11.1 You must comply with its local advertising obligations set forth in this Agreement. Franchisee may conduct such additional local advertising and promotion of your hoots® wings

restaurant as Franchisee deems appropriate. All advertising and promotion Franchisee conducts must conform to such standards and requirements as we may specify. You must submit to us for our prior written approval samples of all advertising and promotional plans and materials that Franchisee desires to use and that we has not prepared or previously approved. You must display the Marks in the manner Hoots Franchising prescribes on all signs and other advertising and promotional materials used in connection with your hoots® wings restaurant. During the Term, we may, in our sole judgment, designate which expenditures will, or will not, count toward your required Minimum Local Advertising Expenditure. For example, amounts spent on advertising media (such as television, radio, newspaper, magazines and outdoor advertising), point-of-sale advertising materials and programs (such as in-restaurant graphics but excluding permanent signage), point-of-purchase materials (excluding packaging), brochures, catalogs and mails are qualifying expenditures. Non-qualified expenses include basic satellite and/or cable television subscriptions, music subscriptions, any form of video entertainment services, and salary and other compensation expenses associated with your (or its affiliate's) employees. Any promotional offer fulfillment, coupon redemption, whether in the form of free food or price reduction, or any other discount of any kind is not a permissible local advertising expense.

11.2 We may provide to you, at your expense, such advertising and promotional plans and materials as we deem advisable for local advertising. We may develop advertising programs for the promotion of the Marks or merchandise offered at hoots® wings restaurants, and you must comply with the requirements of such programs.

### 11.3 System Development Fund.

11.3.1 We or our designee may, upon ninety (90) days' prior written notice to Franchisee, establish and then administer and maintain a fund (the "**System Development Fund**"), on terms Hoots Franchising determines. You agree to pay us or our designee the System Development Fee. We or our designee will direct all advertising and promotional programs with sole discretion over the creative concepts, content, sponsorships, materials, and endorsements for any marketing programs, together with the geographic, market, and media placement, and allocation thereof. You acknowledge and agree that we may use the System Development Fund, in our sole discretion, to, among other things, fund advertising, promotional, and public relations activities; pay costs of producing, preparing, distributing, and using marketing, advertising, and other materials and programs; administer national, regional, and other marketing programs; purchase sports or entertainment sponsorships; purchase media; employ advertising, public relations, and other agencies and firms; support or conduct market research or customer survey programs; conduct mystery shopper and other customer service survey and response programs; software, apps and other technology products for the System; conventions and pageants, engage in strategic marketing and pay administrative costs, accounting fees, and overhead related to the System Development Fund. In connection therewith, the System Development Fund will have the right to hire consultants, some of whom may be affiliated with Hoots Franchising, such as an in-house advertising agency, to assist with marketing programs and materials for the System. Franchisee acknowledges and agrees that the System Development Fund will be used to maximize general public recognition and acceptance of the Marks and all hoots® wings restaurants, and that we will not be obligated in administering the System Development Fund to undertake expenditures for Franchisee that are equivalent to your contribution, or to ensure that any particular program benefits you directly or pro rata from expenditures the System Development Fund makes. On your written request, Hoots Franchising will prepare annual financial statements for the System Development Fund. We

may choose to have such statements audited and for any related accounting/auditing costs to be paid by the System Development Fund but are not obligated to do so.

11.3.2 The System Development Fund, all contributions to it, and any earnings on such contributions, will be used exclusively to meet any and all costs of maintaining, administering, researching, directing, preparing, and conducting advertising or promotional activities. All sums you pay to the System Development Fund will be maintained in an account separate from the other monies of Hoots Franchising, and will not be used to defray any of our expenses, except for such administrative costs and overhead as we may incur in activities reasonably related to the administration or direction of the System Development Fund and advertising programs for franchisees under the System. The System Development Fund will not otherwise inure to our benefit. Hoots Franchising or its designee will maintain separate bookkeeping accounts for the System Development Fund.

11.3.3 Hoots Franchising anticipates that most contributions to and earnings of the System Development Fund will be expended for advertising or promotional purposes during the taxable year in which the System Development Fund receives such contributions and earnings. To the extent that excess amounts remain in the System Development Fund at the end of such taxable year, all expenditures in the following taxable year will be made first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from contributions. Hoots Franchising, in its sole discretion, may spend in any fiscal year an amount greater or less than any aggregate contributions to the System Development Fund in that year. We may cause the System Development Fund to borrow from Us or our affiliates or other lenders to cover deficits of the System Development Fund. We may cause the System Development Fund to invest any surplus for future use.

11.3.4 The System Development Fund will not be an asset of Hoots Franchising or its designee. We will not have any direct or indirect liability or obligation to Franchisee, the System Development Fund, or otherwise, related to the maintenance, management, direction, administration, or otherwise of the System Development Fund. Franchisee acknowledges and agrees that: (i) your and our rights and obligations with respect to the System Development Fund and all related matters are governed solely by this Agreement; and (ii) this Agreement and the System Development Fund are not in the nature of a "trust," "fiduciary relationship," or similar special arrangement, and are rather an arms-length commercial relationship between independent business entities for their independent economic benefit.

11.3.5 Hoots Franchising retains the right to terminate the System Development Fund. Hoots Franchising will not terminate the System Development Fund until all monies in the System Development Fund have been expended for advertising or promotional purposes or returned to contributors on the basis of their respective contributions.

11.4 We may require Franchisee to participate in cooperative advertising programs with certain suppliers or approved sources of goods. You agree that we reserves the right, to the fullest extent allowed by Law, to establish maximum, minimum or other pricing requirements with respect to the prices Franchisee may charge for the Products offered and sold at your hoots® wings restaurant.

11.5 Franchisee acknowledges that periodic rebates, give-aways and other promotions and programs are an integral part of the System. Accordingly, Franchisee, at its sole cost and expense, from time to time will issue and offer such rebates, give-aways, discounts, incentives

and promotions in accordance with any marketing programs, loyalty programs or customer survey/research programs established by us, and further will honor rebates, give-aways and other promotions issued by other franchisees as long as all of the above do not contravene the Laws of appropriate governmental authorities.

## 12. **INSURANCE**

12.1 You must obtain, prior to the commencement of any operations under this Agreement, and will maintain in full force and effect at all times, at your expense, an insurance policy or policies insuring Franchisee, together with Hawk Parent, LLC and its subsidiaries (including Hooters of America, LLC) and HOA Holdco, LLC and its subsidiaries (including hoots® wings restaurant Holder, LLC and Hoots Franchising) as additional insureds, against any demand or claim related to personal injury, death, or property damage, or any other loss, expense, liability, damage, or damages whatsoever, arising out of or related to your hoots® wings restaurant.

12.2 Such policy or policies will be written by an insurance company rated A-minus or better, in Class 10 or higher, by A.M. Best Insurance Ratings Service, must be satisfactory to us, and must be in accordance with standards and specifications set forth in the Manuals or otherwise in writing from time to time, and must include, at a minimum (except as we may specify additional coverages and higher policy limits from time to time), the following initial minimum coverages:

12.2.1 (i) Commercial general liability insurance, including coverage for products liability, completed operations liability, contractual liability, personal injury, advertising injury, fire damage, medical expenses, and liquor liability, having a combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate (except for fire damage and medical expense coverages, which may have limits of not less than Fifty Thousand Dollars (\$50,000) for one fire and Five Thousand Dollars (\$5,000) for one person, respectively); plus (ii) non-owned automobile liability insurance and, if you owns, rents, or identifies any vehicles with any Proprietary Mark or if vehicles are used in connection with the operation of your hoots® wings restaurant, automobile liability coverage for owned, non-owned, scheduled, and hired vehicles, having limits for bodily injuries of One Hundred Thousand Dollars (\$100,000) per person and Three Hundred Thousand Dollars (\$300,000) per accident, and property damage limits of Fifty Thousand Dollars (\$50,000) per occurrence; plus (iii) excess liability umbrella coverage for the general liability and automobile liability coverages in an amount of not less than Three Million Dollars (\$3,000,000) per occurrence and in the aggregate. All such coverages must be on an occurrence basis and must provide for waivers of subrogation.

12.2.2 Comprehensive crime and blanket employee dishonesty insurance in an amount not less than One Hundred Thousand Dollars (\$100,000).

12.2.3 All-risk property insurance, including theft and flood coverage (when applicable), covering your hoots® wings restaurant building, improvements, furniture, fixtures, equipment, and food and beverage products. Coverage must be written in a value that will cover not less than eighty percent (80%) of the replacement cost of the building and one hundred percent (100%) of the replacement cost of the contents of the building.

12.2.4 Business interruption insurance of not less than Fifty Thousand Dollars (\$50,000) per month, and must cover at least your obligations with respect to leases,

royalties, advertising fund obligations, fixed costs, and other recurring expenses with a limit of not less than six (6) months of coverage.

12.2.5 Workers' compensation/employer's liability insurance and such other insurance as may be required by Law, including unemployment compensation insurance, disability insurance and other mandatory insurance, in such coverages as the Law may now or later require.

12.2.6 Employment practices liability insurance of not less than One Million Dollars (\$1,000,000).

12.2.7 Dram Shop/ Alcohol Liability (only required if alcohol beverages are sold or served) of not less than One Million Dollars (\$1,000,000).

12.3 Your obligation to obtain and maintain the foregoing policy or policies in the amounts specified will not be limited in any way by reason of any insurance that we may maintain, nor will your performance of such obligations relieve Franchisee of liability under the indemnity provisions set forth in Section 19 of this Agreement.

12.4 Prior to the opening of your hoots® wings restaurant, and thereafter at least thirty (30) days prior to the expiration of any such policy, you must deliver to us certificates of insurance evidencing the proper coverage with limits not less than those required under this Agreement. All certificates will expressly provide that the insurer will give Hoots Franchising not less than thirty (30) days' prior written notice in the event of material alteration to, termination of, non-renewal of, or cancellation of, the coverages evidenced by such certificates.

12.5 In the event of fire or other insured casualty that results in the damage or destruction of your hoots® wings restaurant, you must pay to us, from the proceeds received by you of any business interruption or other insurance applicable to loss of revenues or proceeds, an amount equal to five percent (5%) of such insurance proceeds (the "**Casualty Proceeds**"). Our portion of the Casualty Proceeds will be paid to us within ten (10) days after receipt. At the same time, you must notify Hoots Franchising whether it will reconstruct your hoots® wings restaurant in a prompt and timely manner. In the event Franchisee notifies Hoots Franchising that it will not do so, we will terminate this Agreement pursuant to Section 14.2.3, and you must thereafter comply with all of the obligations upon termination set forth in Section 15 of this Agreement that we may reasonably require under the circumstances.

### 13. **TRANSFER OF INTEREST**

13.1 Transfer by us. We will have the absolute right to transfer, assign, and delegate all or any part of its rights and obligations under this Agreement to any person or entity Hoots Franchising deems appropriate. Such transfer, assignment, or delegation will effect a complete novation as to the right or obligation transferred, assigned, or delegated. After such transfer, assignment, or delegation, you must look solely to the transferee, assignee, or delegatee, and not to us, for the satisfaction of any obligation transferred, assigned, or delegated. We may also, without your consent, transfer, assign, or otherwise alter any or all of the ownership in Hoots Franchising.

13.2 Transfer by you or Owners.

13.2.1 An “**Owner**” or “Principal Owner” is a natural person who “owns” equity in Franchisee, where such ownership is direct, indirect, or beneficial. A “**Principal Owner**” of you also any natural person who is a direct, indirect or beneficial owner of any equity in any business entity that holds any equity in you. Principal Owners also include the spouse of any Principal Owner if any marital assets are used to qualify for or operate the hoots® wings restaurant franchise. Your Principal Owners and other Owners as of the Effective Date, and the percentage and type of equity of Franchisee each such Owner owns or holds, and the manner of such holding, are set forth on Exhibit C to this Agreement.

13.2.2 Franchisee acknowledges and agrees that: (i) this Agreement is a contract for the personal services of Franchisee and its Principal Owners; and (ii) we have granted this Agreement in reliance on information Franchisee and its Principal Owners provided related to your and such Principal Owners’ business skills, business acumen, personal character, education, credit rating, and financial resources (collectively, the “**Principal Owner Qualifications**”). Franchisee hereby directs any party construing this Agreement, including, without limitation, any court, mediator, master, or other party acting as a trier of fact or law, to conclusively presume that this Agreement is a contract for the personal services of Franchisee and its Principal Owners.

13.2.3 Our prior written consent is a necessary condition precedent to the sale, assignment, delegation, transfer, conveyance, gift, pledge, mortgage, encumbrance, or hypothecation (collectively, the “**Transfer**”) of any direct, indirect, or beneficial interest of any Principal Owner in you, of your hoots® wings restaurant (or all or substantially all of its assets), the Franchise, of this Agreement, in any interest or rights granted under this Agreement.

13.2.4 Except as specifically provided in this Agreement, we have the absolute and unfettered right to withhold its consent to a Transfer of any interest described in Section 13.2.4 of this Agreement (collectively, any “**Interest**”). Any permitted transferee of a Principal Owner must satisfy the Principal Owner Qualifications. In addition, we may, in our sole discretion, require any or all of the following as conditions precedent to our consent to a Transfer:

a. Franchisee and its affiliates must satisfy all monetary obligations and other outstanding obligations owed to us, our affiliates, and your other creditors.

b. You, your Principal Owners and your affiliates must have complied with this Agreement, any amendment to this Agreement, and all other agreements between you, your Principal Owners or such affiliates on the one hand, and us or our affiliates on the other hand; and, at the time of Transfer, must not be in default of any such agreements.

c. You must, along with the application to us for approval of a Transfer, pay a transfer application fee of Three Thousand Dollars (\$3,000) (the “**Transfer Application Fee**”).

d. Franchisee, Owners, transferor, and transferee must duly execute and deliver to us the then-current form of transfer and assumption agreement, which transfer and assumption agreement: (i) will require the transferee to assume and agree to discharge all of the obligations of the transferor; (ii) will provide that

the transferor will remain liable for all of the obligations to us and our affiliates in connection with your hoots® wings restaurant arising prior to the effective date of the Transfer; (iii) will contain a Release, the form of which will be prescribed by us; and contain a Principal Owner Guaranty for that transferee.

13.2.5 In addition to the requirements set forth in Section 13.2.4, if a Transfer is of a controlling interest (greater than 25%) in Franchisee, your hoots® wings restaurant (or all or substantially all of its assets), this Agreement, in any interest or rights granted under this Agreement (a “**Controlling Interest Transfer**”), we may, in our sole discretion, require any or all of the following as conditions precedent to our consent to such transfer:

a. Transferee must enter into our then-current form of franchise agreement (the “**Replacement Franchise Agreement**”). The provisions of the Replacement Franchise Agreement may differ materially from the provisions of this Agreement. We will not require the transferee to pay the Franchise Fee set forth in this Agreement. The initial term of the Replacement Franchise Agreement will be the balance remaining of the Initial Term of this Agreement.

b. Transferor or transferee must pay us a transfer fee in an amount equal to fifty percent (50%) of our then-current Franchise Fee for an individual hoots® wings restaurant that is not under a Development Program (the “**Transfer Fee**”). Any Transfer Application Fee paid by you specifically for the proposed Controlling Interest Transfer will be credited against the payment of the Transfer Fee.

c. The transferee, at its expense, must renovate your hoots® wings restaurant, and must complete such obligation to Renovate by the end of the time we may specify.

d. The transferee and, if applicable, the transferee’s designated general manager, must complete any training programs then in effect for new franchisees prior to the effective date of such Transfer, on such terms and conditions as we may reasonably require.

e. The transferee must agree to a sublease, or to a transfer and assumption, of the lease of the Site from the original franchisee, and must obtain the landlord’s approval prior to any transfer or sublease, if applicable.

13.2.6 Any purported Transfer that does not comply with this Section 13.2 will be voidable by us, and will be a default of this Agreement that will permit Hoots Franchising to terminate this Agreement pursuant to Section 14.2.5 of this Agreement.

### 13.3 Right of First Refusal.

13.3.1 Franchisee and any Owner who desires to accept any bona fide offer from a third party to purchase any Interest will notify Hoots Franchising in writing of each such offer, and will provide such information and documentation related to the offer as we may require, including, without limitation, a true copy of any such offer. We will have the right and option, exercisable within 30 days after Hoots Franchising receives such written notification, to send written notice to the seller that we may desire to purchase the Interest on substantially the same terms and conditions as offered by the third party. To enable Hoots Franchising to

determine whether it will exercise its option, Franchisee or Owner, as appropriate, and the third party will provide such information and documentation, including, without limitation, financial statements, as we may require. In the event that we elects to purchase such Interest, closing on such purchase must occur within 90 days after the date of notice to the seller of our election to purchase such Interest. Our election not to exercise the option afforded by this Section 13.3 will not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 13 related to a proposed Transfer of any Interest. Any subsequent change in the terms of any offer prior to closing will constitute a new offer subject to the same rights of first refusal by us as in the case of an initial offer. We may assign its right of first refusal under this Section upon written notice to Franchisee to any affiliate of Hoots Franchising or a third party.

13.3.2 In the event that the consideration, terms, or conditions offered by a third party are such that we may not reasonably be required to furnish the same consideration, terms, or conditions, then we may purchase such Interest for the equivalent in cash. If the parties cannot agree within a reasonable time on the cash consideration, we will designate an independent appraiser experienced in appraising such Interest, and the determination of such appraiser will be conclusive and binding on all parties.

13.4 Transfer On Death or Mental Incompetence. On the death or mental incompetence of any Principal Owner, the executor, administrator, or personal representative of such individual must Transfer within one (1) year after such death or mental incompetence the Interest owned and controlled by the Principal Owner to a natural person or persons who satisfy the Principal Owner Qualifications, and whom Hoots Franchising approves. Mental incompetence, for purposes of this Agreement, will mean the appointment of a guardian for the Principal Owner by a court of competent jurisdiction. Such Transfers, including, without limitation, Transfers by devise or inheritance, will be subject to the same conditions as any inter vivos Transfer. However, in the case of Transfer by devise or inheritance, if the heirs or beneficiaries of any such Principal Owner are unable to satisfy the conditions in this Section 13 within such one (1)-year period, we may terminate this Agreement or may exercise its option to purchase the Interest at fair market value, as determined by an independent appraiser Hoots Franchising designates, which determination will be conclusive and binding on all parties.

13.5 Interim Operation of your hoots® wings restaurant. Pending assignment on the death of the Principal Owner, or in the event of any temporary or permanent mental incompetence or physical disability of the Principal Owner, a manager must be employed for the operation of your hoots® wings restaurant who has successfully completed an Hoots Franchising-approved manager training program, to serve as General Manager and to operate your hoots® wings restaurant for the account of Franchisee. If hoots® wings restaurant is not being managed by such General Manager, Franchisee hereby grants to us the right, but not the obligation, to immediately take such steps as we determine are necessary to, on your behalf, manage your hoots® wings restaurant for you in the event of the death of, or determination by an independent third party (such as a medical doctor) as to the physical incapacity or mental incompetency of Franchisee or the Principal Owner who is managing your hoots® wings restaurant on behalf of Franchisee, until such time as Franchisee appoints a new General Manager who has been trained pursuant to Section 5.7 of this Agreement. You agree to hold Hoots Franchising and its respective directors, officers, agents, employees, attorneys and shareholders harmless from all claims or damages arising out of or connected with our management of the Franchise. You must pay Hoots Franchising in addition to all other amounts due pursuant to the terms of this Agreement a fee of ten percent (10%) of the Gross Sales, plus costs during the period in which the Franchise is so managed by us.



13.6 Your Financing or Securities Documents. Franchisee (and its affiliates) must not represent in any proposed financing arrangement to any proposed lender or participant in a private or public investment offering that we or any of its affiliates is or will be in any way responsible for your (or its affiliate's) obligations or financial projections, if any, set forth in such financing arrangement or investment offering or that we or any of its affiliates is or will be participating in such private or public investment offering. Hoots Franchising assumes no responsibility, liability or obligation whatsoever to review or comment on any offering circular, prospectus or financing documents of Franchisee or any of its affiliates. We will be entitled to indemnification pursuant to Section 19 regardless of whether we have made any review or comment with respect to any offering circular, prospectus or financing documents of Franchisee or its affiliates.

13.7 Non-Waiver of Claims. Neither our consent to any proposed Transfer of any Interest nor our election not to exercise its option to purchase any Interest will be deemed to constitute a waiver of any claims we may have against the transferor, nor will it be deemed a waiver of our right to demand exact compliance with this Agreement or any future rights or options of Hoots Franchising.

#### 14. **DEFAULT AND TERMINATION**

14.1 Automatic. You must be deemed to be in default under this Agreement, and all rights granted herein will automatically terminate without notice to Franchisee, If you becomes insolvent or makes a general assignment for the benefit of creditors; or if a petition in bankruptcy is filed by you or such a petition is filed against and not opposed by you; or If you are adjudicated a bankrupt or insolvent; or if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for your business or assets is filed and consented to by you; or if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any Law should be instituted by or against Franchisee; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless unappealed or a supersedeas bond is filed); or If you are dissolved; or if execution is levied against your business or property; or if suit to foreclose any lien or mortgage against your hoots® wings restaurant premises or equipment is instituted against Franchisee and not dismissed within thirty (30) days; or if the real or personal property of your hoots® wings restaurant will be sold after levy thereupon by any sheriff, marshal, or constable.

14.2 With Notice. You must be in default of this Agreement, and we may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective immediately upon the delivery of written notice to Franchisee by us (in the manner set forth in Section 21, below), upon the occurrence of any of the following events:

14.2.1 If you fail to acquire or lease a site for your hoots® wings restaurant, or to submit to us at least one (1) location for site approval, within the time specified under Section 1.4 of this Agreement;

14.2.2 If you fail to open your hoots® wings restaurant by the later of (i) the Opening Date prescribed in Section 1.5.1 of this Agreement, or (ii) the last extension of time, if any, that we grant to Franchisee to open your hoots® wings restaurant;

14.2.3 Except as otherwise provided in this Agreement, If you at any time cease to operate or otherwise abandon your hoots® wings restaurant for five (5) consecutive days, or otherwise forfeit the right to do or transact business in the jurisdiction where your hoots® wings restaurant is located;

14.2.4 If you, or any Principal Owner is convicted of or pleads nolo contendere to a felony, fraud, sale of illegal drugs, crime involving moral turpitude, crime that is directly related to your hoots® wings restaurant, or any other crime that we determine to have an adverse effect on your hoots® wings restaurant, the System, the Marks, the goodwill associated with the Marks, or our interest in the Marks;

14.2.5 If you, any Principal Owner or Owner purports to Transfer any Interest in a manner that is contrary to the terms of Section 13 above;

14.2.6 If you fail to (i) comply with the in-term covenants set forth in this Agreement (including the covenants set forth in Sections 6, 8 and 16), or (ii) obtain execution of the Individual Non-Disclosure and Non-Competition Agreement in a form acceptable to us;

14.2.7 If you knowingly maintain false books or records, or submit any false reports (including, but not limited to, information provided as part of your application for this Franchise) to us;

14.2.8 If you commit two (2) or more defaults under this Agreement in any fifty-two (52)-week period, whether or not each such default has been cured after notice;

14.2.9 If you engage in any conduct or practice that is fraudulent, unfair, unethical, or a deceptive practice;

14.2.10 If you offer or provide delivery services from your hoots® wings restaurant through a provider other than a Third-Party Delivery Provider or any other method that has not been prescribed by us;

14.2.11 If your interest in the lease or sublease for the Site is terminated or expires or If you otherwise lose possession of the Site; or

14.2.12 If you misuse or make any unauthorized use of the Marks or otherwise materially impair the goodwill associated with the Marks or our rights in the Marks.

14.3 With Notice and Ten (10)-Day Opportunity to Cure. Upon the occurrence of any of the following events of default, we may, at our option, terminate this Agreement by giving written notice of termination (in the manner set forth under Section 21, below) stating the nature of the default to Franchisee at least ten (10) days prior to the effective date of termination; provided, however, that Franchisee may avoid termination by immediately initiating a remedy to cure such default, curing it to the satisfaction of Hoots Franchising, and by promptly providing proof thereof to us within the ten (10)-day period. If any such default is not cured within the specified time, or such longer period as Law may require, this Agreement will terminate without further notice to Franchisee, effective immediately.

14.3.1 If you fail, refuse, or neglect promptly to pay any monies owing to us or our affiliates when due;

14.3.2 If you fail, refuse, or neglect promptly to pay any monies owing to third parties, lessors, or lenders or creditors of the Site;

14.3.3 If a threat or danger to public health or safety results from the maintenance or operation of your hoots® wings restaurant;

14.3.4 If you sell products not previously approved by us, or purchase any product from a supplier not previously approved by us;

14.3.5 If you fail to comply with Laws;

14.3.6 If you, or any of your affiliates or Owners, default under any other agreement with us or our affiliates;

14.3.7 If you refuse to permit Hoots Franchising to inspect the Site, or the books, records, or accounts of Franchisee upon demand;

14.3.8 If an inspection of your books and records discloses an understatement in any payment to us of four percent (4%) or more;

14.3.9 If you fail to operate your hoots® wings restaurant during such days and hours specified in the Manuals;

14.3.10 If you are unable or unwilling to provide individuals who can complete the manager training program to our sole satisfaction, or if Hoots Franchising reasonably determines that the individuals whom you have presented for manager training lack the skills to operate your hoots® wings restaurant successfully, pursuant to Section 5.6 of this Agreement;

14.3.11 If you fail, refuse, or neglect promptly to submit certificates of insurance to us when due as required under Section 12;

14.3.12 If you fail to maintain or observe any of the health and sanitation standards and procedures prescribed by us in this Agreement, the Manuals, by Laws, or otherwise in writing; or

14.3.13 If you fail to operate your hoots® wings restaurant in compliance with the standards and specifications in our Manuals.

14.4 With Notice and Thirty (30)-Day Opportunity to Cure. Except as otherwise provided in Sections 14.1, 14.2 and 14.3 above, upon any other default by you or its obligations hereunder, we may terminate this Agreement by giving written notice of termination (in the manner set forth under Section 21, below) setting forth the nature of such default to Franchisee at least thirty (30) days before the effective date of termination; provided, however, that Franchisee may avoid termination by immediately initiating a remedy to cure such default, curing it to our satisfaction, and by promptly providing proof thereof to us, all within the thirty (30)-day period. If any such default is not cured within the specified time, or such longer period as Law may require, this Agreement will terminate without further notice to Franchisee effective immediately.

14.5 Limitations on Actions. Any and all claims (except for monies due Hoots Franchising) arising out of or related to: (i) the offer for sale, sale, negotiation, administration, or

termination of the Franchise or this Agreement; (ii) the development, opening, operation, or closure of your hoots® wings restaurant; or (iii) the relationship between the parties, will be barred unless an action is properly filed in a court of competent jurisdiction or an arbitration proceeding as contemplated under this Agreement within one (1) year after the date Franchisee on the one hand, or Hoots Franchising on the other hand, knows or should have known of the facts giving rise to such claim, except to the extent any Law provides for a shorter period of time to bring a claim.

## 15. OBLIGATIONS ON TERMINATION OR EXPIRATION

On termination or expiration of this Agreement for any reason, all rights granted to Franchisee under this Agreement will immediately terminate, and:

15.1 You must immediately cease to operate the business franchised under this Agreement, and will not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former franchisee of Hoots Franchising.

15.2 You must immediately and permanently cease to use, in any manner whatsoever, any or all of: (i) our Confidential Information or Trade Secrets; and (ii) the Marks. Without limiting the generality of the foregoing, you must cease to use all signs, advertising materials, displays, stationery, forms, and any other articles that display the Marks; provided, however, that this Section 15.2 will not apply to the operation by you of any other franchise under the System that we may separately and independently have granted to Franchisee and that we has not terminated. You must return to us the Manuals, all other materials containing Confidential Information or Trade Secrets, equipment and other property owned by us, and all copies thereof and all signage bearing any Marks and other materials, though owned by you, which bear the Marks and or utilize the trade dress, designs or colors of Hoots Franchising. You must retain no copy or record of any of the foregoing; provided, however, that Franchisee may retain its copy of this Agreement, any correspondence between the parties, and any other document which Franchisee needs for compliance with any applicable provision of Law.

15.3 You must remove or change all signs, displays, furniture, fixtures, equipment, and other trade dress, and must change all colors of buildings and other structures, to the extent required to distinguish your hoots® wings restaurant from its former appearance and from any other hoots® wings restaurants, and must comply with our restaurant de-identification requirements (collectively, to **“De-Identify”** your hoots® wings restaurant), so that your hoots® wings restaurant is fully De-Identified by the end of ten (10) days after the termination or expiration of this Agreement.

15.3.1 If you fail to fully De-Identify your hoots® wings restaurant by the end of ten (10) days after the termination or expiration of this Agreement, Hoots Franchising and its agents will have the right to enter onto the premises of your hoots® wings restaurant without prior notice to Franchisee, and without liability for trespass, and to De-Identify your hoots® wings restaurant at your expense, which amounts you agree to pay so that we actually receive such payment by the end of ten (10) days after demand therefor.

15.3.2 You must provide Hoots Franchising with photographic or other evidence of the De-Identification satisfactory to us. If you fail to provide Hoots Franchising with satisfactory photographic or other evidence of De-Identification so that we actually receive such evidence by the end of ten (10) days after the termination or expiration of this Agreement, we will have the right to enter onto the premises of your hoots® wings restaurant

without prior notice to Franchisee, and without liability for trespass, to inspect your hoots® wings restaurant at your expense, which amounts you agree to pay so that we actually receive such payment by the end of ten (10) days after demand therefor.

15.3.3 You must take such appropriate steps needed to transfer the telephone number for the business to us.

15.4 You must: (i) comply with its obligations for Web Sites and Internet Listings as set forth in Section 9.5; and (ii) take such action as may be necessary to cancel any assumed name or equivalent registrations of Franchisee that contain the mark “Hoots” or any other Proprietary Mark. You must furnish Hoots Franchising with confirmation that you have fulfilled such obligations by the end of thirty (30) days after termination or expiration of this Agreement.

15.5 You must not, in connection with any other business, use any reproduction, counterfeit, copy, or colorable imitation of the Marks, either in connection with such other business or the promotion of such other business or otherwise, that may cause or constitute confusion, mistake, or deception, or that is likely to dilute our rights in or to the Marks, and further will not use any designation of origin or description or representation that falsely suggests or represents an association or former association with Hoots Franchising or the System.

#### 15.6 Payments.

15.6.1 You must pay to us and our affiliates, so that we and its affiliates actually receive such payment by the end of ten (10) days after the termination or expiration of this Agreement, all sums owing to us and its affiliates accrued through the effective date of termination or expiration.

15.6.2 Liquidated Damages. If Hoots Franchising terminates this Agreement prior to the expiration of the Initial Term, you must pay to us, so that we actually receives such payment by the end of ten (10) days after such termination:

a. An amount equal to the Fees payable by you for the lesser of: (i) the balance of the Initial Term remaining; or (ii) the fifty-two (52) four (4)-week accounting periods prior to the effective date of our termination of this Agreement;

b. If Hoots Franchising terminates this Agreement and your hoots® wings restaurant has not been open for business for fifty-two (52) four (4)-week accounting periods, the amount of Fees payable by you for the periods Franchisee was obligated to pay Fees prior to the effective date of our termination of this Agreement, projected to fifty-two (52) four (4)-week accounting periods; or

c. If Hoots Franchising terminates this Agreement before your obligation to pay Fees has commenced, the average amount of Fees payable by our franchisees in the United States generally, for the fifty-two (52) four (4)-week accounting periods prior to the effective date of our termination of this Agreement.

d. Franchisee acknowledges and agrees, and hereby directs any party construing this Agreement, including, without limitation, any court, mediator, master, or other party acting as a trier of fact or law, to conclusively presume, that the damages set forth in this Section 15.6.2: (i) are true liquidated damages; (ii) are intended to compensate Hoots Franchising for the harm Hoots Franchising will

suffer as a result of the premature termination of this Agreement; (iii) are not a penalty; (iv) are a reasonable estimate of our probable loss resulting from the premature termination of this Agreement, viewed as of the date of this Agreement; (v) will be in lieu of, and not in addition to, actual damages for loss of the benefit of the bargain that we is entitled to receive; and (vi) will, subject to clause (v) above, be in addition to all other rights we may have to legal or equitable relief.

15.6.3 The obligations set forth in this Section 15.6, until paid in full, will be and constitute a lien in favor of Hoots Franchising against any and all of your personal property, furnishings, fixtures, equipment, signage, inventory, and other assets.

15.7 You must immediately deliver to us all manuals, including the Manuals; all records, files, instructions, correspondence, and other materials related to the operation of your hoots® wings restaurant, including, without limitation, brochures, agreements, and invoices, in your possession or under your control, and all copies thereof (all of which Franchisee acknowledges are our property), and will retain no copy or record of any of the foregoing, except your copy of this Agreement and of any correspondence between the parties and any other documents that Franchisee reasonably needs for compliance with any provision of Law.

#### 15.8 Our Purchase Option.

15.8.1 *Acquired Interests.* In addition to, but not in lieu or limitation of, all of our rights and remedies set forth elsewhere in this Agreement and under applicable law, in the event of termination or expiration of this Agreement, we will have the option (the “**Purchase Option**”) to purchase from Franchisee and its Owners (each an “**Option Party**”), and the relevant Option Parties will sell to us: (a) all the assets and personal property used in your hoots® wings restaurant, including inventories of Products, materials, supplies, furniture, equipment, signs, but excluding any cash and short-term investments and any items not meeting our specifications (the “**Purchased Assets**”); or (b) all of the ownership interests in Franchisee (the “**Purchased Equity**”). The term “**Acquired Interest**” will refer to either Purchased Assets or Purchased Equity, as applicable. We will also have the right to assign its Purchase Option to any assignee, without notice to or consent of, any Option Parties. All Option Parties (as applicable) will take such actions as deemed necessary by us to implement the Purchase Option.

15.8.2 *Delivery of Option Notice.* We may exercise the Purchase Option by giving Franchisee an option notice (the “**Option Notice**”), within ten (10) days after the termination (for whatever reason) or expiration (without renewal) of this Agreement. The date of delivery of the Option Notice by us is the “**Option Date.**” Upon receipt of the Option Notice, you must not sell or remove any of the personal property of your hoots® wings restaurant, and will give Hoots Franchising and its designee full access to your hoots® wings restaurant and all of the books and records at any time during customary business hours. In addition, all Owners must immediately deliver to Franchisee all share certificates evidencing their ownership interests in Franchisee.

15.8.3 *Purchase Option Price.* The purchase price payable by us to exercise the Purchase Option will be equal to the “Fair Market Value,” which will be determined as follows:

- a. Three (3) appraisers (together the “**Appraisers**”) will be appointed pursuant to the provisions below for the determination of the Fair Market Value.

Each of the Appraisers will be (i) a recognized investment bank or accounting firm of national standing, (ii) having experience in the restaurant business, and (iii) independent of each of the parties. In determining the Fair Market Value, the Appraisers will be instructed to follow these assumptions: (a) the Fair Market Value will take into consideration the duration and transferability of leases and the likelihood of lease renewal and the terms under which the leases are likely to be renewed; and (b) the Fair Market Value should not include any goodwill or similar value associated with the Marks, which belong exclusively to us and our affiliates.

b. Within ten (10) days of the Option Date, we will appoint one (1) Appraiser (the “**Hoots Franchising Appraiser**”), and Franchisee (and, if applicable, together with its Owners) will appoint one (1) Appraiser (the “**Franchisee Appraiser**”). Within sixty (60) days of the Option Date, each of the Hoots Franchising Appraiser and the Franchisee Appraiser will provide to both parties its opinion on the Fair Market Value (each, a “**Party Valuation Amount**”). If the two (2) Party Valuation Amounts are within ten percent (10%) of each other, the Fair Market Value will be the arithmetic mean of the two (2) Party Valuation Amounts. If they are more apart by more than ten percent (10%), then the parties will in good faith agree on the third Appraiser (the “**Third Appraiser**”) within ten (10) days after the later of the dates of the two (2) Party Valuation Amounts. If the parties fail to agree upon the identity of the Third Appraiser during such ten (10)-day period, we will appoint the Third Appraiser. The Third Appraiser will provide to both Parties its valuation amount within thirty (30) days of its appointment. The Valuation Amount provided by the Third Appraiser will be the “**Third Valuation Amount.**” If the Third Valuation Amount is higher than both Party Valuation Amounts, the higher of the two (2) Party Valuation Amounts will be the Fair Market Value. If the Third Valuation Amount is lower than both Party Valuation Amounts, the lower of the two (2) Party Valuation Amounts will be the Fair Market Value. If the Third Valuation Amount is between the two (2) Party Valuation Amounts, the Fair Market Value will be the arithmetic mean of (x) the Third Valuation Amount and (y) whichever of the two (2) Party Valuation Amounts is closest to the Third Valuation Amount.

c. The determination of the Fair Market Value pursuant to this Section 15.8.3 will be final and binding upon the parties. Each of Hoots Franchising and you agree to cooperate in good faith with all the Appraisers and will provide such Appraisers with access to any and all information and personnel requested by such Appraisers in connection with the determination of the Fair Market Value. Each of Hoots Franchising and you must (i) pay the fees and expenses of the Appraiser it appoints; and (ii) if applicable, share equally the fees and expenses of the Third Appraiser.

15.8.4 *Purchase Notice and Closing.* Within one hundred and twenty (120) days of the Option Date (the “**Option Period**”), we may, at its sole discretion, elect to proceed with the consummation of the Purchase Option by delivering a written notice to the relevant Option Parties (the “**Purchase Notice**”), which notice will specify the Fair Market Value and the proposed Option Closing Date. We may condition any purchase upon completion of an audit in accordance with GAAP. The closing of the sale of the Acquired Interest (the “**Option Closing Date**”) to we will occur as promptly as practicable following the completion of such due diligence that is customary for this sort of transactions, as Hoots Franchising in its sole discretion may deem necessary or desirable and the receipt of any necessary approval from,

or the making of any necessary filing with, any applicable governmental authority. At the closing of such sale, we will be entitled to, without further consideration beyond the payment of the Fair Market Value, all usual and customary agreements (including the duly executed share or equity purchase agreement), covenants, representations and warranties, and other closing documents (including, if applicable, asset or share transfer forms and delivery instruction forms) and post-closing indemnifications as we may reasonably require, with all sales, business, value added and other transfer taxes paid by the relevant seller in accordance with applicable laws.

15.8.5 *Enforcement of Purchase Option.* The parties acknowledge and agree that our right to exercise the Purchase Option may be enforced by injunctive relief or an order of specific performance issued by an arbitration panel or court as specified under the terms of this Agreement.

15.9 Any right or interest Franchisee, any Principal Owner, any affiliate, or any person or entity otherwise under your direction or control (collectively, a “**Licensed Party**”) has in any Beer or Wine License, Malt Beverage Permit, Mixed Beverage License, Retail On-Premises Consumption License, Liquor License, Mini-Bottle Permit, Sunday Sales Permit, Local Option Permit, Consumption by Drink Permit, Entertainment Permit, Outdoor Permit, or any other alcoholic beverage license or permit related to your hoots® wings restaurant (collectively, a “**Liquor License**”) will automatically transfer to us or our designee, to the extent permitted by law. You must have five (5) days after our delivery of written notice of termination or expiration of this Agreement to commence all procedures necessary to transfer or relocate all Liquor Licenses to us or, if Hoots Franchising designates another party to receive such Liquor License, to such designee, and to notify Hoots Franchising in writing of such commencement. Licensed Party will promptly use all commercially reasonable efforts to obtain the necessary approvals from any state or local authority for the prompt transfer or relocation of the Liquor License.

15.9.1 If Laws do not permit the transfer or relocation of the Liquor License, Licensed Party will have five (5) days after our delivery of written notice of termination or expiration of this Agreement to contact all applicable authorities regarding, and to initiate, all procedures necessary to apply for a new Liquor License in the name of Hoots Franchising or its designee in all applicable jurisdictions, and will notify Hoots Franchising in writing of such initiation. Licensed Party will join and cooperate with Hoots Franchising in promptly procuring a replacement Liquor License. Both Licensed Party and we will immediately fulfill any directives or requirements from all applicable authorities in order to expedite the transfer or relocation of the existing Liquor License or acquisition of a new Liquor License.

15.9.2 You must pay or promptly arrange for the full payment of all taxes of any kind or nature whatsoever, including, without limitation, property taxes, personal property taxes, sales, use, withholding, and any other taxes, that may affect title or the rights to any Liquor License in any way.

15.9.3 You must indemnify and hold Hoots Franchising harmless for any and all of any Licensed Party’s liabilities and obligations related to the rights of Hoots Franchising or its designee to own, possess, and use any Liquor License.

## 16. **COVENANTS**



16.1 Franchisee covenants, warrants, represents, and agrees that you must devote its full time, energy, and best efforts to the management and operation of your hoots® wings restaurant.

16.2 Franchisee specifically acknowledges that, pursuant to this Agreement, you must receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Hoots Franchising and the System. Franchisee covenants that during the Term of this Agreement, except as otherwise approved in writing by us, you must not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, divert or attempt to divert any business or customer of your hoots® wings restaurant or of any hoots® wings restaurant using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with our Marks and the System.

16.3 Covenants Not to Compete.

16.3.1 The following definitions are applicable to this Section 16.3:

a. Competing Activity. “**Competing Activity**” means: (i) developing, opening, or operating any Competing Business; or (ii) authorizing, assisting, or inducing another to develop, open, or operate a Competing Business.

b. Competing Business. “**Competing Business**” means a restaurant or bar concept, other than a business Franchisee operates pursuant to an agreement with Hoots Franchising, that focuses on the sale of chicken wings, chicken sandwiches, chicken tenders or salads, in a fast-casual or counter-service environment. Without limiting the generality of the foregoing, all of the following businesses shall conclusively be deemed to be Competing Businesses: Wingstop, Wing Zone, and Buffalo’s, and any other restaurant concept that focuses on the sale of chicken wings, chicken sandwiches, chicken tenders or salads in a fast-casual or counter-service environment.

16.3.2 In-Term Covenant Not to Compete. Franchisee covenants, warrants, represents, and agrees that it, its Principal Owners or affiliates will not, during the Term of this Agreement, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity: (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Franchisee may purchase or hold less than five percent (5%) of the shares of any publicly-traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from your hoots® wings restaurant or the System.

16.3.3 Post-Term Covenant Not to Compete. Franchisee covenants, warrants, represents, and agrees that it, its Principal Owners or affiliates will not, beginning at the expiration or termination of this Agreement and continuing for two (2) years thereafter or two (2) year after a court of competent jurisdiction enters an order enforcing this Section 16.3, whichever occurs last, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity: (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee,

independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Franchisee may purchase or hold less than five percent (5%) of the shares of any publicly-traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from your hoots® wings restaurant or the System, within: (a) your Protected Market Area; (b) any of your Protected Territories or former Protected Territories under any other agreement with Us or our affiliates; or (c) a Protected Market Area of any other franchisee or affiliate of Hoots Franchising.

16.3.4 Directives. In the event of any dispute related to this Section 16.3, Franchisee hereby directs any third party construing this Section 16.3, including, without limitation, any court, mediator, master, or other party acting as trier of fact or law:

a. To conclusively presume that the restrictions set forth in this Section 16.3 are reasonable and necessary in order to protect: (i) our legitimate business interests, including, without limitation, the interests of our other franchisees; (ii) the confidentiality of our Confidential Information and the secrecy of our Trade Secrets; (iii) the integrity of the System; (iv) our investment in the System; (v) the investment of our other franchisees in their franchised businesses; and (vi) the goodwill associated with the System.

b. To conclusively presume that this Section 16.3 was made freely and voluntarily by you, as an independent business operator to which Hoots Franchising delivered good and valuable consideration, in an arms-length commercial transaction between skilled and experienced business professionals.

c. To conclusively presume that the restrictions set forth in this Section 16.3 will not unduly burden your ability to earn a livelihood.

d. To construe this Section 16.3 under Laws governing distribution contracts between commercial entities in an arms-length business transaction, and not under Laws governing contracts of employment.

e. To conclusively presume that any violation of any of the terms of this Section 16.3: (i) was accompanied by the misappropriation and inevitable disclosure of our Confidential Information, Trade Secrets, and other methods and procedures; and (ii) constitutes a deceptive and unfair trade practice and unfair competition.

16.3.5 Individual Covenants. You must require and obtain execution of covenants similar to those set forth in Sections 6.2, 8, 13, and 15, and this Section 16 (as modified to apply to an individual) from all of the following persons: Owners and the General Manager (or a person in a managerial position with Franchisee). The covenants required by this Section 16.3.5 will be in a form acceptable to us. Failure by you to obtain execution of a covenant required by this Section 16.3.5 will constitute a default under this Agreement

16.4 The Parties agree that each of the foregoing covenants will be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section 16 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Hoots Franchising is a party, Franchisee expressly agrees to be bound by any lesser covenant subsumed within the terms of such

covenant that imposes the maximum duty permitted by Law, as if the resulting covenant were separately stated in and made a part of this Section 16.

16.5 Franchisee understands and acknowledges that we will have the right, in our sole discretion, to reduce the scope of any covenant set forth in Section 16.3 above, or any portion of this Agreement, without your consent, effective immediately upon receipt by you of written notice thereof; and you agree that it will comply forthwith with any covenant as so modified, which will be fully enforceable notwithstanding any other provisions of this Agreement.

16.6 Franchisee expressly agrees that the existence of any claims it may have against Hoots Franchising, whether or not arising from this Agreement, will not constitute a defense to the enforcement by us of the covenants in this Section 16. You agree to pay all damages, costs, and expenses (including attorneys' fees) we may incur in connection with the enforcement of this Section 16.

## **17. TAXES, PERMITS, AND INDEBTEDNESS**

17.1 You must pay when due all taxes levied or assessed, including, without limitation, unemployment and sales taxes, and all accounts payable and other indebtedness of every kind Franchisee incurs in the conduct of your hoots® wings restaurant.

17.2 Should any taxing authority impose on Hoots Franchising any "franchise" or other tax that is based on the gross sales, gross revenues, business activities, or operation of your hoots® wings restaurant, except for federal or state income taxes, you must reimburse Hoots Franchising an amount equal to the amount of such taxes and related costs and expenses imposed on or paid by us, unless the tax is credited against income tax otherwise payable by us. You must make such reimbursement so that we actually receive such reimbursement by the end of ten (10) days after delivery of written notice by us that we are entitled to reimbursement for payment of such taxes and other amounts.

17.3 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 the procedures of the taxing authority or Law; however, in no event will you permit a tax sale or seizure by levy or execution or similar writ or warrant, or attachment by a creditor, including, without limitation, foreclosure, eviction, or repossession, to occur against the premises of your hoots® wings restaurant, or any improvements to such premises, or any furnishings, fixtures, equipment, or other assets of your hoots® wings restaurant.

17.4 You must notify Hoots Franchising in writing within five (5) days of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, arising out of or related to your hoots® wings restaurant.

## **18. INDEPENDENT CONTRACTOR**

18.1 You and we acknowledge and agree that: (i) this Agreement does not create a fiduciary relationship between the parties or any affiliated or related parties or entities; (ii) you are an independent contractor; and (iii) nothing in this Agreement is intended to or will be construed to constitute either party as an agent, legal representative, subsidiary, joint venturer, partner, employee, joint employer, servant of the other for any purpose whatsoever.

18.2 You must hold yourself out to the public as an independent contractor operating your hoots® wings restaurant pursuant to a franchise from Hoots Franchising. You must take all such actions as may be required to notify all interested persons or entities of such independent contractual relationship by exhibiting a notice of such relationship in a conspicuous place in your hoots® wings restaurant, the content and form of which notice we will have the right to specify.

18.3 You acknowledge and agree that nothing in this Agreement authorizes you, and that you have no authority, to make any contract, agreement, warranty, or representation on behalf, or to incur any debt or other obligation in our name; and that we will in no event assume liability for, or be deemed liable hereunder or thereunder as a result of any such action; nor will we be liable by reason of any act or omission of you in your conduct of your hoots® wings restaurant or for any claim or judgment arising out of or related to your hoots® wings restaurant against you or us.

18.4 You acknowledge and agree that: (i) our business is the business of developing the System, granting franchises to independent business operators to use the System, and servicing independent operators of franchised businesses in the System; (ii) your Franchised Business is the business of operating your hoots® wings restaurant; and (iii) the business Hoots Franchising operates and the business Franchisee operates are separate and distinct businesses engaged in separate and distinct activities.

#### 18.5 Enforcement.

18.5.1 Franchisee, for itself, its Principal Owners, and its employees: covenants, warrants, represents, and agrees that neither it nor they nor any of them will: (i) make or raise any claim, counterclaim, crossclaim, affirmative defense, or demand; (ii) commence, or cause or permit to be commenced; (iii) prosecute, or cause or permit to be prosecuted; or (iv) assist or cooperate in the commencement or prosecution of, any suit or action at law or in equity or otherwise, any arbitration or like proceeding, or any administrative or agency proceeding, against or related to us, our affiliates, or our or such affiliates' directors, officers, shareholders, partners, members, employees, agents, or attorneys (collectively, the "**Hoots Franchising Parties**"), alleging any matter contrary to any acknowledgment or agreement set forth in this Section 18 of this Agreement.

18.5.2 Franchisee, for itself, its Principal Owners, and its employees, hereby acknowledges and agrees that in the event of any breach of Section 18.5.1 of this Agreement, the Hoots Franchising Parties would be irreparably injured and without adequate remedy at law. Therefore, in the event of a breach or a threatened or attempted breach of any provision of Section 18.5.1, Franchisee, for itself, its Principal Owners, and its employees, agrees that we and the other Hoots Franchising Parties will be entitled, in addition to any other remedies such Hoots Franchising Parties may have at law or in equity or otherwise, to a preliminary and permanent injunction and a decree for specific performance of the terms of Section 18.5.1, without the necessity of showing actual or threatened damage and without being required to furnish a bond or other security.

18.5.3 Franchisee hereby covenants, warrants, represents, and agrees that it has the authority to bind its Principal Owners and employees to this Section 18 of this Agreement.

## 19. **INDEMNIFICATION**

19.1 As used in this Section 19, the term “**Losses and Expenses**” will include, without limitation, any and all obligations, debts, claims, demands, rights, actions, causes of action, loss, losses, damage, damages, expenses, costs, liability, and liabilities of any nature or kind; including, without limitation, accountants’, attorneys’, and expert witness fees and costs; costs of investigation and proof of facts; court costs and other expenses of litigation; and travel and living expenses, together with compensation for damages to our reputation and goodwill, costs of or resulting from delays, financing, costs of advertising material and media time or space, and costs of changing, substituting, or replacing such advertising material and media time or space, and any and all expenses of recalls, refunds, compensation, public notices, and other amounts arising out of or related to such matters.

19.2 You must, at all times, fully indemnify and hold harmless us and its affiliates, and our and such affiliates’ directors, officers, shareholders, partners, members, employees, agents, and attorneys, and the predecessors, successors, heirs, and assigns of any and all of the foregoing (collectively, the “**Indemnitees**”), from all Losses and Expenses arising out of or related to Franchisee, your hoots® wings restaurant, the Site, and the development, opening, operation, or closure of your hoots® wings restaurant. Such obligations will include, without limitation, Losses and Expenses incurred in connection with:

19.2.1 Any action, suit, proceeding, claim, demand, investigation, or inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or action has been instituted) that arises out of your operation of the business (including delivery services through Third-Party Delivery Providers or any other delivery method) or is related to any of the foregoing;

19.2.2 Your default of any covenant, warranty, representation, agreement, or obligation set forth in this Agreement or any schedule, exhibit, addendum, attachment, or amendment to this Agreement;

19.2.3 Your default or alleged default of any other agreement;

19.2.4 Your violation or alleged violation of any Law, any standard or directive, or any industry standard, including, without limitation, violations resulting from your use of the System;

19.2.5 Libel, slander, or any other form of defamation by you; and

19.2.6 Acts, errors, or omissions of Franchisee or any of your directors, officers, shareholders, partners, members, employees, agents, and attorneys.

19.2.7 This indemnification will include losses alleging the negligence of any Indemnatee, including, without limitation, negligence in the supervision and inspection of your hoots® wings restaurant, the training of an employee of your hoots® wings restaurant, and the System standards, but excluding any case in which the Indemnatee is determined by a court of competent jurisdiction to have engaged in grossly negligent or willful misconduct.

19.3 You must promptly notify us of any action, suit, proceeding, claim, demand, inquiry, investigation, or default described in Section 19.2. If we are or may be named as a party in any action, suit, or proceeding, we may elect to undertake, but will not be obligated to undertake, the

defense or settlement thereof, at your cost and expense. No such undertaking by we will, in any manner or form, diminish your obligation to indemnify Hoots Franchising and to hold it harmless.

19.4 With respect to any action, suit, proceeding, claim, demand, inquiry, or investigation, we may, at any time and without notice, in order to protect persons or property or our reputation or goodwill or others, order, consent, or agree to any settlement or take any remedial or corrective action that we deem expedient if, in our sole judgment, there are grounds to believe that:

19.4.1 Any of the acts, omissions, or circumstances giving rise to the action, suit, proceeding, claim, demand, inquiry, or investigation, in fact occurred; or

19.4.2 Any act, error, or omission of or by you may result directly in or indirectly in damage, injury, or harm to any person or any property.

19.5 All Losses and Expenses incurred under this Section 19 will be chargeable to and paid by you pursuant to your obligations of indemnity under this Agreement.

19.6 Under no circumstances will the Indemnitees be required or obligated to seek recovery from third parties or to otherwise mitigate their losses in order to maintain a claim against you. You agree that the failure to pursue such recovery or to mitigate loss will in no way reduce the amounts the Indemnitees may recover from you.

19.7 The Indemnitees assume no liability whatsoever for any acts, errors, or omissions of any persons with whom you may contract, regardless of the purpose. You must hold harmless and indemnify the Indemnitees and each of them for all Losses and Expenses that may arise out of any acts, errors, or omissions of persons with whom you may contract.

19.8 The indemnification set forth in this Section 19 will survive the termination or expiration of this Agreement.

## 20. **APPROVALS AND WAIVERS**

20.1 Whenever this Agreement requires our prior approval or consent, you must make a timely written request to us for such approval or consent, and you must obtain such approval or consent in writing.

20.2 We make no representations, warranties, or guaranties on which Franchisee may rely, and assumes no liability or obligation to you, by providing any waiver, approval, consent, or suggestion to Franchisee or in connection with any consent, or by reason of any neglect, delay, or denial of any request therefor.

20.3 No failure of or by us to exercise any power reserved to it in this Agreement, or to insist on compliance by you with any obligation or condition in this Agreement, and no custom or practice of the parties at variance with the terms of this Agreement, will constitute a waiver of our rights to demand exact compliance with any of the terms of this Agreement. Our waiver of any particular default will not affect or impair our right with respect to any subsequent default of the same or of a different nature; nor will any delay, forbearance, or omission by us to exercise any power or right arising out of any breach or default by you of any of the terms, provisions, or covenants of this Agreement affect or impair our rights; nor will such delay, forbearance, or

omission constitute a waiver by us of any rights under this Agreement or any right to obtain relief for any subsequent breach or default.

## 21. NOTICES

21.1 Any and all notices required or permitted under this Agreement will be in writing and will be: (i) personally delivered; (ii) mailed by certified or registered mail, return receipt requested; or (iii) delivered by overnight courier service, such as UPS, Federal Express, or DHL, to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to us:

Hoots Franchising, LLC  
1815 The Exchange  
Atlanta, Georgia 30339

Copy to (which copy will not constitute notice):  
Hooters of America, LLC  
1815 The Exchange  
Atlanta, Georgia 30339  
Attention: Legal Department

Notices to Franchisee:

See Exhibit A

21.2 Any notice delivered under Section 21.1 of this Agreement will be deemed to have been given on the earlier of: (i) the date and time of receipt; (ii) five (5) business days after being mailed by certified or registered mail, return receipt requested; (iii) the next business day after having been deposited with an overnight courier service for next business day delivery; or (iv) the intended recipient's failure or refusal to accept delivery.

## 22. ENTIRE AGREEMENT

22.1 This Agreement, including the exhibits, attachments, and amendments to it, is a complete integration that sets forth the entire agreement between you and us, fully superseding any and all prior negotiations, agreements, representations, or understandings between you and us, whether oral or written, related to the subject matter of this Agreement. You and we expressly confirm that there are no other oral or written agreements, "side-deals," arrangements, or understandings between you and us except as expressly set forth in this Agreement or in a duly-executed written amendment to this Agreement. No course of dealing, whether occurring before or after the Agreement Date, will operate to amend, modify, terminate, or waive any express written provision of this Agreement.

22.2 Except for those acts that this Agreement permits Hoots Franchising to take unilaterally, no amendment, change, or variance from this Agreement will be binding on Hoots Franchising unless such amendment, change, or variance is set forth with particularity in a written agreement duly executed by our authorized officer and by you.

22.3 Franchisee hereby covenants, warrants, represents, and agrees that it will not: (i) make or raise any claim, counterclaim, crossclaim, affirmative defense, or demand; (ii) commence, or cause or permit to be commenced; (iii) prosecute, or cause or permit to be prosecuted; or (iv) assist or cooperate in the commencement or prosecution of, any suit or action at law or in equity or otherwise, alleging or asserting any matter contrary to Sections 22.1 or 22.2 of this Agreement.

22.4 Nothing in this Agreement or in any related agreement, however, is intended to disclaim the representations made in the Franchise Disclosure Document that we furnished to Franchisee.

## 23. SEVERABILITY AND CONSTRUCTION

23.1 No Implied Covenant. You and we have negotiated the terms of this Agreement and agree that neither party will claim the existence of an implied covenant of good faith and fair dealing to contravene or limit any express written term or provision of this Agreement.

23.2 Partial Invalidity. If any term or provision of this Agreement is declared invalid or unenforceable for any reason, such provision will be modified to the minimum extent necessary to make it valid and enforceable or, if it cannot be so modified, then severed, and the remaining provisions of this Agreement will remain in full force and effect. The parties agree that they would have signed the Agreement as so modified.

23.3 Interpretation. The table of contents and section headings in this Agreement are inserted for convenience only and will not affect the meaning or construction of this Agreement. Except as otherwise set forth in this Agreement, the language of this Agreement will be construed simply according to its fair meaning and not strictly for or against either party. Both parties have had the opportunity to be represented by skilled and experienced counsel in the transaction resulting in the execution of this Agreement, and both parties are skilled and experienced business professionals and, as a result, both parties will be deemed to have drafted this Agreement and in no event will any adverse construction of this Agreement be attributed to us as the drafting party. The Recitals of this Agreement are a material part of this Agreement, and will in no event be considered mere prefatory material or surplusage. "Herein," "hereof," and "hereunder" refer to this Agreement as a whole and not to any particular part. Words importing the singular number only will include the plural and vice-versa, and words importing the masculine gender will include the feminine and neuter genders and vice-versa. The word "including" means "including without limiting the scope or generality" of any description preceding such word, and the word "or" means, and is used in the inclusive sense of, "and/or." References to documents, instruments, or agreements will be deemed to refer as well to all addenda, exhibits, schedules, or amendments thereto.

23.4 Survival of Obligations. All obligations of this Agreement, whether ours or yours, that expressly or by their terms require performance after the termination or expiration of this Agreement, or that by their nature would reasonably be expected to continue in full force and effect until they are satisfied in full or by their nature expire, will be deemed to be self-executing and will continue in full force and effect subsequent to and notwithstanding the termination, expiration, setting aside, cancellation, rescission, unenforceability or otherwise of this Agreement.

23.5 Calculation of Days. Except where this Agreement expressly requires "business days" in any calculation of time, all references to "days" will mean "calendar days."



23.6 Submission of Agreement. Submission of this Agreement to you does not constitute an offer to enter into a contract. This Agreement will become effective only on its execution by both us and you, and will not be binding on us unless and until it is signed by our authorized officer and delivered to you.

23.7 Counterparts. This Agreement may be executed in multiple counterparts, and each copy so executed will be deemed an original.

23.8 Further Assurances. You must execute and deliver all documents and agreements that we may require in order to further the intent of this Agreement, promptly on our request.

23.9 Anti-Terrorism Laws. You agree to comply with, and/or to assist Hoots Franchising to the fullest extent possible in our efforts to comply with, the USA PATRIOT Act and USA Freedom Act, and all other present and future U.S. federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war.

## 24. **FORCE MAJEURE**

24.1 Except for: (i) the covenants and obligations of Franchisee set forth in Section 1 of this Agreement, (ii) monetary obligations under this Agreement, and (iii) except as otherwise specifically provided in this Agreement, if either party to this Agreement will be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lock-outs, labor troubles, inability to procure materials, pandemics resulting in government imposed operational shutdowns, failure of power, war, acts of terror, riots, insurrection, or other causes beyond the reasonable control of the party required to perform such work or act under the terms of this Agreement not the fault of such party (a “**Force Majeure**”), then performance of such act will be excused during the period of such Force Majeure. The party whose performance is affected by a Force Majeure will give prompt, written notice to the other party of such Force Majeure. If there will be a Force Majeure that we deems economically harmful or otherwise detrimental to us or the System, then we will be entitled to terminate this Agreement on ninety (90) days’ written notice to Franchisee; provided, however, that we may withdraw such notice if, within such ninety (90)-day period, Hoots Franchising determines that the economically harmful or otherwise detrimental effects have ceased.

## 25. **APPLICABLE LAW; DISPUTE RESOLUTION**

25.1 Notice of Dispute. You must give Hoots Franchising advance written notice of your intent to institute legal action against Hoots Franchising, stating with specificity the basis for such proposed action, and must grant Hoots Franchising thirty (30) days from our receipt of such notice to cure the alleged act on which such legal action is to be based.

### 25.2 Arbitration.

25.2.1 Agreement to Arbitrate. Hoots Franchising and Franchisee agree that all controversies, disputes, or claims between Hoots Franchising and the Hoots Franchising Parties, and Franchisee, its Principal Owners, affiliates, and/or employees arising out of or related to: (a) this Agreement or any other agreement between them, (b) Hoots Franchising's relationship with Franchisee, (c) the validity of this Agreement or any other agreement between Hoots Franchising and Franchisee, or any provision of any such agreements, and the validity and scope of the arbitration obligation under this Section, or

(d) any System Standard, must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association (“AAA”). Despite Hoots Franchising's and Franchisee's agreement to arbitrate, they each have the right to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction (in accordance with the requirements of Section 25.4 below); provided, however, that they must contemporaneously submit their dispute for arbitration on the merits as provided in this Section. Hoots Franchising and Franchisee each agree that if either of them applies for and obtains the issuance of a temporary restraining order or temporary or preliminary injunctive relief, the party obtaining the relief shall have no obligation to post a bond in excess of \$1,000 and shall be entitled to that relief without proving actual damages, and the other party's sole remedy, in the event of the entry of such temporary restraining order or injunction, shall be the dissolution of such order or injunction, if warranted, upon a hearing duly held (all claims for damages by reason of any wrongful issuance of any such order or injunction being expressly waived).

25.2.2 Arbitral Procedure. The arbitration proceedings will be conducted by one arbitrator and, except as this Section otherwise provides, according to the AAA's then current commercial arbitration rules. Notwithstanding the foregoing, regardless of any conflict with such rules, the arbitrator may not consider any settlement discussions or offers that might have been made by either you or us. The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim. The arbitrator shall apply the governing law set forth in Section 25.3 below. Any arbitration arising out of or related to this Agreement will be conducted on an individual, not a class-wide or group, basis, as set forth in Section 25.5.1 below.

25.2.3 Location of Arbitration. All arbitration proceedings will be conducted at a suitable location in the city or county where our principal business office is located (currently, Atlanta, Georgia). The arbitrator will have no authority to select a different hearing locale other than as described in the prior sentence. All matters relating to arbitration will be governed by the United States Federal Arbitration Act (9 U.S.C. §§ 1 et seq.). Judgment upon the arbitrator's award may be entered in any court of competent jurisdiction.

25.2.4 Scope of Arbitral Award. The arbitrator has the right to award or include in his or her award any relief which he or she deems proper, including, without limitation, money damages, specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator may not declare any Mark generic or otherwise invalid or, award any exemplary, punitive, treble, or other forms of multiple damages against the other.

25.2.5 Compulsory Counterclaims. Hoots Franchising and Franchisee agree that, in any arbitration proceeding, each must submit or file any claim which would constitute a compulsory counterclaim (as defined by the United States Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any claim which is not submitted or filed as required is forever barred.

25.2.6 Costs of Arbitration. Except as set forth in Section 25.8, the costs of arbitration shall be borne in equal share by both you and us. Hoots Franchising reserves the right, but has no obligation, to advance Franchisee's share of the costs (excluding attorneys' fees) of any arbitration proceeding in order for such arbitration proceeding to take place and by doing so shall not be deemed to have waived or relinquished its right to seek the recovery of these costs in accordance with Section 25.8.

25.2.7 Effect on Non-Signatories. The provisions of this Section are intended to benefit and bind certain third-party non-signatories and will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination.

25.3 Governing Law. All matters arising out of or related to this Agreement, including, without limitation, all matters arising out of or related to the making, existence, construction, enforcement, and sufficiency of performance of this Agreement, will be determined exclusively in accordance with, and governed exclusively by, the laws of the state where our principal business office is located (currently, the State of Georgia), which laws will prevail in the event of any conflict of laws. Notwithstanding the foregoing, if any matter related to this Agreement would be unenforceable under the laws of the state where our principal business office is located but would be enforceable under the laws of your jurisdiction, then the laws of your jurisdiction will apply to such matter.

25.4 Forum, Venue, and Jurisdiction. In the event of any dispute arising out of or related to this Agreement, including, without limitation, any dispute arising out of or related to the making of this Agreement, such dispute will be resolved exclusively through litigation. The exclusive forum and venue for such litigation will be a state or federal court having jurisdiction over the subject matter in or for the city or county where our principal business office is located (currently, Atlanta, Georgia). Franchisee hereby irrevocably accepts and submits to, generally and unconditionally, the exclusive jurisdiction of any such state or federal courts having jurisdiction over the subject matter and hereby waives, to the extent permitted by Law, defenses based on jurisdiction, venue, or forum non conveniens. The provisions of this Section will remain in full force and effect after the expiration or termination of this Agreement.

#### 25.5 Waivers.

25.5.1 Waiver of Class Action Litigation. Litigation arising out of or related to this Agreement will be conducted on an individual, not a class-wide, basis. No litigation relating to this Agreement or to the System may be brought on behalf of any franchisee associations or groups, and you agree not to participate in any such litigation. No litigation under this Agreement may be consolidated with any other litigation involving us and any other person without our prior written consent.

25.5.2 Waiver of Trial By Jury. The parties waive trial by jury in any litigation arising out of or related to this Agreement.

25.5.3 Waiver of Punitive Damages. You and us hereby waive any right to or claim for punitive, exemplary, consequential, multiplied, enhanced, or speculative damages.

25.6 No Limitation. No right or remedy conferred on or reserved to us or Franchisee by this Agreement is intended to be, nor will be deemed, exclusive of any other right or remedy set forth in this Agreement or by law or equity provided or permitted, but each will be cumulative of every other right or remedy.

25.7 Injunctive Relief. Nothing set forth in this Agreement will bar our right to obtain injunctive relief against threatened conduct that will cause us loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

25.8 Cost and Attorneys' Fees. If Hoots Franchising commences a legal proceeding against Franchisee to enforce any term or provision of this Agreement, and prevails in the legal proceeding (as determined by the trier-of-fact), Hoots Franchising will be entitled to recover from Franchisee the costs and expenses that we incurred in preparing for, commencing, and taking part in the proceeding, and until the proceeding has come to a complete end (including appeals and settlements), including, without limitation, accounting, attorneys', arbitrators', and related fees. In addition, if Hoots Franchising incurs costs and expenses due to your failure to pay when due amounts owed to us, to submit when due any reports, information, or supporting records, or otherwise to comply with this Agreement, you agree, even if we do not initiate a formal legal proceeding, to reimburse us for all of the costs and expenses that we incurs, including, without limitation, accounting, attorneys', and related fees.

## 26. **ACKNOWLEDGMENTS**

26.1 Reasonable Business Judgment. We acknowledge and agrees that it will, and you acknowledge and agrees that we may, use Reasonable Business Judgment in the exercise of our rights, discharge of its obligations, and exercise of its discretion, and in all circumstances where we are required to give its consent, unless this Agreement expressly provides some other standard. "**Reasonable Business Judgment**" will mean that our determinations or choices will prevail, even if other alternatives are also reasonable or arguably preferable, if we intend to benefit, or is acting in a way that could benefit, the System (by, for example, enhancing the value of the Marks, increasing franchisee or guest satisfaction, or increasing our financial strength). You agree to this concept of Reasonable Business Judgment in acknowledgment of the fact that we should have at least as much discretion in administering the System as a corporate board of directors has in directing a corporation and because the long-term interests of the System, all franchisees and owners of franchised businesses in the System, and we and owners, taken together, require that it have the latitude to exercise Reasonable Business Judgment. We will not be required to consider your particular economic or other circumstances or to slight our own economic or other business interests when we exercise our Reasonable Business Judgment. You acknowledge and agree that: (i) we have a legitimate interest in seeking to maximize the return to our equity holders; and (ii) the fact that we or its affiliates benefit economically from an action will not be relevant to showing that we did not exercise Reasonable Business Judgment. Neither you nor any third party (including, without limitation, any third party acting as a trier of fact or law) will substitute your, his, her, or its judgment for our Reasonable Business Judgment. In a given situation, you must have the burden of establishing, by clear and convincing proof, that we failed to exercise Reasonable Business Judgment.

### 26.2 Nature of Obligations.

26.2.1 You acknowledge and agree that: (i) all obligations we owe under this Agreement we owe to you alone; and (ii) no other person or entity, including, without limitation, your affiliates, and your and such affiliates' directors, officers, shareholders, partners, members, employees, and agents, and the predecessors, successors, heirs, and assigns of any of them, will be entitled to rely on, enforce, or obtain relief for breach of, any of our obligations arising out of or related to this Agreement, whether directly, indirectly, by subrogation, as an intended third-party beneficiary, or otherwise.

26.2.2 You acknowledge and agree that: (i) all our obligations under this Agreement are owed by us alone; and (ii) no other person or entity, including, without limitation, our officers, members, employees, and agents, and our affiliates and their directors, officers, shareholders, partners, members, employees, and agents, and the predecessors,

successors, heirs, and assigns of any of them, will be subject to liability under this Agreement.

26.3 Business Risks. You acknowledge and agree that: (i) you have conducted an independent investigation of the business contemplated by this Agreement; (ii) you understand that such business involves business risks; and (iii) you understand that making a success of your hoots® wings restaurant depends largely on your business skill, effort, and business acumen.

26.4 Review of Documents. You acknowledge and agree that: (i) our review of any lease, loan agreement, purchase agreement, sale agreement, assignment, transfer agreement, site plan, or other agreement or document Franchisee proposes to enter into or provides is intended solely to ensure that our interests are adequately protected; (ii) we are not undertaking any such review on your behalf or for your benefit; (iii) our review will not replace review by your accountant, attorney, architect, and other business and professional advisors; and (iv) Hoots Franchising will have no responsibility or liability related to such review.

26.5 Variations. You acknowledge and agree that: (i) we may from time to time approve exceptions or changes to the standards and specifications of the System (including, without limitation, the amount and payment terms of any fee) that we deem necessary or desirable under particular circumstances (the “**Variations**”); (ii) you have no right to require us to disclose any Variations to you or to grant to you the same or similar Variations; and (iii) other franchisees, whether existing now or in the future, will operate under different forms of agreements, and that as a result their rights and obligations may differ materially from your rights and obligations.

26.6 No Unauthorized Representations or Commitments. Except as specifically provided otherwise in this Agreement, you acknowledge and agree that: (i) we do not permit any agreements or commitments, and do not approve any changes in this Agreement, except by means of a written amendment signed by the parties to this Agreement; and (ii) if any representations or commitments, or any promises of changes in this Agreement, have been made to you that are not in an amendment signed by our authorized officer and delivered to you, such representations, commitments, and promises will not be enforceable.

26.7 Amendment By Vote. This Agreement may be modified only by written agreement signed by both you and us; except that this Agreement may be modified at our request regardless of your signature to such modifications if franchisees operating 60% of the hoots® wings restaurants (voting on a per Restaurant basis) in our system vote in favor of the change we request. In such case, each hoots® wings restaurants location will have one vote and any hoots® wings restaurant locations owned by us or our affiliates will have one vote. If the vote is tied, we may cast the deciding vote. Upon the vote passing, the requested change becomes immediately binding on all hoots® wings restaurant franchisees.

26.8 No Liability to Others; No Other Beneficiaries. We will not, because of this Agreement or by virtue of any approvals, advice or services provided to you, be liable to any person or legal entity who is not a party to this Agreement. Except as specifically described in this Agreement, no other party has any rights because of this Agreement. You acknowledge that other hoots® wings restaurant franchisees have or will be granted franchises at different times, different locations, under different economic conditions and in different situations, and further acknowledges that the economics and terms and conditions of such other franchises may vary substantially in form and in substance from those contained in this Agreement.

26.9 Employees. Under no circumstances will your managerial personnel or other employees be deemed to be our employees. You acknowledge that you are the sole employer of the employees in your hoots® wings restaurant and you are solely responsible for the labor relations and employment practices in your hoots® wings restaurant. You acknowledge that we do not dictate or control labor or employment matters for you and its employees. Any materials, guidance and assistance that we may provide with respect to employment-related policies or procedures, whether in the Manuals or otherwise, are solely for your optional use. You must determine to what extent, if any, these materials, guidance or assistance should apply to your employees. You agree to indemnify and hold us harmless from any and all liability, including costs, attorneys' fees or other damages which result directly or indirectly from your employees or independent contractors.

26.10 Receipt; No Contrary Representations; No Financial Performance Representations.

26.10.1 You acknowledge that you received our Franchise Disclosure Document required by the U.S. Federal Trade Commission's Revised Franchise Rule at least fourteen (14) days prior to the date on which you executed this Agreement or paid us any consideration related to the Franchise. You further acknowledge and agree that you received a copy of this complete Agreement, the attachments to this Agreement, and all agreements related to this Agreement, if any, complete and with all blanks filled in, at least seven (7) days prior to the date on which you executed this Agreement or paid us any consideration related to the Franchise.

26.10.2 You acknowledge and agree that neither we nor any person or entity acting on our behalf has made any representation, commitment, claim, or statement to you that is different from, or that is contrary to, any of the representations, commitments, claims, or statements contained in our Franchise Disclosure Document.

26.10.3 Franchisee acknowledges and agrees that neither we nor any person or entity acting on our behalf has made any oral, written, visual, or other representation, commitment, claim, or statement from which any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise might be ascertained, related to a Hoots franchise, that is different from, contrary to, or not contained in, our Franchise Disclosure Document.

26.10.4 You acknowledge and agree that the acknowledgments and agreements set forth in this Section: (i) are intended to show that this Agreement supports the disclosures set forth in our Franchise Disclosure Document, and that this Agreement does not waive or contravene such disclosures; (ii) are not a waiver of your right to relief for violation of any Laws governing the offer and sale of franchises, but are rather your acknowledgment and agreement that no such violations occurred; and (iii) are being relied on by us in connection with our decision to enter into this Agreement with you.

26.11 Special Stipulations. Set forth on Exhibit D attached hereto are special stipulations that are made a part hereof by reference. In the event such stipulations conflict with any of the foregoing provisions, the special stipulations will control.

**[SIGNATURES CONTAINED ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the Effective Date set forth above.

**HOOTS FRANCHISING:**

HOOTS FRANCHISING, LLC

**FRANCHISEE:**

<<FRANCHISEE NAME>>

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

By: \_\_\_\_\_  
<<Printed Name>>  
Title: <<Title>>

**EXHIBIT A**  
**TO THE HOOTS FRANCHISING, LLC**  
**FRANCHISE AGREEMENT**



**KEY INFORMATION**

1. **Franchise Fee.** The Franchise Fee is: \$\_\_\_\_\_.
2. **Site Selection Area.** Your Site must be located within the following geographic area: \_\_\_\_\_

- [Check if map attached]
- [Check if to be determined after signing the Franchise Agreement]

If you and we have not selected a Site Selection Area and indicated in advance at the time you sign the Franchise Agreement, you and we must agree on a Site Selection Area within \_\_\_\_\_ within \_\_\_\_\_ days of the Agreement Date. Designation of the Site Selection Area is subject to our sole discretion and any rights we have granted to any other franchisees or which we may subsequently grant to any other franchisees. If you and we cannot agree on a Site Selection Area within \_\_\_\_\_ days of the Agreement Date, we may (a) terminate the Franchise Agreement or (b) designate a Site Selection Area which we determine in our sole discretion.

3. **Site.** The address of your approved Site is:
- \_\_\_\_\_

[To be determined within the Site Selection Area after signing of the Agreement]

4. **Protected Market Area.** The Protected Market Area for your hoots® wings restaurant (as is as follows:
- \_\_\_\_\_

[Check if map attached]

5. **Agreement Date.** The Agreement Date is \_\_\_\_\_.
6. **Franchisee.** The “Franchisee,” “you” or “your” means \_\_\_\_\_, a \_\_\_\_\_.
7. **Technology Fee.** The Technology Fee as of the Agreement Date is \$ \_\_\_\_\_ per \_\_\_\_\_.
9. **Training System Fee.** The Training System Fee as of the Agreement Date is \$ \_\_\_\_\_ per \_\_\_\_\_.
10. **Certain Other Fees.**

The initial Site Selection Fee is: \$\_\_\_\_\_.

Additional Site selection Fees are: \$\_\_\_\_\_ per additional site selection trip or if more than 4 proposed sites are to be evaluated during a site selection trip.

The Grand Opening Marketing Deposit is: \$\_\_\_\_\_.

The Extension Fee is: \$\_\_\_\_\_.

The White Glove Service Fee is: \$\_\_\_\_\_.

11. **Current Mailing Address of Franchisee.** The corporate/ mailing address of the Franchisee for providing notice is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. **Deal Specific Terms:** Terms described above, and Additional Deal Specific Terms described below which differ from our standard terms in our Franchise Disclosure Document are and have been negotiated between you and us at your request and at your benefit. The Following Additional Deal Specific Terms apply to this Agreement:

\_\_\_\_\_

**“US”:**

**“YOU”:**

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

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

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

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

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

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

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

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

SCHEDULE 1  
to EXHIBIT A

- MAP OF SITE SELECTION AREA
- MAP OF PROTECTED MARKET AREA
- BOTH

**EXHIBIT B**

**TO THE HOOTS FRANCHISING, LLC  
FRANCHISE AGREEMENT**

**AUTHORIZATION FOR ACH PAYMENTS**

**AUTHORIZATION AGREEMENT FOR ACH PAYMENTS**

**(DIRECT DEBITS FOR CONTINUING ROYALTY FEES,  
NATIONAL ADVERTISING FEE OBLIGATIONS, AND OTHER OBLIGATIONS)**

\_\_\_\_\_ (Name of Person or Legal Entity)

\_\_\_\_\_ (ID Number)

The undersigned depositor (“**Depositor**” or “**Franchisee**”) hereby authorizes Hoots Franchising, LLC (“**Hoots Franchising**”) to initiate debit entries and/or credit correction entries to the undersigned’s checking and/or savings account(s) indicated below and the depository designated below (“**Depository**” or “**Bank**”) to debit or credit such account(s) pursuant to our instructions.

\_\_\_\_\_ Depository

\_\_\_\_\_ Branch

\_\_\_\_\_ City

\_\_\_\_\_ State

\_\_\_\_\_ Zip Code

\_\_\_\_\_ Bank Transit/ABA Number

\_\_\_\_\_ Account Number

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

Printed Name of  
Depositor: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

**EXHIBIT C**

**TO THE HOOTS FRANCHISING, LLC  
FRANCHISE AGREEMENT**

**LIST OF YOUR PRINCIPAL OWNERS**

**LIST OF YOUR PRINCIPAL OWNERS**

The full legal name and address of each of your Principal Owners (as those terms are defined in the Franchise Agreement), and the percentage of equity in Franchisee each such Principal Owner owns or holds, are as follows:

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

\_\_\_\_\_  
Printed Name:

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

**[LIST CONTINUES ON FOLLOWING PAGE;  
SIGNATURES CONTAINED ON FOLLOWING PAGE]**

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

\_\_\_\_\_  
Printed Name

Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pct. Of Equity Owned or Held:  
\_\_\_\_\_ %

Franchisee hereby certifies that the information set forth on this List is true and correct.

**FRANCHISEE:**

<<FRANCHISEE NAME>>

By: \_\_\_\_\_  
<<Printed Name>>

Title: Title: <<Title>>



**EXHIBIT D**  
**TO THE HOOTS FRANCHISING, LLC**  
**FRANCHISE AGREEMENT**  
**SPECIAL STIPULATIONS**

**SPECIAL STIPULATIONS**

**NONE**

**EXHIBIT E**  
**TO THE HOOTS FRANCHISING, LLC**  
**FRANCHISE AGREEMENT**

**SBA ADDENDUM**





## ADDENDUM TO FRANCHISE AGREEMENT

THIS ADDENDUM (“Addendum”) is made and entered into on \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (“Franchisor”) located \_\_\_\_\_ at \_\_\_\_\_, and \_\_\_\_\_ (“Franchisee”), located at \_\_\_\_\_.

Franchisor and Franchisee entered into a Franchise Agreement on \_\_\_\_\_, 20\_\_\_\_ (such Agreement, together with any amendments, the “Franchise Agreement”). Franchisee is applying for financing(s) from a lender in which funding is provided with the assistance of the U.S. Small Business Administration (“SBA”). SBA requires the execution of this Addendum as a condition for obtaining SBA-assisted financing.

In consideration of the mutual promises below and for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge the parties agree that notwithstanding any other terms in the Franchise Agreement or any other document Franchisor requires Franchisee to sign:

### CHANGE OF OWNERSHIP

- If Franchisee is proposing to transfer a partial interest in Franchisee and Franchisor has an option to purchase or a right of first refusal with respect to that partial interest, Franchisor may exercise such option or right only if the proposed transferee is not a current owner or family member of a current owner of Franchisee. If the Franchisor’s consent is required for any transfer (full or partial), Franchisor will not unreasonably withhold such consent. In the event of an approved transfer of the franchise interest or any portion thereof, the transferor will not be liable for the actions of the transferee Franchisee.

### FORCED SALE OF ASSETS

- If Franchisor has the option to purchase the business personal assets upon default or termination of the Franchise Agreement and the parties are unable to agree on the value of the assets, the value will be determined by an appraiser chosen by both parties. If the Franchisee owns the real estate where the franchisee location is operating, Franchisee will not be required to sell the real estate upon default or termination, but Franchisee may be required to lease the real estate for the remainder of the franchise term (excluding additional renewals) for fair market value.

<sup>1</sup> While relationships established under license, jobber, dealer and similar agreements are not generally described as “franchise” relationships, if such relationships meet the Federal Trade Commission’s (FTC’s) definition of a franchise (see 16 CFR § 436), they are treated by SBA as franchise relationships for franchise affiliation determinations per 13 CFR § 121.301(f)(5).

**COVENANTS**

- If the Franchisee owns the real estate where the franchisee location is operating, Franchisor has not and will not during the term of the Franchise agreement record against the real estate any restrictions on the use of the property, including any restrictive covenants, branding covenants or environmental use restrictions. If any such restrictions are currently recorded against the Franchisee’s real estate, they must be removed in order for the Franchisee to obtain SBA-assisted financing.

**EMPLOYMENT**

- Franchisor will not directly control (hire, fire or schedule) Franchisee’s employees. For temporary personnel franchises, the temporary employees will be employed by the Franchisee not the Franchisor.

As to the referenced Franchise Agreement, this Addendum automatically terminates when SBA no longer has any interest in any SBA-assisted financing provided to the Franchisee.

Except as amended by this Addendum, the Franchise Agreement remains in full force and effect according to its terms.

Franchisor and Franchisee acknowledge that submission of false information to SBA, or the withholding of material information from SBA, can result in criminal prosecution under 18 U.S.C. 1001 and other provisions, including liability for treble damages under the False Claims Act, 31 U.S.C. §§ 3729 – 3733.

**Authorized Representative of FRANCHISOR**

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

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

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

**Authorized Representative of FRANCHISEE**

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

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

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

**Note to Parties:** This Addendum only addresses “affiliation” between the Franchisor and Franchisee. Additionally, the applicable Franchisee and the franchise system must meet all SBA requirements.

**EXHIBIT C**  
**HOOTS FRANCHISING, LLC**  
**MULTI-UNIT ADDENDUM**

**HOOTS FRANCHISING, LLC**  
**MULTI-UNIT ADDENDUM**

**THIS MULTI-UNIT ADDENDUM** (this “**Addendum**” or “**MUA**”) is effective on \_\_\_\_\_ (“**Addendum Date**”). The parties to this Addendum are **HOOTS FRANCHISING, LLC**, a Florida limited liability company, with its principal office located at 1815 The Exchange, Atlanta, Georgia 30339 (referred to in this Addendum as “**we**,” “**us**” or “**our**”) and \_\_\_\_\_ whose principal address is \_\_\_\_\_

(Referred to in this Agreement as “**you**,” “**your**” or “**Developer**”).

1. **Your Franchise Agreements.** You are entering into this Addendum simultaneous with execution of \_\_\_ Franchise Agreements, each with Effective Dates of \_\_\_\_\_ (your “**Franchise Agreements**”). This Addendum amends, modifies and supersedes the terms of and is an integrated part of each of your Franchise Agreements indicated in the table below. Except as otherwise indicated in the Addendum, all other terms and conditions of your Franchise Agreements remain unmodified and in full force and effect.

2. **MUA Development Area.** The MUA Development Area is comprised of  the following Zip codes or  other geographic area as described below:

[Check if map of MUA Development Area is attached as Schedule 1]

[Check if the MUA Development Area is segmented among each Franchise Agreement in the same manner as the Site Selection Area.]

[Check if applies] Once we approve a Site to be located in a Site Selection Area indicated in one of your Franchise Agreements, that Site Selection Area is automatically removed from and will no longer be a part of your MUA Development Area.

If for any reason we, in our sole discretion designate one unitary MUA Development Area for multiple Franchise Agreements, or allow any of your MUA Development Areas or Site Selection Areas to overlap, we, in our sole discretion will determine what portion of the MUA Development Area and/or Site Selection Area terminates upon the selection of each Site, or your failure select a Site in compliance with the Franchise Agreement.

3. **Development Rights.** If you are in full compliance with all of the provisions of this Addendum and all of your Franchise Agreements, then during the term of this Addendum, we will:

(a) grant to you (and your affiliates, as applicable) the MUA Development Area;

(b) not operate (directly or through an affiliate) nor grant another party a franchise for the operation of any hoots® wings restaurant to be located within the MUA Development Area, except for those franchises granted to you (and your affiliates, as applicable) pursuant to this Addendum and your Franchise Agreements.

However, the foregoing will not apply to any hoots® wings restaurants that have been previously granted rights, which have Sites or the right to have Sites in the MUA Development Area, or if we or our affiliate(s) currently operate one or more hoots® wings restaurants at Sites in the MUA Development Area

(individually or collectively, “**Pre-Existing Sites**”). If there are any Pre-Existing Sites in your MUA Development Areas, we will list them on an exhibit to this Addendum upon request.

4. **Site Selection.** You must select and locate your Sites within the Site Selection Areas designated in your Franchise Agreements. (If you have not chosen an approved Site Selection Area for each Site, it will be determined based in our sole discretion and subject to any others’ rights we have previously granted to other franchisees or which we subsequently grant to other franchisees.)

5. **Development Schedule.** Your “**Development Schedule**” is set forth in the following table:

<b>Franchise Agreement Number</b>	<b>Agreement Date</b>	<b>Site Selection Date</b>	<b>Required Opening Date</b>

You may swap an Agreement Date, Site Selection Date, or Required Opening Date of one of your Franchise Agreements as set forth in the Development Schedule for such date of another Franchise Agreement as set forth in the Development Schedule; provided that you timely meet all of your development obligations with respect to each of those Franchise Agreements. If a hoots® wings restaurant operated by you under the Development Schedule is permanently closed after having been opened, you agree to develop and open a substitute hoots® wings restaurant within the original Site Selection Area for that hoots® wings restaurant within 1 year from the date of its closure. We in our sole discretion determine the date of its closure for purposes of establishing such 1 year period. The Site Selection Date is the earlier of (a) the date we actually approve your Site or (b) the Site Selection Date, in the table above.

6. **Rights Retained.** We (and our affiliates) retain the right in our sole discretion to:

(a) establish and grant to other franchisees the right to establish, own and operate hoots® wings restaurants anywhere outside the MUA Development Area, on such terms and conditions as we deem appropriate (even immediately outside the border of the MUA Development Area, but not within the Protected Market Area of any hoots® wings restaurant affiliated with you);

(b) operate and grant franchises to others to establish, own and operate businesses, whether inside or outside the MUA Development Area, specializing in the sale of products or provision of services, other than a Competitive Business or hoots® wings restaurant, using certain of the Marks or Copyrights and pursuant to such terms and conditions as we deem appropriate;

(c) operate and grant franchises to others to establish, own and operate businesses, hoots® wings restaurants or other services, whether inside or outside the MUA Development Area, that do not use any of the Marks or Copyrights;

(d) market and sell, inside and outside of the MUA Development Area, through channels of distribution other than hoots® wings restaurants (like internet, mail order, direct mail or social media) or through special purpose sites (like at sporting or fitness events, conventions, shows, etc.), goods and services competitive with goods and services offered by hoots® wings restaurants, under the Marks, Copyrights, or under trade names, service marks or trademarks other than the Marks or Copyrights;



(e) grant to others the right to establish, own and operate hoots® wings restaurants in the MUA Development Area if the rights we granted to them to do so pre-date the Addendum Date.

7. **Effect of Failure.** Strict compliance with the Development Schedule is the essence of this Agreement. If you do not timely meet your development obligations as of the end of any time period shown on the Development Schedule, you will be in default of your obligations under this Addendum. If such a default occurs, it will constitute a material breach of this Addendum and we may then, in our sole discretion, elect to:

(a) terminate this Addendum;

(b) have the right to operate (directly or through affiliates) or grant franchises for the operation of hoots® wings restaurants within the MUA Development Area; or

(c) reduce the MUA Development Area and the Development Schedule to a size and magnitude that we reasonably believe you are capable of operating otherwise in accordance with this Agreement; or

(d) find you to be in default of your obligations under the applicable Franchise Agreements.

8. **Term of Addendum.** This Addendum commences, with respect to each Franchise Agreement, on the Agreement Date of such Franchise Agreement, and expires, with respect to each Franchise Agreement, on the Opening Date for such Franchise Agreement, in each case as specified in the Development Schedule and unless terminated earlier according to Section 6 of this Addendum. Upon expiration or termination of this Addendum, the MUA Development Area and Development Schedule terminates and you will **not** have any further rights to acquire franchises to operate additional hoots® wings restaurants other than those for which you have executed our form of Franchise Agreement with us in accordance with their terms, and for which you are not in default under your Franchise Agreements as modified by this Addendum. Termination of the Development Schedule and MUA Development Area does not terminate the Site Selection Area or Protected Market Area of any of your Franchise Agreements for which you are not in default.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
[Signature]  
\_\_\_\_\_  
[Print Name/ Title]  
Date: \_\_\_\_\_

**SCHEDULE 1**

**MAP OF MUA DEVELOPMENT AREA**

**EXHIBIT D**  
**HOOTS FRANCHISING, LLC**  
**FORM OF AREA DEVELOPMENT AGREEMENT**

**HOOTS® DEVELOPMENT AGREEMENT**

**BETWEEN**

**HOOTS FRANCHISING, LLC  
1815 THE EXCHANGE  
ATLANTA, GEORGIA 30339  
(770) 951-2040**

**AND**

**DEVELOPER\_ENTITY\_NAME  
PRINCIPAL OFFICE ADDRESS  
CITY, STATE ZIP CODE  
PHONE NUMBER**

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Ex. A Development Area and Development Schedule

Ex. B State Specific Amendment

## HOOTS FRANCHISING, LLC DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “**Agreement**” or “**Area Development Agreement**”) is made and entered into on \_\_\_\_\_ (the “**Effective Date**”), by and between HOOTS FRANCHISING, LLC, a Delaware limited liability company with its principal place of business at 1815 The Exchange, Atlanta, Georgia 30339 (hereinafter “**Hoots Franchising**,” “**we**,” “**us**” or “**our**”); and \_\_\_\_\_ a \_\_\_\_\_ with its principal business address at the address set forth in Exhibit A (the “**Developer**,” “**you**” or “**your**”).

### RECITALS:

A. Hoots Franchising, itself and/or through affiliates, has developed a system (the “**System**”) for the establishment and operation of restaurants (the “**hoots® wings restaurants**”) that offer a limited menu featuring chicken wings and other food and beverage product and services offerings and merchandise (the “**Products and Services**”). The System includes Hoots Franchising’s distinctive exterior and interior restaurant design, trade dress, décor, and color scheme; distinctive standards, specifications, and procedures for operations; procedures for quality control; training and ongoing operational assistance; and advertising and promotional programs; all of which Hoots Franchising may add to, delete from, and modify from time to time.

B. “**hoots® wings restaurants**” are fast food/fast casual style restaurants that offer and sell via dine in, catering, take-out and delivery a limited menu of chicken wings and other foods and beverages we may designate or approve from time to time.

C. hoots® wings restaurants are not Hooters® Restaurants offered by our affiliate: hoots® wings restaurants do not feature the “Hooters® Girls” and do not feature all of the same products or services offered by Hooters® Restaurants.

D. hoots® wings restaurants offer and sell only products, services and accessories we designate or approve for hoots® wings restaurants (the “**Products and Services**”). hoots® wings restaurants use our System, Copyrights and Marks, which differ from or may differ from in various way from those of Hooters® Restaurants.

E. We grant franchises for hoots® wings restaurants by entering into a separate franchise agreement (a “**Franchise Agreement**”) for the establishment and operation of each hoots® wings restaurant. A copy of the form of Franchise Agreement is attached to our Disclosure Document as Exhibit B.

F. Each hoots® wings restaurant operates from a specified location that we designate and approve (the “**Site**”). A typical Site for a new hoots® wings restaurant currently ranges from approximately 1,400 square feet to 1,800 square feet with seating from 12 to 50 persons. Dine-In Sites are typically located in in a shopping center or strip mall with parking in front of the Site. Some may be located in enclosed malls, airports or other similar enclosed or non-traditional facilities and may have a footprint that is modified to conform to those needs.

G. Our “**System**”, which your hoots® wings restaurants must use and follow, is comprised of our Confidential Information, distinctive business formats, methods, procedures, rules, designs, layouts, signs, recipes, ingredients, product and service mix, standards, specifications, and System Standards, all of which we may improve, further develop or otherwise

modify from time-to-time. Our “**System Standards**” are our mandatory rules, requirements, suggestions and guidance for the development and operation of hoots® wings restaurants. Our Manuals and our System Standards define the System and will address use of our Confidential Information, Marks and Copyrights, specifics of the layout of hoots® wings restaurants, number of personnel needed, types of Products or Services offered, amount of inventory carried and various other aspects of the development, operation, transfer or closure of hoots® wings restaurants. We may change, alter or amend the System at any time in our sole discretion.

H. Our “**Marks**” are comprised of certain trademarks, service marks and other commercial symbols in the operation of hoots® wings restaurants (including the primary mark being the “hoots®” word and design mark, and other marks being “hoots on the fly®” hoots® wings, hoots® wings and other things and other associated logos, tag lines, designs, symbols and trade dress, we designate or approve). The current Marks have gained and continue to gain public acceptance and goodwill. We in our sole discretion may at any time license, create or designate new Marks and change, alter, amend, substitute or discontinue any of the Marks.

I. Our “**Copyrights**” are comprised of information capable of being rendered into tangible form that we claim as our Copyrights, including spreadsheets, forms, marketing materials, labels, manuals, pricing lists, vendor lists, menus, advertisements, our website, and any other written materials, marketing materials, advertisements, or slogans (including the look, compilation, feel and content of them). We in our sole discretion at any time may license, create or designate new Copyrights and change, modify, amend discontinue or use substitute Copyrights.

J. Terms not otherwise defined in this Agreement have the meanings as provided in the Franchise Agreement.

K. Developer understands and acknowledges the importance of Hoots Franchising’s high standards of quality, appearance, and service, and the necessity of operating its development business in compliance with Hoots Franchising’s standards and specifications.

L. Developer wishes to obtain certain rights to develop multiple hoots® wings restaurants under the System and wishes to enter into this Agreement, and to enter into Franchise Agreements with us, for that purpose.

M. Developer recognizes that our affiliates operate, franchise and license Hooters® Restaurants and that nothing in this Agreement grants you any rights in relation to Hooters® Restaurants or in any way restricts or limits their franchising, licensing or operation in any way.

N. This Agreement amends, modifies, and supersedes the terms of, and is an integral part of each of the Franchise Agreements indicated in the Development Schedule. Capitalized terms in this Agreement which are not otherwise defined in this Agreement have the same meanings as defined in our form of Franchise Agreement. Except as otherwise indicated in this Agreement, all other terms and conditions of the Franchise Agreements remain unmodified and in full force and effect. Terms of the introduction are integral parts of this Agreement. Capitalized terms not otherwise defined in this Agreement have the same meanings as defined in the Franchise Agreement.

In consideration of the foregoing and the mutual promises and commitments set forth in this Agreement, the parties agree as follows:

## 1 GRANT

- 1.1 *Rights, Obligations.* Hoots Franchising hereby grants to Developer the right (and Developer hereby accepts the obligation), pursuant to the terms and conditions of this Agreement, to develop the specific number of hoots® wings restaurants in the Development Area as set forth in your Development Schedule in Exhibit A. In this regard, the parties further agree that:
- 1.1.1 Each hoots® wings restaurant must be developed by Developer according to the development schedule set forth in **Exhibit A** to this Agreement (the “**Development Schedule**”);
  - 1.1.2 Each hoots® wings restaurant developed under this Agreement must be established and operated pursuant to a separate Franchise Agreement with Hoots Franchising (each, a “**Franchise Agreement**”) that must be executed as provided in Section 3.1 below; and
  - 1.1.3 Each hoots® wings restaurant developed under this Agreement must be located in the area that is specified in **Exhibit A** to this Agreement (the “**Development Area**”).
  - 1.1.4 Developer must develop only the type of hoots® wings restaurant (Dine-In or Ghost Kitchen) as specified in the Development Schedule.
- 1.2 *Development Area.* If you are in full compliance with all of the provisions of this Agreement, and all of the Franchise Agreements referenced in this Agreement, then during the term of this Agreement, we will grant to you a separate “**Development Area**” for each hoots® wings restaurant under your Development Schedule. Each separate Development Area will serve as the Site Selection Area for that Unit Franchise under its corresponding Franchise Agreement. If no separate Development Areas are specified, the entire Development Area will serve as the Site Selection Area for each hoots® wings restaurant under the Development Schedule. A map showing each separate Development Area (if so specified) may be attached as Exhibit to this Agreement. In case of any variation, once a Site Selection Area is specified in a particular Franchise Agreement that the Site Selection Area controls for that hoots® wings restaurant. During the term of this Agreement, we will not ourselves open or operate, or grant to another the right to open or operate a hoots® wings restaurant with a Site in the Development Area. However, the foregoing will not apply to any hoots® wings restaurants that have been previously granted rights, which have Sites or the right to have Sites in the Development Area, or if we or our affiliate(s) currently operate one or more hoots® wings restaurants at Sites in the Development Area (individually or collectively, “**Pre-Existing Sites**”). We may also designate our, affiliates’, Franchisees’ and licensees’ Hooters Restaurants as Pre-Existing Sites and any territory we designate around them for purposes of exclusion from any Development Area or Protected market Areas. If there are any Pre-Existing Sites in your Development Areas. Our obligations with respect to the Development Area and your rights with respect to it are subject to Sections 1.3 and 1.4 below.
- 1.3 *Hoots Franchising’s Reserved Rights.* Except as otherwise specifically provided in Section 1.2 above, Hoots Franchising retains all other rights, and may, among other things, on any terms and conditions Hoots Franchising deems advisable, and without granting Developer any rights therein:



- 1.3.1 Own, acquire, establish, and/or operate and license others to establish and operate, hoots® wings restaurants under the System at any Site outside the Development Area notwithstanding the Site's proximity to the Development Area or any hoots® wings restaurant, Hooters® Restaurant or its actual or threatened impact on sales at any hoots® wings restaurant;
  - 1.3.2 Own, acquire, establish, and/or operate, and license others to establish and operate, hoots® wings restaurants under the Marks at Reserved Facilities (as defined below) at any location within or outside the Protected Territory. As used in this Agreement, "**Reserved Facilities**" must mean: airports; department stores; supermarkets; cultural institutions (examples include, but are not limited to, theaters, museums, art centers and educational facilities); casinos; military bases; sports and entertainment venues and stadiums; and business and industrial complexes and offices at which the food service is managed by service providers with national or international operations;
  - 1.3.3 Own, acquire, establish, and/or operate and license others to establish and operate businesses: (a) using the Marks (but not the "Hooters®" mark) and other marks in connection with the operation of such businesses; (b) which businesses may be the same as, similar to, or different from hoots® wings restaurants; and (c) which may be located within or outside the Development Area, despite the proximity of such businesses to any hoots® wings restaurant (but this clause must not allow Hoots Franchising to operate or license others to operate a hoots® wings restaurant inside the Development Area unless permitted pursuant to Sections 1.2 or 1.3.2 above); and/or
  - 1.3.4 Sell and distribute, directly or indirectly, or license others to sell and distribute, directly or indirectly, any Products and Services from any location to any business or customer, including without limitation through restaurants, cafes, retail kiosks, grocery or convenience stores or other retail outlets, and any other distribution channels (including, without limitation, through retail, wholesale, mail order, toll free numbers, or the Internet), provided that this clause must not allow Hoots Franchising to operate or license others to operate a hoots® wings restaurant inside the Development Area under: (a) the System; and (b) the Marks, unless permitted pursuant to Sections 1.2 or 1.3.2 above)
  - 1.3.5 Hoots Franchising and/or its affiliates have the unrestricted right to engage, directly or indirectly, through its or their employees, representatives, licensees, assigns, agents, and others, at wholesale, retail, and otherwise, in the production, distribution, and sale of Products and Services bearing the Marks licensed under this Agreement or other names or marks, including without limitation Products and Services included as part of the System.
- 1.4 *Limits on Where Developer Can Sell.* Developer must offer and sell Products and Services only from hoots® restaurants, and only in accordance with the requirements of the applicable Franchise Agreement and the procedures set forth in operating manuals by Hoots Franchising from time to time.
  - 1.5 *Not a Franchise Agreement.* This Agreement is not itself a Franchise Agreement, and only sets the framework for the parties to enter into each of the Franchise Agreements under the Development Schedule. This Agreement does not grant to Developer any right

to use in any manner our Marks or System separate from the rights granted under each Franchise Agreement. Developer has no right under this Agreement to license others to use in any manner the Marks or System. Nothing in this Agreement provides Developer any rights whatsoever with respect to Hooters Restaurants. Hooters® Restaurants are not offered or sold under the Franchise Agreement, this Agreement or the FDD for hoots® wings restaurants. We and our parent and affiliates reserve any and all rights to engage in any activities whatsoever with respect to the licensing, franchising, development and operation of Hooters® Restaurants located or to be located or operated anywhere by any means.

## 2 DEVELOPMENT FEE

- 2.1 *Amount of Development Fee.* In consideration of the development rights granted herein, Developer must pay to Hoots Franchising a development fee (the “**Development Fee**”) in an amount equal to the amount calculated by multiplying Fifteen Thousand Dollars (\$15,000) by the number of hoots® wings restaurant set forth on **Exhibit A** to this Agreement. The Total Development Fee will be set forth in Exhibit A.
- 2.2 *Development Fee is Non-Refundable.* The Development Fee is due in Lump Sum and is fully earned and non-refundable upon your signing this Agreement. The Development Fee is paid to us in consideration of administrative and other expenses incurred by Hoots Franchising and for the development opportunities lost or deferred as a result of the rights granted Developer in this Agreement.

## 3 DEVELOPMENT OBLIGATIONS

- 3.1 *Establishment of hoots® wings restaurants.* Unless otherwise provided in Exhibit A to this Agreement, Developer must execute a Franchise Agreement for each hoots® wings restaurant developed under this Agreement at the time the Developer executes this Agreement. Each hoots® wings restaurant must be situated at a Site approved by Hoots Franchising, within the Development Area, as provided in the applicable Franchise Agreement.
- 3.2 *Fees.* If Developer is in full compliance with this Agreement, \$10,000 of the Development Fee will be applied (credited towards) to “Franchise Fee” due under each Franchise Agreement for the hoots® wings restaurants indicated in Exhibit A to this Agreement. The Development Fee is nonrefundable.
- 3.3 *Compliance with Development Schedule.* Recognizing that time is of the essence, Developer agrees to satisfy the Development Schedule. Failure by Developer to adhere to the Development Schedule, or failure by Developer to submit a completed Site Acceptance Package and obtain Hoots Franchising’s approval of the Site Selection Package within the time specified in the Development Agreement for a particular hoots® wings restaurant must constitute a default under this Agreement as provided in Section 6.2 below. In the event of such default, we have the rights provided in Section 6.2, below as well as the option to eliminate any exclusivity to your Development Area.
- 3.4 *Controlled Affiliate.* Hoots Franchising, in its sole discretion, may approve Developer to use Controlled Affiliates to enter into Franchise Agreements contemplated under this Agreement. The term “**Controlled Affiliate**” means any corporation, limited liability company or other business entity of which Developer or one or more of its majority owners

who are approved by Hoots Franchising owns at least fifty-one percent (51%) of the total authorized ownership interests, and Developer or such owner(s) have the right to control the entity's management and policies.

#### **4 TERM**

This Agreement terminates in its entirety on earlier of: (a) the last Site Selection Date specified in the Development Schedule, (b) the actual selection of the last Site under the Development Schedule, (c) if terminated due to your breach of this Agreement or any of your Franchise Agreements; or (d) the last day of the Development Term set forth in Exhibit A. In addition, if you are unable to comply with the any Site Selection and/or Opening Date defined in the Development Schedule, we may, in our sole discretion, terminate this Agreement in its entirety, or in part. In case of termination of this Agreement in its entirety, such termination will terminate all development rights in the Development Area(s), terminate the Development Areas and void the Development Schedule. In that instance, the terms of the Franchise Agreements, as without regard to this Agreement will control. You are not entitled to any refunds whatsoever if we terminate this Agreement or any Development Area. If for any reason we, in our sole discretion designate one unitary Development Area for multiple hoots® wings restaurant, or allow any of your Development Areas or Site Selection Areas to overlap, we, in our sole discretion will determine what portion of the Development Area and/or Site Selection Area terminates upon the selection of each Site, or your failure select a Site in compliance with the Franchise Agreement. Any breach of this Agreement by you will also constitute a material breach of the Franchise Agreements and we may, in our sole discretion, do any of the following: terminate this Agreement; terminate any of your Franchise Agreements under which you have not timely and properly elected a Site, or take any other action allowed us in the vent of your breach under any individual or all of your Franchise Agreements..

#### **5 DUTIES OF THE PARTIES**

- 5.1 *Hoots Franchising's Obligations.* For each hoots® wings restaurant developed under this Agreement, our obligations are as provided in the Franchise Agreement signed for such hoots® wings restaurant.
- 5.2 *Developer Obligations.* Developer accepts the following obligations:
  - 5.2.1 Developer must at all times preserve in confidence any and all materials and information furnished or disclosed to Developer by Hoots Franchising, and must disclose such information or materials only to such of Developer's employees or agents who must have access to it in connection with their employment. Developer must not at any time, without Hoots Franchising's prior written consent, copy, duplicate, record, or otherwise reproduce such materials or information, in whole or in part, nor otherwise make the same available to any unauthorized person.
  - 5.2.2 Developer must comply with all requirements of federal, state, and local laws, rules, and regulations. To the extent that the requirements of these laws are in conflict with the terms of this Agreement or other instructions of Hoots Franchising, Developer must: (a) comply with these laws; and (b) immediately provide written notice describing the nature of such conflict to Hoots Franchising.
  - 5.2.3 Hoots Franchising must have the right to require Developer to employ one or more regional managers (who must be individuals reasonably acceptable to Hoots

Franchising) to supervise the day to day operations of Developer's hoots® wings restaurants ("**Regional Managers**"). Any such Regional Managers must be required to attend and successfully complete (to Hoots Franchising's reasonable satisfaction) such training course as Hoots Franchising may reasonably require.

## 6 DEFAULT AND TERMINATION

- 6.1 *Automatic.* Developer must be deemed to be in default under this Agreement, and all rights granted herein must automatically terminate without notice to Developer, if Developer must become insolvent or makes a general assignment for the benefit of creditors; or if a petition in bankruptcy is filed by Developer or such a petition is filed against and not opposed by Developer; or if Developer is adjudicated a bankrupt or insolvent; or if a bill in equity or other proceeding for the appointment of a receiver of Developer or other custodian for Developer's business or assets is filed and consented to by Developer; or if a receiver or other custodian (permanent or temporary) of Developer's assets or property, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any state or federal law should be instituted by or against Developer; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless an appeal or a supersedeas bond is filed); or if Developer is dissolved; or if execution is levied against Developer's business or property; or if suit to foreclose any lien or mortgage against the hoots® wings restaurant Site or equipment is instituted against Developer and not dismissed within thirty (30) days; or if the real or personal property of Developer's hoots® wings restaurant must be sold after levy thereupon by any sheriff, marshal, or constable.
- 6.2 *With Notice.* Developer must be deemed to be in default and Hoots Franchising may, at its option, terminate this Agreement and all rights granted hereunder without affording Developer any opportunity to cure the default, effective immediately upon the delivery of written notice to Developer by Hoots Franchising (in the manner set forth under Section 9 below), upon the occurrence of either of the following events:
- 6.2.1 Developer fails to meet its obligations under the Development Schedule;
  - 6.2.2 A Franchise Agreement for any hoots® wings restaurant operated by Developer (or a Controlled Affiliate) is terminated; or
  - 6.2.3 Developer (and one or more Controlled Affiliates, if applicable) is in breach of its Franchise Agreement(s) on three (3) or more occasions in any twelve (12)-month period, regardless of whether such breaches are under the same Franchise Agreement and whether such breaches are cured.
- 6.3 *With Notice and Ten Day Opportunity to Cure.* Upon the occurrence of any of the following events of default, Hoots Franchising may, at its option, terminate this Agreement by giving written notice of termination (in the manner set forth under Section 9 below) stating the nature of the default to Developer at least ten (10) days prior to the effective date of termination; provided, however, that Developer may avoid termination by immediately initiating a remedy to cure such default, curing it to the satisfaction of Hoots Franchising, and by promptly providing proof thereof to Hoots Franchising within the ten (10) day period. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement will terminate without further notice to

Developer, effective immediately upon the expiration of the ten (10) day period or such longer period as applicable law may require.

- 6.3.1 If Developer fails, refuses, or neglects promptly to pay any monies owing to Hoots Franchising or its affiliates when due;
- 6.3.2 If Developer fails to comply with applicable laws;
- 6.4 ***With Notice and Thirty Day Opportunity to Cure.*** Except as otherwise provided in Sections 6.1, 6.2 and 6.3, above, upon any other default by Developer of its obligations hereunder, Hoots Franchising may terminate this Agreement by giving written notice of termination (in the manner set forth under Section 9 below) setting forth the nature of such default to Developer at least thirty (30) days before the effective date of termination; provided, however, that Developer may avoid termination by immediately initiating a remedy to cure such default, curing it to Hoots Franchising's satisfaction, and by promptly providing proof thereof to Hoots Franchising within the thirty (30) period. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement and all rights granted hereunder (including but not limited to, the right to develop any new HOOTS® Restaurants) must terminate without further notice to Developer effective immediately upon the expiration of the thirty (30) day period or such longer period as applicable law may require.
- 6.5 ***Reduction or Elimination of Developer Rights.*** In lieu of termination, Hoots Franchising must have the right to reduce or eliminate all or only certain rights of Developer under this Agreement; and if Hoots Franchising exercises this right, Hoots Franchising must not have waived its right to, in the case of future defaults, exercise all other rights, and invoke all other provisions, that are provided in law and/or set out under this Agreement.
- 6.6 ***Damages.*** In addition to other remedies that Hoots Franchising may have, if Hoots Franchising terminates this Agreement as a result of Developer's default of this Agreement, Developer must pay to Hoots Franchising all costs and expenses Hoots Franchising may incur related to such default and termination, including without limitation attorneys' fees and costs that Hoots Franchising incurs related to: (i) drafting notices, demands, and other documents related to such default and termination; (ii) obtaining decrees for specific performance; (iii) obtaining injunctive or other relief; (iv) collection of amounts owed; and (v) appeal; so that Hoots Franchising actually receives such payments by the end of ten (10) days after demand therefore.
- 6.7 ***Effect of Termination.*** Upon termination or expiration of this Agreement, Developer must have no right to establish or operate any hoots® wings restaurants for which a Franchise Agreement has not been executed by Hoots Franchising at the time of termination. Thereafter, Hoots Franchising must be entitled to establish, and to license others to establish, hoots® wings restaurants in the Development Area (except as may be otherwise provided under any Franchise Agreement that has been executed between Hoots Franchising and Developer).
- 6.8 ***Cross-Default.*** No default under the Development Schedule under this Agreement will constitute a default under any Franchise Agreement between the parties hereto. However, a default or breach of any of the Franchise Agreements is a breach and default under this Agreement any default under Section 7.2, and 8 of this Agreement constitutes a default under each of the Franchise Agreements,

6.9 *Non-Exclusive Rights.* No remedy herein conferred upon or reserved to Hoots Franchising is exclusive of any other remedy provided or permitted by law or equity.

## 7 TRANSFERS

7.1 *By Hoots Franchising.* Hoots Franchising must have the absolute right to transfer, assign, and delegate all or any part of its rights and obligations under this Agreement to any person or entity Hoots Franchising deems appropriate. Such transfer, assignment, or delegation must effect a complete novation as to the right or obligation transferred, assigned, or delegated. After such transfer, assignment, or delegation, Developer must look solely to the transferee, assignee, or delegatee, and not to Hoots Franchising, for the satisfaction of any obligation transferred, assigned, or delegated. Hoots Franchising may also, without Developer's consent, transfer, assign, or otherwise alter any or all of the ownership in Hoots Franchising.

7.2 *By Developer.* Hoots Franchising's prior written consent is a necessary condition precedent to the sale, assignment, delegation, transfer, conveyance, gift, pledge, mortgage, encumbrance, or hypothecation (collectively, the "**Transfer**") of any direct, indirect, or beneficial interest of (a) Developer; (b) this Agreement; or (b) the rights and obligations of Developer under this Agreement. As a condition to its consent to a Transfer, Hoots Franchising may require that (a) the proposed Transfer under this Agreement is made in conjunction with a simultaneous transfer of all comparable interests held by the transferor under all the Franchise Agreements executed pursuant to this Agreement; and (b) Developer has satisfied any and all of the conditions and requirements for transfers set forth in the form of the Franchise Agreement that Hoots Franchising deems applicable to a proposed transfer under this Agreement.

7.3 *Consent to Transfer.* Hoots Franchising's consent to a transfer which is the subject of this Section 7 must not constitute a waiver of any claims it may have against the transferring party arising prior to the transfer, nor must it be deemed a waiver of Hoots Franchising's right to demand exact compliance with any of the terms of this Agreement by the transferor with respect to any claims prior to the transfer or transferee thereafter.

## 8 COVENANTS

8.1 *Management Employee's Efforts.* Developer covenants that during the term of this Agreement, except as otherwise approved in writing by Hoots Franchising, Developer (or a Regional Manager) must devote full time and best efforts to the management and operation of the business contemplated hereunder.

8.2 Developer specifically acknowledges that, pursuant to this Agreement, Developer will receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Hoots Franchising and the System. Developer covenants that during the term of this Agreement, except as otherwise approved in writing by Hoots Franchising, Developer must not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, divert or attempt to divert any business or customer of a restaurant developed pursuant to this Agreement, or of any Restaurant using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with Hoots Franchising's Marks and the System.

8.3 **Covenants Not to Compete.** The following definitions must apply to this Section 8:

8.3.1 **Competing Activity.** “**Competing Activity**” means: (i) developing, opening, or operating any Competing Business; or (ii) authorizing, assisting, or inducing another to develop, open, or operate a Competing Business.

8.3.2 **Competing Business.** “**Competing Business**” means a restaurant or bar concept, other than a business Developer operates pursuant to an agreement with Hoots Franchising, that focuses on the sale of chicken wings, chicken sandwiches, chicken tenders or salads, in a fast-casual or counter-service environment. Without limiting the generality of the foregoing, all of the following businesses shall conclusively be deemed to be Competing Businesses: Wingstop, Wing Zone, and Buffalo’s, and any other restaurant concept that focuses on the sale of chicken wings, chicken sandwiches, chicken tenders or salads in a fast-casual or counter-service environment.

8.3.3 **In-Term Covenant Not to Compete.** Developer covenants, warrants, represents, and agrees that it will not, during the term of the Development Agreement, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity: (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Developer may purchase or hold less than five percent (5%) of the shares of any publicly- traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from any hoots® wings restaurant or the System.

8.3.4 **Post-Term Covenant Not to Compete.** Developer covenants, warrants, represents, and agrees that it will not, beginning at the expiration or termination of this Agreement and continuing for two (2) years thereafter or two (2) year after a court of competent jurisdiction enters an order enforcing this Section 8.3, whichever occurs last, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity, (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Developer may purchase or hold less than five percent (5%) of the shares of any publicly- traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from a hoots® wings restaurant or the System, within: (a) Developer’s Development Area; (b) any of the Protected Territories or former Protected Territories under any Franchise Agreement between Developer and Hoots Franchising or its affiliates; or (c) a protected territory of any other Developer or affiliate of Hoots Franchising.

8.3.5 If Developer had any business(es) in operation prior to signing this Agreement, Developer may seek Hoots Franchising’s approval to continue the operation of such business(es) during this Agreement without such business(es) being a violation of this Section 8.3, and any business(es) approved by Hoots Franchising for such treatment (an “**Excluded Existing Business**”) must be identified in

**Exhibit A.** Developer acknowledges and agrees that only those businesses, if any, identified in **Exhibit A** as “Excluded Existing Businesses” must be excluded from the coverage of this Section 8.3.

- 8.4 *Personal Covenants.* At Hoots Franchising’s request, Developer must require and obtain execution of an individual non-disclosure and non-competition agreement , the form of which will be provided by Hoots Franchising, from owners and managers (including the Regional Manager). Failure by Developer to obtain execution of a covenant required by this Section 8.4 must constitute a default under Section 6.2 above.
- 8.5 *Reduction in Scope.* Developer understands and acknowledges that Hoots Franchising must have the right to reduce the scope of any covenant set forth in Section 8.3 in this Agreement, or any portion thereof, without Developer’s consent, effective immediately upon receipt by Developer of written notice thereof; and Developer agrees that it must comply forthwith with any covenant as so modified, which must be fully enforceable notwithstanding the provisions of Section 13 below.
- 8.6 *Claims Not a Defense.* Developer expressly agrees that the existence of any claims it may have against Hoots Franchising, whether or not arising from this Agreement, must not constitute a defense to the enforcement by Hoots Franchising of the covenants in this Section 8. Developer agrees to pay all costs and expenses (including reasonable attorneys’ fees) incurred by Hoots Franchising in connection with the enforcement of this Section 8.
- 8.7 *Covenant as to Anti-Terrorism Laws.* Developer agrees to comply with, and/or to assist Hoots Franchising to the fullest extent possible in Hoots Franchising’s efforts to comply with, the USA PATRIOT Act, and all other present and future U.S. federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war.
- 8.8 *Defaults.* Developer acknowledges that Developer’s violation of the terms of this Section 8 would result in irreparable injury to Hoots Franchising for which no adequate remedy at law may be available, and Developer accordingly consents to the issuance of an injunction prohibiting any conduct by Developer in violation of the terms of this Section 8.

## **9 NOTICES**

- 9.1 Any and all notices required or permitted under this Agreement must be in writing and must be: (i) personally delivered; (ii) mailed by certified or registered mail, return receipt requested; or (iii) delivered by overnight courier service, such as UPS, Federal Express, or DHL, to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to Hoots Franchising:

Hoots Franchising, LLC  
1815 The Exchange  
Atlanta, Georgia 30339

Copy to (which copy must not constitute notice):  
Hooters of America, LLC



1815 The Exchange  
Atlanta, Georgia 30339  
Attention: Legal Department

Notices to Developer:

Developer Entity Name  
ATTN: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

- 9.2 Any notice delivered under Section 9.1 of this Agreement must be deemed to have been given on the earlier of: (i) the date and time of receipt; (ii) five (5) business days after being mailed by certified or registered mail, return receipt requested; (iii) the next business day after having been deposited with an overnight courier service for next business day delivery; or (iv) the intended recipient's failure or refusal to accept delivery.

## 10 PERMITS AND COMPLIANCE WITH LAWS

- 10.1 *Compliance with Law.* Developer must comply with all federal, state, and local laws, rules, and regulations, and must timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the business contemplated under this Agreement.
- 10.2 *Notice of Violations and Actions.* Developer must notify Hoots Franchising in writing within five (5) days of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation or financial condition of Developer and/or any hoots® wings restaurant established pursuant to this Agreement.

## 11 INDEPENDENT CONTRACTOR AND INDEMNIFICATION

- 11.1 *Independent Contractor Relationship.* It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them; that Developer must be an independent contractor; and, that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.
- 11.2 *Notice of Status.* At all times during the term of this Agreement, Developer must hold itself out to the public in connection with the hoots® wings restaurants and the business described in this Agreement as an independent contractor operating the business pursuant to this Agreement with Hoots Franchising. Developer agrees to take such action as may be necessary to do so, including, without limitation, exhibiting a notice of that fact in a conspicuous place within the Developer's offices, the content of which Hoots Franchising reserves the right to specify.
- 11.3 *No Contracts in Hoots Franchising's Name.* It is understood and agreed that nothing in this Agreement authorizes Developer to make any contract, agreement, warranty, or

representation on Hoots Franchising's behalf, or to incur any debt or other obligation in Hoots Franchising's name; and that Hoots Franchising must in no event assume liability for, or be deemed liable hereunder as a result of, any such action; nor must Hoots Franchising be liable by reason of any act or omission of Developer in Developer's operations hereunder, or for any claim or judgment arising therefrom against Developer.

11.4 *Indemnification.* Developer must indemnify and hold the Hoots Franchising Parties (as defined below) harmless against any and all Damages (as defined below) arising directly or indirectly from any Asserted Claim (as defined below) as well as from any breach of this Agreement by Developer. Developer's indemnity obligations must survive the expiration or termination of this Agreement.

11.5 *Definitions.* As used in Section 11.4 above, the following terms must have the following meanings:

11.5.1 **"Asserted Claim"** means any allegation, claim or complaint that is the result of, or in connection with, Developer's exercise of its rights and/or carrying out of its obligations hereunder (including but not limited to any claim associated with Developer's development of the hoots® wings restaurants or otherwise), notwithstanding any claim that any Hoots Franchising Party was or may have been negligent.

11.5.2 **"Hoots Franchising Parties"** means Hoots Franchising, Hoots Franchising's current and former shareholders, parents, subsidiaries, and affiliates, and their respective officers, directors, employees, and agents.

11.5.3 **"Damages"** means all claims, demands, causes of action, suits, damages, liabilities, fines, penalties, assessments, judgments, losses, and expenses (including without limitation expenses, costs and lawyers' fees incurred for any indemnified party's primary defense or for enforcement of its indemnification rights).

## 12 APPROVALS AND WAIVERS

12.1 *Request for Approval.* Whenever this Agreement requires the prior approval or consent of Hoots Franchising, Developer must make a timely written request to Hoots Franchising therefor, and such approval or consent must be obtained in writing.

12.2 *No Warranties or Guarantees.* Developer acknowledges and agrees that Hoots Franchising makes no warranties or guarantees upon which Developer may rely, and assumes no liability or obligation to Developer, by providing any waiver, approval, consent, or suggestion to Developer in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.

12.3 *No Waivers.* No delay, waiver, omission, or forbearance on the part of Hoots Franchising to exercise any right, option, duty, or power arising out of any breach or default by Developer under any of the terms, provisions, covenants, or conditions of this Agreement, and no custom or practice by the parties at variance with the terms of this Agreement, must constitute a waiver by Hoots Franchising to enforce any such right, option, duty, or power as against Developer, or as to subsequent breach or default by Developer. Subsequent acceptance by Hoots Franchising of any payments due to it hereunder or

under any other agreement must not be deemed to be a waiver by Hoots Franchising of any preceding or succeeding breach by Developer of any terms, provisions, covenants, or conditions of this Agreement.

### **13 ENTIRE AGREEMENT AND AMENDMENT**

This Agreement and the exhibits referred to herein constitute the entire, full, and complete Agreement between Hoots Franchising and Developer concerning the subject matter hereof, and supersede all prior agreements, no other representations having induced Developer to execute this Agreement. The parties acknowledge and agree that they relied only on the words printed in this Agreement in deciding whether to enter into this Agreement. Notwithstanding the foregoing, nothing in this Agreement must disclaim or require Developer to waive reliance on any representation that Hoots Franchising made in the most recent franchise disclosure document (including its exhibits and amendments) that Hoots Franchising delivered to Developer or its representative, subject to any agreed-upon changes to the contract terms and conditions described in that disclosure document and reflected in this Agreement (including any riders or addenda signed at the same time as this Agreement). No amendment, change, or variance from this Agreement must be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

### **14 SEVERABILITY AND CONSTRUCTION**

- 14.1 *Severability.* Except as expressly provided to the contrary herein, each portion, section, part, term, and/or provision of this Agreement must be considered severable; and if, for any reason, any section, part, term, and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such must not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, and/or provisions of this Agreement as may remain otherwise intelligible; and the latter must continue to be given full force and effect and bind the parties hereto; and said invalid portions, sections, parts, terms, and/or provisions must be deemed not to be a part of this Agreement.
- 14.2 *No Third Party Rights.* Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor must be deemed, to confer upon any person or legal entity other than Developer, Hoots Franchising, and such of Developer's and Hoots Franchising's respective successors and assigns as may be contemplated (and, as to Developer, permitted) by Section 7 hereof, any rights or remedies under or by reason of this Agreement.
- 14.3 *Construction.* Developer expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court may hold to be unenforceable in a final decision to which Hoots Franchising is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.
- 14.4 *Definition of Terms.* All capitalized terms not defined herein must have the meaning ascribed to them in the Franchise Agreement.

- 14.5 *Headings.* All captions in this Agreement are intended solely for the convenience of the parties, and no caption must be deemed to affect the meaning or construction of any provision hereof.
- 14.6 *Survival.* All provisions of this Agreement which, by their terms or intent, are designed to survive the expiration or termination of this Agreement, must so survive the expiration and/or termination of this Agreement.

## 15 APPLICABLE LAW AND DISPUTE RESOLUTION

- 15.1 *Notice of Dispute.* Developer must give Hoots Franchising advance written notice of Developer's intent to institute legal action against Hoots Franchising, stating with specificity the basis for such proposed action, and must grant Hoots Franchising thirty (30) days from Hoots Franchising's receipt of such notice to cure the alleged act on which such legal action is to be based.

- 15.2 *Arbitration.*

15.2.1 *Agreement to Arbitrate.* Hoots Franchising and Developer agree that all controversies, disputes, or claims between Hoots Franchising and the Hoots Franchising Parties, and Developer (and/or its owners, guarantors, affiliates and/or employees) arising out of or related to: (a) this Agreement or any other agreement between them, (b) Hoots Franchising's relationship with Developer, (c) the validity of this Agreement or any other agreement between Hoots Franchising and Developer, or any provision of any such agreements, and the validity and scope of the arbitration obligation under this Section, or (d) any System Standard, must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association ("AAA"). Despite Hoots Franchising's and Developer's agreement to arbitrate, they each have the right to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction (in accordance with the requirements of Section 15.4 below); provided, however, that they must contemporaneously submit their dispute for arbitration on the merits as provided in this Section. Hoots Franchising and Developer each agree that if either of them applies for and obtains the issuance of a temporary restraining order or temporary or preliminary injunctive relief, the party obtaining the relief shall have no obligation to post a bond in excess of \$1,000 and shall be entitled to that relief without proving actual damages, and the other party's sole remedy, in the event of the entry of such temporary restraining order or injunction, shall be the dissolution of such order or injunction, if warranted, upon a hearing duly held (all claims for damages by reason of any wrongful issuance of any such order or injunction being expressly waived).

15.2.2 *Arbitral Procedure.* The arbitration proceedings will be conducted by one arbitrator and, except as this Section otherwise provides, according to the AAA's then current commercial arbitration rules. Notwithstanding the foregoing, regardless of any conflict with such rules, the arbitrator may not consider any settlement discussions or offers that might have been made by either you or us. The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim. The arbitrator shall apply the governing law set forth in Section 15.3 below. Any arbitration arising out of or

related to this Agreement will be conducted on an individual, not a class-wide or group, basis, as set forth in Section 15.5.1 below.

- 15.2.3 *Location of Arbitration.* All arbitration proceedings will be conducted at a suitable location in the city or county where our principal business office is located (currently, Atlanta, Georgia). The arbitrator will have no authority to select a different hearing locale other than as described in the prior sentence. All matters relating to arbitration will be governed by the United States Federal Arbitration Act (9 U.S.C. §§ 1 et seq.). Judgment upon the arbitrator's award may be entered in any court of competent jurisdiction.
- 15.2.4 *Scope of Arbitral Award.* The arbitrator has the right to award or include in his or her award any relief which he or she deems proper, including, without limitation, money damages, specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator may not declare any Mark generic or otherwise invalid or, award any exemplary, punitive, treble, or other forms of multiple damages against the other.
- 15.2.5 *Compulsory Counterclaims.* Hoots Franchising and Developer agree that, in any arbitration proceeding, each must submit or file any claim which would constitute a compulsory counterclaim (as defined by the United States Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any claim which is not submitted or filed as required is forever barred.
- 15.2.6 *Costs of Arbitration.* Except as set forth in Section 15.8, the costs of arbitration shall be borne in equal share by both you and us. Hoots Franchising reserves the right, but has no obligation, to advance Developer's share of the costs (excluding attorneys' fees) of any arbitration proceeding in order for such arbitration proceeding to take place and by doing so shall not be deemed to have waived or relinquished its right to seek the recovery of these costs in accordance with Section 15.8.
- 15.2.7 *Effect on Non-Signatories.* The provisions of this Section are intended to benefit and bind certain third-party non-signatories and will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination.
- 15.3 *Governing Law.* Subject to the Federal Arbitration Act governing all matters regarding arbitration pursuant to Section 15.2.3 above, all other matters arising out of or related to this Agreement, including without limitation all matters arising out of or related to the making, existence, construction, enforcement, and sufficiency of performance of this Agreement, must be determined exclusively in accordance with, and governed exclusively by, the laws of the state where Hoots Franchising's principal business office is located (currently, the State of Georgia), which laws must prevail in the event of any conflict of laws. Notwithstanding the foregoing, if any matter related to this Agreement would be unenforceable under the laws of the state where Hoots Franchising's principal business office is located, but would be enforceable under the laws of Developer's jurisdiction, then the laws of Developer's jurisdiction must apply to such matter.
- 15.4 *Forum, Venue, and Jurisdiction.* Subject to Section 15.2.1 above, the exclusive forum and venue for any litigation must be a state or federal court having jurisdiction over the subject matter in or for the city or county where Hoots Franchising's principal business office is

located. Developer hereby irrevocably accepts and submits to, generally and unconditionally, the exclusive jurisdiction of any such state or federal courts having jurisdiction over the subject matter and hereby waives, to the extent permitted by applicable law, defenses based on jurisdiction, venue, or forum non conveniens. The provisions of this Section 15.4 must remain in full force and effect after the expiration or termination of this Agreement.

15.5 *Waivers.*

15.5.1 *Waiver of Class Action and Group Action.* Any arbitration or litigation arising out of or related to this Agreement must be conducted on an individual, not a class-wide or group, basis. No arbitration or litigation relating to this Agreement or to the System may be brought on behalf of any franchisee associations or groups, and Developer agrees not to participate in any such litigation. No arbitration or litigation under this Agreement may be consolidated with any other litigation involving us and any other person without Hoots Franchising's prior written consent. Notwithstanding the foregoing or anything to the contrary contained in this Section 15, if any court or arbitrator determines that all or any part of this Section 15.5.1 is unenforceable with respect to a dispute that otherwise would be subject to arbitration under Section 15.2.1, then all parties agree that the arbitration clause shall not apply to that dispute and that such dispute shall be resolved in a judicial proceeding in a court permitted under Section 15.4 of this Agreement.

15.5.2 *Waiver of Trial By Jury.* Hoots Franchising and Developer hereby waive trial by jury in any litigation arising out of or related to this Agreement.

15.5.3 *Waiver of Punitive Damages.* Hoots Franchising and Developer hereby waive any right to or claim for punitive, exemplary, consequential, multiplied, enhanced, or speculative damages.

15.6 *No Limitation.* No right or remedy conferred on or reserved to Hoots Franchising or Developer by this Agreement is intended to be, nor must be deemed, exclusive of any other right or remedy set forth in this Agreement or by law or equity provided or permitted, but each must be cumulative of every other right or remedy.

15.7 *Injunctive Relief.* Nothing set forth in this Agreement contained must bar Hoots Franchising's right to obtain injunctive relief against threatened conduct that must cause it loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

15.8 *Cost and Attorneys' Fees.* If Hoots Franchising commences a legal proceeding against Developer to enforce any term or provision of this Agreement, and prevails in the legal proceeding (as determined by the trier-of-fact), Hoots Franchising will be entitled to recover from Developer the costs and expenses that Hoots Franchising incurred in preparing for, commencing, and prosecuting the proceeding, and until the proceeding has come to a complete end (including appeals and settlements), including, without limitation, reasonable accounting, attorneys', arbitrators', and related fees. In addition, if Hoots Franchising incurs costs and expenses due to Developer's failure to pay when due amounts owed to Hoots Franchising, to submit when due any reports, information, or supporting records, or otherwise to comply with this Agreement, Developer agrees, even if Hoots Franchising does not initiate a formal legal proceeding, to reimburse Hoots

Franchising for all of the costs and expenses that Hoots Franchising incurs, including, without limitation, reasonable accounting, attorneys', and related fees.

## 16 ACKNOWLEDGMENTS

- 16.1 *Developer's Investigation of the Business Possibilities.* Developer acknowledges that it has conducted an independent investigation of the business to be developed under this Agreement, recognizes that this business venture involves business risks, and that its success will be largely dependent upon Developer's ability (and, if Developer is a corporation, partnership or limited liability company, its owners as independent businesspersons). Developer acknowledges that the success of the business venture contemplated under this Agreement is speculative and depends, to a large extent, upon Developer's ability as an independent businessperson, his/her active participation in the daily affairs of the business, market conditions, area competition, availability of product, quality of services provided as well as other factors.
- 16.2 *Receipt of Complete Agreement and FDD.* Although it may not be required by law or regulations, Developer acknowledges that it received a copy of the franchise disclosure document describing the hoots® wings restaurants (the "FDD"), including any state addendum (if applicable), this Agreement, the exhibit(s) hereto, and agreements relating hereto, if any, with all of the blank lines therein filled in, at such time as may be required by the applicable federal and state laws and regulations.
- 16.3 *Developer Read the Agreement and FDD and Consulted with Advisors.* Developer acknowledges that it has read and understood this Agreement, the exhibits to this Agreement, and the FDD, and that Hoots Franchising has accorded Developer ample time and opportunity to consult with advisors of Developer's own choosing about the potential benefits and risks of entering into this Agreement. Developer acknowledges that it has no knowledge of any representations by Hoots Franchising, or anyone purporting to act on Hoots Franchising's behalf, that are contrary to the statements made in the FDD or contrary to the terms of this Agreement.
- 16.4 *No Conflicting Obligations.* Each party represents and warrants to the others that there are no other agreements, court orders, or any other legal obligations that would preclude or in any manner restrict such party from: (a) negotiating and entering into this Agreement; (b) exercising its rights under this Agreement; and/or (c) fulfilling its responsibilities under this Agreement.
- 16.5 *Developer's Responsibility for the Choice of hoots® wings restaurant Sites.* Developer acknowledges that it must have sole and complete responsibility for the choice of the sites at which hoots® wings restaurants will be operated; that Hoots Franchising has not (and must not be deemed to have, even by Hoots Franchising's acceptance of the sites that are part of the Development Area or that will become the locations at which hoots® wings restaurants will be operated) given any representation, promise, or guarantee of Developer's success at the locations; and that Developer must be solely responsible for its own success within the hoots® wings restaurants.
- 16.6 *Developer's Responsibility for Operation of its hoots® wings restaurants.* Although Hoots Franchising retains the right to establish and periodically modify System standards, which Developer has agreed to maintain in the operation of the hoots® wings restaurants contemplated hereunder, Developer retains the right and sole responsibility for the day-

to-day management and operation of the hoots® wings restaurants and the implementation and maintenance of system standards at the hoots® wings restaurants contemplated hereunder.

- 16.7 *Different Offerings to Others.* Developer acknowledges and agrees that Hoots Franchising may modify the offer of its development rights and Developments to other parties in any manner and at any time, which offers and agreements may have terms, conditions, and obligations that may differ from the terms, conditions, and obligations in this Agreement.
- 16.8 *General Release.* Developer and its affiliates release, remise, acquit and forever discharge Hoots Franchising, Hoots Franchising's shareholders, parents, subsidiaries, and affiliates, and their respective officers, directors, employees, and agents from any and all claims, whether known or unknown at this time, of any kind or nature, absolute or contingent, on account of any matter, cause or thing whatsoever that has happened, developed or occurred before Developer signs and delivers this Agreement to Hoots Franchising. This release will survive the termination of this Agreement.
- 16.9 *Success Depends on Developer.* Developer acknowledges that the success of the business venture contemplated under this Agreement is speculative and depends, to a large extent, upon Developer's ability as an independent businessperson, his/her active participation in the daily affairs of the business, market conditions, area competition, availability of product, quality of services provided as well as other factors. Hoots Franchising does not make any representation or warranty express or implied as to the potential success of the business venture contemplated hereby.

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

**HOOTS FRANCHISING, LLC**

**DEVELOPER:** \_\_\_\_\_

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

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

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

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

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

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



**HOOTS FRANCHISING, LLC  
AREA DEVELOPMENT AGREEMENT**

**EXHIBIT A  
DEVELOPMENT AREA AND DEVELOPMENT SCHEDULE**

1. Development Area. All hoots® wings restaurants developed under this Development Agreement must be located within the following boundaries:

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The following areas within the Development Area boundaries are excluded from the Development Area:

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A map will be attached if the Development Area is segmented into differed Development Area per hoots® wings restaurant or is not a contiguous geographic area.

1. Development Schedule. Recognizing that time is of the essence, Developer agrees to satisfy the development schedule set forth below:

2. Development Schedule. Your Development Schedule is:

Franchise Unit #	Development Commencement Date	Date for Selecting Site Selection Area	Site Selection Date*	Required Opening Date	Franchise Fee due date (if modified)
Total number of Franchise Units Under Development Schedule: _____					

This Development Schedule modifies any corresponding dates in each applicable Franchise Agreement if different from the standard Franchise Agreement. Strict compliance with the Development Schedule is the essence of this Agreement.

2. Total Development Fee due: \$ \_\_\_\_\_ = (\$15000 x \_\_\_\_\_)

3. Pre-Existing Sites are (if applicable): \_\_\_\_\_

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**HOOTS FRANCHISING, LLC**

\_\_\_\_\_

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

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

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

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

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

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

**HOOTS FRANCHISING, LLC  
DEVELOPMENT AGREEMENT**

**EXHIBIT B**

**STATE SPECIFIC AMENDMENT**

## ILLINOIS DEVELOPMENT AGREEMENT AMENDMENT

This Rider is entered into this \_\_\_\_\_ (the “**Effective Date**”), between **HOOTS FRANCHISING, LLC**, a Delaware limited liability company (“**we**,” “**us**,” “**our**” or “**Franchisor**”), with its principal business address at 1815 The Exchange, Atlanta, Georgia 30339, and \_\_\_\_\_, a \_\_\_\_\_ whose principal business address is \_\_\_\_\_ (referred to in this Amendment as “**you**,” “**your**” or “**Area Developer**”) and amends the Area Development Agreement between the parties dated as of the Effective Date (the “**Agreement**”).

1. **Precedence and Defined Terms.** This Amendment is an integral part of, and is incorporated into, the Agreement. Nevertheless, this Amendment supersedes any inconsistent or conflicting provisions of the Agreement. Terms not otherwise defined in this Amendment have the meanings as defined in the Agreement.

The conditions under which this Agreement can be terminated and the parties’ rights on termination may be affected by Illinois law, 815 ILCS 705/1-44.

The Illinois Franchise Disclosure Act will govern any development agreement if: (a) it applies to a franchise located in Illinois; or (b) a franchisee who resides in Illinois

The area development agreement will become effective on its acceptance and signing by us in the State of Florida. The area development agreement will be interpreted and construed under the substantive laws of Florida, except to the extent governed by the Illinois Franchise Disclosure Act or the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C., Sections 1051 et seq.). However, any condition of the area development agreement that designates litigation, jurisdiction or venue in a forum outside of Illinois is void as to any cause of action that otherwise is enforceable in Illinois.

6. Any releases that the Franchisor requests the Area Developer to sign must conform with Section 41 of the Act.
7. The Area Development Agreement is amended to comply with Section 27 of the Act to require any and all claims and actions arising out of or relating to these Agreements, the relationship of Franchisor and Area Developer or Area Developer’s operation of its Franchises brought by Area Developer against Franchisor to be commenced within three (3) years from the occurrence of the facts giving rise to such claim or action, within one (1) year after the Area Developer becomes aware of the facts or circumstances indicating Area Developer may have a claim for relief, or ninety (90) days after delivery to Area Developer of a written notice disclosing the violation, or such claim or action will be barred.

Payment of the Development Fee is deferred until the first franchise business is open. The Illinois Attorney General has imposed this fee deferral requirement because of our financial condition.

Section \_\_\_\_\_ of the Agreement is revised to include “Nothing in this or any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.”

Intending to be bound, you and we sign and deliver this Amendment in 2 counterparts effective on the Agreement Date, regardless of the actual date of signature.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**MINNESOTA DEVELOPMENT AGREEMENT AMENDMENT**

**THIS AMENDMENT** (the “**Amendment**”) is effective as of \_\_\_\_\_ (the “**Agreement Date**”), and amends the Area Development Agreement dated \_\_\_\_\_ (the “**Agreement**”), between **HOOTS FRANCHISING, LLC**, a Delaware limited liability company (“**we**,” “**us**,” “**our**” or “**Franchisor**”), with its principal business address at 1815 The Exchange, Atlanta, Georgia 30339 (“**we**,” “**us**,” “**our**” or “**Franchisor**”) and \_\_\_\_\_ (“**you**,” “**your**” or “**Franchisee**”), a \_\_\_\_\_, whose mailing address is \_\_\_\_\_.

1. **Precedence and Defined Terms.** This Amendment is an integral part of, and is incorporated into, the Agreement. Nevertheless, this Amendment supersedes any inconsistent or conflicting provisions of the Agreement. Terms not otherwise defined in this Amendment have the meanings as defined in the Agreement.
2. **Limitation of Claims.** Section \_\_\_\_\_ of the Agreement is deleted in its entirety.
3. **Jurisdiction.** The following is added to Section \_\_\_\_\_:  

Minn. Stat. Sec. 80C.21 and Minn. Rules 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Disclosure Document or franchise agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.
4. **Waiver of Jury Trial.** Section \_\_\_\_\_ is deleted in its entirety.
5. **Fee Deferral.** In Minnesota, no Area Development Fees are due until your first hoots® wings restaurant is opened for business.

Intending to be bound, you and we sign and deliver this Amendment in 2 counterparts effective on the Agreement Date, regardless of the actual date of signature.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **VIRGINIA DEVELOPMENT AGREEMENT AMENDMENT**

The Virginia State Corporation Commission's Division of Securities and Retail Franchising require us to defer payment of the Area Development Fee, initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under each franchise agreement. Payment of the Area Development Fee will be due to the franchisor, on a pro-rata basis, upon the franchisor's completion of its pre-opening obligations for each franchise opened under the Development Agreement.

**EXHIBIT E**  
**HOOTS FRANCHISING, LLC**  
**PRINCIPAL OWNERS GUARANTEE**



## PRINCIPAL OWNER GUARANTY

This Principal Owner Guaranty (this “**Guaranty**”) must be signed by the principal owners (referred to as “**you**” for purposes of this Guaranty only) of \_\_\_\_\_ (the “**Business Entity**”) under the \_\_\_\_\_ Agreement effective as of \_\_\_\_\_ (the “**Agreement**”) between the Business Entity and Hoots Franchising, LLC (“**us**,” “**our**” or “**we**”).

1. **Scope of Guaranty.** In consideration of and as an inducement to our signing and delivering the Agreement, each of you signing this Guaranty personally and unconditionally: (a) guarantee to us and our successors and assigns that your Business Entity will punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement; and (b) agree to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement.

2. **Waivers.** Each of you waive: (a) acceptance and notice of acceptance by us of your obligations under this Guaranty; (b) notice of demand for payment of any indebtedness or nonperformance of any obligations guaranteed by you; (c) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations guaranteed by you; (d) any right you may have to require that an action be brought against the Business Entity or any other person as a condition of your liability; (e) all rights to payments and claims for reimbursement or subrogation which you may have against the Business Entity arising as a result of your execution of and performance under this Guaranty; and (f) all other notices and legal or equitable defenses to which you may be entitled in your capacity as guarantors.

3. **Consents and Agreements.** Each of you consent and agree that: (a) your direct and immediate liability under this Guaranty are joint and several; (b) you must render any payment or performance required under the Agreement upon demand if the Business Entity fails or refuses punctually to do so; (c) your liability will not be contingent or conditioned upon our pursuit of any remedies against the Business Entity or any other person; (d) your liability will not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which we may from time to time grant to Business Entity or to any other person, including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims and no such indulgence will in any way modify or amend this Guaranty; and (e) this Guaranty will continue and is irrevocable during the term of the Agreement and, if required by the Agreement, after its termination or expiration.

4. **Enforcement Costs.** If we are required to enforce this Guaranty in any judicial or arbitration proceeding or any appeals, you must reimburse us for our enforcement costs. Enforcement costs include reasonable accountants’, attorneys’, attorney’s assistants’, arbitrators’ and expert witness fees, costs of investigation and proof of facts, court costs, arbitration filing fees, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any written demand, claim, action, hearing or proceeding to enforce this Guaranty.

5. **Effectiveness.** Your obligations under this Guaranty are effective on the Agreement Date, regardless of the actual date of signature. Terms not otherwise defined in this Guaranty have the meanings as defined in the Agreement. This Guaranty is governed by Georgia law and we may enforce our rights regarding it in the courts of Atlanta, Georgia. Each of you irrevocably submits to the jurisdiction and venue of such courts.

Each of you now sign and deliver this Guaranty effective as of the date of the Agreement regardless of the actual date of signature.

PERCENTAGE OF OWNERSHIP  
INTEREST IN BUSINESS ENTITY

GUARANTORS

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

**EXHIBIT F**  
**HOOTS FRANCHISING, LLC**  
**PRINCIPAL OWNERS STATEMENT**

**PRINCIPAL OWNER STATEMENT**

This form must be completed by the Franchisee (“I,” “me,” or “my”) if I have multiple owners or if I, or my franchised business, is owned by a business organization (like a corporation, partnership or limited liability company). Franchisor is relying on the truth and accuracy of this form in awarding the Franchise Agreement to me.

Form of Franchisee. I am a (check one):

- General Partnership
- Corporation
- Limited Partnership
- Limited Liability Company
- Other

Specify

Business Entity. I was incorporated or formed on \_\_\_\_\_, under the laws of the State of \_\_\_\_\_. I have not conducted business under any name other than my corporate, limited liability company or partnership name and \_\_\_\_\_. The following is a list of all persons who have management rights and powers (e.g., officers, managers, partners, etc.) and their positions are listed below:

Name of Person	Position(s) Held
_____	_____
_____	_____
_____	_____
_____	_____

Owners. The following list includes the full name and mailing address of each person who is one my owners and fully describes the nature of each owner’s interest. Attach additional sheets if necessary.

Owner’s Name	Address	Description of Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____

Governing Documents. Attached are copies of the documents and contracts governing the ownership, management and other significant aspects of your entity (e.g., articles of incorporation or organization, partnership or shareholder agreements, etc.).

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

This Statement of Principal Owners is current and complete as of \_\_\_\_\_.

INDIVIDUALS:

Signature \_\_\_\_\_

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

Signature \_\_\_\_\_

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

CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP:

Name \_\_\_\_\_

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

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

**EXHIBIT G**  
**HOOTS FRANCHISING, LLC**  
**COLLATERAL ASSIGNMENT OF LEASES**

## COLLATERAL ASSIGNMENT OF LEASES

FOR VALUE RECEIVED, the undersigned, FRANCHISEE NAME, a STATE corporation, (“**Assignor**”) hereby assigns, transfers and sets over unto HOOTS FRANCHISING, LLC, a Delaware limited liability company (“**Assignee**”) all of Assignor's right, title and interest as tenant in, to and under those certain leases, identified on Attachment B attached hereto, (the “**Leases**”) respecting premises commonly known as UNIT LOCATION STREET ADDRESS, UNIT CITY, UNIT COUNTY, STATE 00000 (“**Premises**”) said Premises being more particularly described on Attachment A, attached hereto. This Agreement is for collateral purposes only and except as specified herein, Assignee shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment of Lease unless Assignee shall take possession of the Premises demised by the Lease pursuant to the terms hereof and shall assume the obligations of Assignor thereunder. Any possession of the Premises by Assignee shall be deemed to be under a month-to-month tenancy and Assignee shall not be deemed to have assumed any obligations of Assignor, except for the payment of the monthly rental payments set forth in the Lease during such period of occupancy by Assignee.

Assignor represents and warrants to Assignee that it has full power and authority to so assign the Lease and its interest therein and that Assignor has not previously, and is not obligated to, assign or transfer any of its interest in the Lease or the Premises demised thereby.

Upon a default by Assignor under the Lease or under the Franchise Agreement for a Hoots Restaurant between Assignee and Assignor (the “**Franchise Agreement**”), or in the event of a default by Assignor under any document or instrument securing said Franchise Agreement, Assignee shall have the right and is hereby empowered to take possession of the Premises demised by the Lease, expel Assignor therefrom without any liability for trespass, and, in such event, Assignor shall have no further right, title or interest in the Lease.

Assignor agrees it will not suffer or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of Assignee. Through the term of the Franchise Agreement and renewals thereto, if any, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that said option must be exercised, unless Assignee otherwise agrees in writing. Upon failure of Assignee to otherwise agree in writing, and upon failure of Assignor to so elect to extend or renew the Lease as stated herein, Assignor hereby appoints Assignee as its true and lawful attorney-in-fact to exercise such extension or renewal options in the name, place and stead of Assignor for the sole purpose of effecting such extension or renewal.

*[Signatures appear on following page.]*

IN WITNESS WHEREOF Assignor has signed, sealed and delivered the within Collateral Assignment of Leases this the \_\_\_\_\_ day of MONTH, YEAR.

ASSIGNOR

**FRANCHISEE NAME**, a STATE corporation

BY: \_\_\_\_\_  
FRANCHISEE SIGNATORY1, President

ATTEST: \_\_\_\_\_  
FRANCHISEE SIGNATORY2, Secretary

(CORPORATE SEAL)

ASSIGNEE

**HOOTS FRANCHISING, LLC**  
**a Delaware limited liability company**

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

{CORPORATE SEAL}



ATTACHMENT A

LEGAL DESCRIPTION OF PROPERTY IS INSERTED HERE

ATTACHMENT B  
SCHEDULE OF LEASES

1. Lease dated \_\_\_\_\_ MONTH, YEAR by and between LANDLORD NAME, a STATE LANDLORD\_ENTITY, as Lessor and FRANCHISEE NAME, as Lessee.

ATTACHMENT C  
CONSENT AND AGREEMENT OF LESSOR

The undersigned Lessor under the aforescribed Lease hereby:

- (a) Agrees to notify Assignee in writing of and upon the failure of Assignor to cure any default by Assignor under the Lease;
- (b) Agrees that Assignee shall have the right, but shall not be obligated, to cure any default by Assignor under the Lease within thirty (30) days after delivery by Lessor of written notice thereof in accordance with paragraph (a) above;
- (c) Consents to the foregoing Collateral Assignment and agrees that if Assignee (or an affiliate of Assignee designated by Assignee) shall take possession of the Premises demised by the Lease and confirms to Lessor the assumption of the Lease by Assignee (or, if applicable, an affiliate of Assignee) as tenant thereunder, Lessor shall recognize Assignee (or, if applicable, an affiliate of Assignee) as tenant under the Lease;
- (d) Agrees that Assignee (or Assignee's designated affiliate) without the consent of Lessor may further assign or sublet the Lease to a person, firm or corporation who is a Hooters franchisee owner, or to an affiliate of Assignee;

IN WITNESS WHEREOF Lessor and Assignee has signed, sealed and delivered the within Collateral Assignment of Leases this the \_\_\_\_ day of MONTH, YEAR.

LESSOR

**LANDLORD NAME,** a STATE  
LANDLORD\_ENTITY

BY: \_\_\_\_\_  
LANDLORD SIGNATORY, LANDLORD  
SIGNATORY TITLE

ATTEST: \_\_\_\_\_

ASSIGNEE

**HOOTS FRANCHISING, LLC**  
**a Delaware limited liability company**

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

{CORPORATE SEAL}

**EXHIBIT H**

**HOOTS FRANCHISING, LLC**

**INDIVIDUAL NON-COMPETITION AND NON-DISCLOSURE AGREEMENT  
(FRANCHISE AGREEMENT)**

**INDIVIDUAL NON-DISCLOSURE AND NON-COMPETITION AGREEMENT  
BETWEEN HOOTS FRANCHISING AND FRANCHISEE  
AND  
FRANCHISEE'S OWNERS, MANAGERS, AND EMPLOYEES**

**THIS INDIVIDUAL NON-DISCLOSURE AND NON-COMPETITION AGREEMENT** (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Hoots Franchising, LLC (“**Hoots Franchising**”) and \_\_\_\_\_ (the “**Franchisee**”), on the one hand, and \_\_\_\_\_, who is an Owner or General Manager (or a person in a managerial position with Franchisee) (whether one or more, each a “**Member**”), on the other hand.

RECITALS:

**WHEREAS**, Hoots Franchising and its affiliates, as the result of the expenditure of time, skill, effort and money, have developed and own a format and system (the “**Hooters System**”) relating to the establishment and operation of restaurants that offer a limited menu featuring seafood, chicken wings and burgers, together with beer, wine, and liquor and other food and beverage offerings and merchandise (the “**Restaurants**”) under the Proprietary Marks (defined below).

**WHEREAS**, Hoots Franchising and Franchisee have executed a franchise agreement (the “**Franchise Agreement**”), granting Franchisee the right to open and operate a Hooters restaurant (the “**Restaurant**”), using the Proprietary Marks and the Hooters System in connection therewith under the terms and conditions of the Franchise Agreement;

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

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

1. Confidential Information. Member shall not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, trade secret, or know-how concerning the methods of operation of the business franchised thereunder which may be communicated to Member or of which Member may be apprised by virtue of Franchisee’s operation under the terms of the Franchise Agreement. Any and all information, knowledge, know-how, and techniques which Hoots Franchising designates as confidential shall be deemed confidential for purposes of this Agreement, except information which Franchisee can demonstrate came to its attention before disclosure thereof by Hoots Franchising; or which, at or after the time of disclosure by Hoots Franchising to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.
2. Covenants Not to Compete. The following definitions shall apply to this Section 2:
  - 2.1 Competing Activity. “**Competing Activity**” means: (i) developing, opening, or operating any Competing Business; or (ii) authorizing, assisting, or inducing another to develop, open, or operate a Competing Business.
  - 2.2 Competing Business. “**Competing Business**” means a restaurant or bar concept, other than a business Franchisee operates pursuant to an agreement with Hoots Franchising, that: (i) features female sex appeal; or (ii) focuses on the sale of chicken wings. Without limiting the generality of the foregoing, all of the following businesses shall conclusively be deemed to be Competing Businesses: (a)

Tilted Kilt, Winghouse, Twin Peaks, Bikinis, and any other restaurant or bar concept that features female sex appeal; and (b) T. MAC, Buffalo Wild Wings, Buffalo's, and any other restaurant concept that focuses on the sale of chicken wings.

3. In-Term Covenant Not to Compete. Member covenants, warrants, represents, and agrees that it will not, during the term of the Franchise Agreement, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity: (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Member may purchase or hold less than five percent (5%) of the shares of any publicly- traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from Franchisee's Restaurant or the Hooters System.

4. Post-Term Covenant Not to Compete. Member covenants, warrants, represents, and agrees that it will not, beginning at the expiration or termination of this Agreement and continuing for two (2) years thereafter or two (2) year after a court of competent jurisdiction enters an order enforcing this Section 4, whichever occurs last, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity, (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Member may purchase or hold less than five percent (5%) of the shares of any publicly- traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from Franchisee's Restaurant or the Hooters System, within: (a) Franchisee's Protected Territory; (b) any of Franchisee's Protected Territories or former Protected Territories under any other agreement with Hoots Franchising or its affiliates; or (c) a protected territory of any other franchisee or affiliate of Hoots Franchising.

5. Purchase Option. To the extent that Member is an Owner, Member agrees to comply with the purchase option provision in Section 15.8 of the Franchise Agreement.

6. Injunctive Relief. Member acknowledges that any failure to comply with the requirements of this Agreement will cause Hoots Franchising irreparable injury, and Member agrees to pay all court costs and reasonable attorney's fees incurred by Hoots Franchising in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

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

8. Reduction in Scope. The Member understands and acknowledges that Hoots Franchising shall have the right to reduce the scope of any covenant set forth in Sections 1 through 4 in this Agreement, or any portion thereof, without the Member's consent, effective immediately upon receipt by the Member of written notice thereof from Hoots Franchising; and the Member agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 9 below.

9. Claims Not a Defense. The Member expressly agrees that the existence of any claims it may have against Hoots Franchising or Franchisee, whether or not arising from this Agreement, shall not

constitute a defense to the enforcement by Hoots Franchising or Franchisee of the covenants in this Agreement.

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

11. No Limitation. No right or remedy conferred on or reserved to each party by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy set forth in this Agreement or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

12. Entire Agreement. This Agreement sets forth the entire agreement between Hoots Franchising and Franchisee on the one hand, and the Member on the other hand, and shall fully supersede any and all prior negotiations, agreements, representations, or undertakings, whether oral or written, related to the subject matter of this Agreement. Unless otherwise specifically permitted hereunder, this Agreement may only be amended by the parties in writing.

13. Governing Law. All matters arising out of or related to this Agreement, including without limitation all matters arising out of or related to the making, existence, construction, enforcement, and sufficiency of performance of this Agreement, shall be determined exclusively in accordance with, and governed exclusively by, the laws of the state where Hoots Franchising's principal business office is located (applicable to agreements made and to be entirely performed in the state where Hoots Franchising's principal business office is located), which laws shall prevail in the event of any conflict of laws. Notwithstanding the foregoing, if any matter related to this Agreement would be unenforceable under the laws of the state where Hoots Franchising's principal business office is located, but would be enforceable under the laws of the Member's home jurisdiction, then the laws of the Member's home jurisdiction shall apply to such matter.

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

HOOTS FRANCHISING, LLC

MEMBER

\_\_\_\_\_

\_\_\_\_\_

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

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

Name: Terrance Marks

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

Title: President and Chief Executive Officer

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

FRANCHISEE

MEMBER

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

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



**EXHIBIT I**

**HOOTS FRANCHISING, LLC**

**INDIVIDUAL NON-COMPETITION AND NON-DISCLOSURE AGREEMENT  
(AREA DEVELOPMENT AGREEMENT)**

**INDIVIDUAL NON-DISCLOSURE AND NON-COMPETITION AGREEMENT  
BETWEEN HOOTS FRANCHISING AND DEVELOPER  
AND  
DEVELOPER’S OWNERS, MANAGERS, AND EMPLOYEES**

**THIS INDIVIDUAL NON-DISCLOSURE AND NON-COMPETITION AGREEMENT** (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **Hoots Franchising, LLC** (“**Hoots Franchising**”) and \_\_\_\_\_ (the “**Developer**”), on the one hand, and \_\_\_\_\_, who is an owner or Regional Manager (or a person in a managerial position with Developer) (whether one or more, each a “**Member**”), on the other hand.

RECITALS:

**WHEREAS**, Hoots Franchising and its affiliates, as the result of the expenditure of time, skill, effort and money, have developed and own a format and system (the “**Hooters System**”) relating to the establishment and operation of restaurants that offer a limited menu featuring seafood, chicken wings, and burgers, together with beer, wine, and liquor and other food and beverage offerings and merchandise (the “**Restaurants**”) under the Proprietary Marks (defined below).

**WHEREAS**, Hoots Franchising and Developer have executed a development agreement (the “**Development Agreement**”), granting Developer the right to develop Hooters restaurants (the “**Restaurant**”), using the Proprietary Marks and the Hooters System in connection therewith under the terms and conditions of the Development Agreement;

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

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

1. Confidential Information. Member shall not, during the term of the Development Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, trade secret, or know-how concerning the methods of operation of the business developed thereunder which may be communicated to Member or of which Member may be apprised by virtue of Developer’s operation under the terms of the Development Agreement. Any and all information, knowledge, know-how, and techniques which Hoots Franchising designates as confidential shall be deemed confidential for purposes of this Agreement, except information which Developer can demonstrate came to its attention before disclosure thereof by Hoots Franchising; or which, at or after the time of disclosure by Hoots Franchising to Developer, had become or later becomes a part of the public domain, through publication or communication by others.

2. Covenants Not to Compete. The following definitions shall apply to this Section 2:

2.1 Competing Activity. “**Competing Activity**” means: (i) developing, opening, or operating any Competing Business; or (ii) authorizing, assisting, or inducing another to develop, open, or operate a Competing Business.

2.2 Competing Business. “**Competing Business**” means a restaurant or bar concept, other than a business Developer operates pursuant to an agreement with Hoots Franchising, that: (i) features

female sex appeal; or (ii) focuses on the sale of chicken wings. Without limiting the generality of the foregoing, all of the following businesses shall conclusively be deemed to be Competing Businesses: (a) Tilted Kilt, Winghouse, Twin Peaks, Bikinis, and any other restaurant or bar concept that features female sex appeal; and (b) T. MAC, Buffalo Wild Wings, Buffalo's, and any other restaurant concept that focuses on the sale of chicken wings.

3. In-Term Covenant Not to Compete. Member covenants, warrants, represents, and agrees that it will not, during the term of the Development Agreement, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity: (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Member may purchase or hold less than five percent (5%) of the shares of any publicly-traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from any Hooters Restaurant or the Hooters System.

4. Post-Term Covenant Not to Compete. Member covenants, warrants, represents, and agrees that it will not, beginning at the expiration or termination of this Agreement and continuing for two (2) years thereafter or two (2) year after a court of competent jurisdiction enters an order enforcing this Section 4, whichever occurs last, individually or jointly with others, directly or indirectly, by, through, on behalf of, or in conjunction with, any other person or entity, (i) engage in a Competing Activity; (ii) act as a director, officer, shareholder, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competing Activity, except that Member may purchase or hold less than five percent (5%) of the shares of any publicly-traded business engaged in a Competing Activity; or (iii) divert or attempt to divert any business from a Hooters Restaurant or the Hooters System, within: (a) Developer's Development Area; (b) any Protected Territories or former Protected Territories granted to Developer under a franchise agreement with Hoots Franchising or its affiliates; or (c) a protected territory of any other Developer, franchisor or affiliate of Hoots Franchising.

5. Injunctive Relief. Member acknowledges that any failure to comply with the requirements of this Agreement will cause Hoots Franchising irreparable injury, and Member agrees to pay all court costs and reasonable attorney's fees incurred by Hoots Franchising in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

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

7. Reduction in Scope. The Member understands and acknowledges that Hoots Franchising shall have the right to reduce the scope of any covenant set forth in Sections 1 through 4 in this Agreement, or any portion thereof, without the Member's consent, effective immediately upon receipt by the Member of written notice thereof from Hoots Franchising; and the Member agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 9 below.

8. Claims Not a Defense. The Member expressly agrees that the existence of any claims it may have against Hoots Franchising or Developer, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Hoots Franchising or Developer of the covenants in this Agreement.

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

10. No Limitation. No right or remedy conferred on or reserved to each party by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy set forth in this Agreement or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

11. Entire Agreement. This Agreement sets forth the entire agreement between Hoots Franchising and Developer on the one hand, and the Member on the other hand, and shall fully supersede any and all prior negotiations, agreements, representations, or undertakings, whether oral or written, related to the subject matter of this Agreement. Unless otherwise specifically permitted hereunder, this Agreement may only be amended by the parties in writing.

12. Governing Law. All matters arising out of or related to this Agreement, including without limitation all matters arising out of or related to the making, existence, construction, enforcement, and sufficiency of performance of this Agreement, shall be determined exclusively in accordance with, and governed exclusively by, the laws of the state where Hoots Franchising's principal business office is located (applicable to agreements made and to be entirely performed in the state where Hoots Franchising's principal business office is located), which laws shall prevail in the event of any conflict of laws. Notwithstanding the foregoing, if any matter related to this Agreement would be unenforceable under the laws of the state where Hoots Franchising's principal business office is located, but would be enforceable under the laws of the Member's home jurisdiction, then the laws of the Member's home jurisdiction shall apply to such matter.

*[Signatures appear on following page.]*

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

HOOTS FRANCHISING, LLC

MEMBER

\_\_\_\_\_

\_\_\_\_\_

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

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

Name: Terrance Marks

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

Title: President and Chief Executive Officer

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

DEVELOPER

MEMBER

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

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

**EXHIBIT J**

**HOOTS FRANCHISING, LLC**

**FORM OF RELEASE**

**Preliminary Note**

This **Exhibit K** contains parts of sample agreements. These parts include two types of provisions: (i) the Caption, Recitals, and Consideration Clause; and (ii) the Release.

The Caption, Recitals, and Consideration Clause are included in this **Exhibit K** to provide definitions and to show context. The Release (Sections 1 through 2) contains the release, together with the related provisions, described in Sections 2 and 13 of the Franchise Agreement.

Except for Sections 1 and 2, the actual agreements Franchisee would sign in connection with Sections 2 and 13 would contain additional provisions, and substantially different provisions, than the provisions set forth in this **Exhibit K**. Sections 1 and 2 would be modified as reasonably necessary and included in the applicable agreement.

**[Name of Agreement]**

THIS [NAME OF AGREEMENT] (the “**Agreement**”) is made and entered into the \_\_\_\_\_ day of \_\_\_\_\_ (the “**Effective Date**”), by and among Hoots Franchising, LLC, a Delaware limited liability company (“**Hoots**”); and \_\_\_\_\_, a \_\_\_\_\_ with its principal business address at \_\_\_\_\_ (the “**Franchisee**”).

**Recitals**

A. Hoots, as franchisor, and Franchisee, as franchisee, are parties to that certain HOOTS® franchise agreement dated \_\_\_\_\_ (such franchise agreement, together with all schedules, exhibits, addenda, attachments, and amendments to it, being referred to collectively in this Agreement as the “**Franchise Agreement**”), related to the Hoots franchise of Franchisee as described in such Franchise Agreement (the “**Franchise**”).

**[For Use Where Franchisee is Renewing the Franchise]**

B. The Initial Term of the Franchise will expire at the end of \_\_\_\_\_, and Franchisee desires to renew the Franchise.

C. Franchisee and Principal Owners are required to execute this Agreement in order to fulfill those certain pre-existing legal obligations of Franchisee and Principal Owners set forth in Section 2 of the Franchise Agreement.

D. Hoots is agreeable to such renewal, subject to, conditioned on, and in reliance on, compliance by Franchisee and Principal Owners with Section 2 of the Franchise Agreement.

E. Principal Owners own and hold substantially all of the equity in Franchisee, derive substantial revenue from Franchisee’s Restaurant, and anticipate substantial benefit from the

renewal of the Franchise (entering into a Successor Franchise Agreement), and hence from this Agreement, without which Agreement Hoots would not agree to renew the Franchise.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and commitments set forth in this Agreement, and in further consideration of the Franchise Agreement, the Successor Franchise Agreement, and the mutual promises and commitments set forth therein, and in further consideration of the sum of Ten Dollars (\$10.00) in-hand paid to Franchisee and each Principal, and for other good and valuable consideration, the receipt and sufficiency of all of which the parties hereby acknowledge, the parties to this Agreement hereby agree as follows:

**[For Use Where Franchisee or Principal is Transferring an Interest]**

- A. [Franchisee] [Principal] desires to Transfer an Interest to Transferee.
- B. Execution of this Agreement by Franchisee, Principal Owners, Transferor, and Transferee is required in order to fulfill those certain pre-existing legal obligations of Franchisee, Principal Owners, Transferor, and Transferee set forth in Section 13 of the Franchise Agreement.
- C. Hoots is agreeable to such Transfer, subject to, conditioned on, and in reliance on, compliance by Franchisee, Principal Owners, Transferor, and Transferee with Section 13 of the Franchise Agreement.
- D. Principal Owners own and hold substantially all of the equity in Franchisee, derive substantial revenue from Franchisee's Restaurant, and anticipate substantial benefit from the Transfer, and hence from this Agreement, without which Agreement Hoots would not consent to such Transfer.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and commitments set forth in this Agreement, and in further consideration of the Franchise Agreement and the Transfer, and in further consideration of the sum of Ten Dollars (\$10.00) in-hand paid to Franchisee, each Principal, Transferor, and Transferee, and for other good and valuable consideration, the receipt and sufficiency of all of which the parties hereby acknowledge, the parties to this Agreement hereby agree as follows:

**[Release: For Use In All Situations]**

**1. RELEASE.**

A. Franchisee, for itself and its affiliates and related entities, and for its and such affiliates and related entities' directors, officers, shareholders, owners, partners, members, employees, representatives, agents, and attorneys, together with Principal Owners, [Transferor, and Transferee,] and further together with and for the predecessors, successors, heirs, and assigns of any and all of the foregoing (collectively, the "**Releasing Parties**"), hereby release, remise, acquit, and forever discharge Hoots and its directors, officers, shareholders, owners, partners, members, employees, representatives, agents, and attorneys, and Hoots' affiliates, parents, subsidiaries and related entities, and each and all of their directors, officers, shareholders, owners, partners, members, employees, representatives, agents, and attorneys, and the predecessors, successors, heirs, and assigns of any and all of them (collectively, the "**Parties Released**"), from and against and promise never to sue any Parties Released in connection with or for any and all obligations, debts, claims, demands, rights, actions, causes of action, loss, losses, damage, damages, expenses, costs, liability, and liabilities of any nature or

kind, contingent or fixed, known or unknown, vested or contingent, suspected or unsuspected, at law or in equity or otherwise, as to law or facts or both, which the Releasing Parties now own or hold or have at any time heretofore owned or held, or may at any time own or hold against the Parties Released arising prior to and including the Effective Date of this Agreement (individually and collectively, “**Released Claims**”). Released Parties shall have the right to seek injunctive relieve to dismiss or the prevent filing or assertion of any suit or counterclaim of any kind or nature arising out of any Released Claims filed by, or threatened by any Releasing Party.

B. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee], for themselves and the other Releasing Parties, hereby covenant, warrant, represent, and agree that neither they nor any of them have assigned or transferred any of the obligations, debts, claims, demands, rights, actions, causes of action, loss, losses, damage, damages, expenses, costs, liability, or liabilities described in Section 1 of this Agreement to any third party. If there is any obligation, debt, claim, demand, right, action, cause of action, loss, damage, expense, cost, or liability based on or arising out of or in connection with any such transfer or assignment or purported assignment, the party which made or purported to make such transfer or assignment agrees to indemnify and hold Hoots harmless against such obligation, debt, claim, demand, right, action, cause of action, loss, damage, expense, cost, or liability, including reasonable attorneys’ fees and costs incurred in connection therewith.

C. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] hereby acknowledge and agree that: (i) [Franchisee, Principal Owners] [Franchisee, Principal Owners, Transferor, Transferee], and the other Releasing Parties may discover facts different from or in addition to those they now know or believe to be true with respect to, or that there may be a mistake of fact with respect to, the obligations, debts, claims, demands, rights, actions, causes of action, loss, losses, damage, damages, expenses, costs, liability, and liabilities of any nature whatsoever, and the other matters, that are the subject of the Release set forth in Section 1 of this Agreement; (ii) [Franchisee, Principal Owners] [Franchisee, Principal Owners, Transferor, Transferee], and such other Releasing Parties hereby expressly assume the risk of the existence of additional facts, different facts, or mistake of fact; and (iii) this Agreement shall be and remain in full force and effect regardless of such additional facts, different facts, or mistake of fact.

## **2. GENERAL TERMS.**

A. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee], for themselves and the other Releasing Parties, hereby acknowledge and agree that: (i) [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] have freely and voluntarily entered into this Agreement, including without limitation the Release, set forth in Section 1 of this Agreement; (ii) [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] have had a full and fair opportunity to consult with their legal counsel with respect to this Agreement, including without limitation such Release, and that they have in fact done so or have knowingly, intelligently, and voluntarily elected not to do so; and (iii) they have read and fully understand this Agreement.

B. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] covenant, warrant, represent, and agree that they have the authority to bind themselves and the other Releasing Parties to this Agreement. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] acknowledge and agree that Hoots is reasonably relying on [Franchisee’s and Principal Owners’] [Franchisee’s, Principal



Owners', Transferor's, and Transferee's] covenants, warranties, representations, and agreements set forth in this Section 2(B) to Hoots' detriment.

C. The Parties Released are first-party direct beneficiaries or intended third-party beneficiaries of this Agreement, are entitled to enforce such sections, and are entitled to all the benefits of this Agreement.

D. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] hereby acknowledge and agree that any breach of Section 1 of this Agreement by the Releasing Parties, or any of them, will be a default of Section 14.3 of the [Renewal] Franchise Agreement that will permit Hoots to terminate the [Renewal] Franchise Agreement, after notice to Franchisee specifying the default, and after the expiration of the cure period set forth in Section 14.3 and Franchisee's failure to cure such default by the end of such cure period.

E. All matters arising out of or related to the this Agreement, including without limitation all matters arising out of or related to the making, existence, construction, enforcement, and sufficiency of performance of this Agreement, shall be determined exclusively in accordance with, and governed exclusively by, the laws of the state where Hoots' principal business office is located (applicable to agreements made and to be entirely performed within the state where Hoots' principal business office is located), which laws shall prevail in the event of any conflict of laws.

F. In the event of any dispute arising out of or related to this Agreement, including without limitation any dispute arising out of or related to the making of this Agreement, such dispute shall be resolved exclusively through litigation. The exclusive forum and venue for such litigation shall be a state or federal court in or for the county where Hoots' principal business office is located having jurisdiction over the subject matter. [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee], for themselves and the other Releasing Parties, hereby irrevocably accept and submit to, generally and unconditionally, the exclusive jurisdiction of any state or federal court in or for the county where Hoots' principal business office is located having jurisdiction over the subject matter and hereby waive, to the extent permitted by applicable law, defenses based on jurisdiction, venue, or forum non conveniens.

G. In the event of any dispute or litigation arising out of or related to this Agreement, including without limitation any dispute or litigation arising out of or related to the making of this Agreement, Franchisee shall pay to Hoots, on demand, Hoots' costs, including without limitation Hoots' reasonable attorneys' fees and costs, and further including without limitation Hoots' reasonable attorneys' fees and costs of appeal, and further including without limitation Hoots' reasonable attorneys' fees and costs of collection, so that Hoots actually receives such amounts by the end of ten (10) days after demand therefor. In the event of any default under this Agreement, Franchisee shall pay to Hoots, on demand, Hoots' costs arising out of or related to such default, including without limitation Hoots' reasonable attorneys' fees and costs, and further including without limitation Hoots' reasonable attorneys' fees and costs of collection, so that Hoots actually receives such amounts by the end of ten (10) days after demand therefor.

H. This Agreement may be amended only by a written agreement signed by the parties.

I. This Agreement is a complete integration that sets forth the entire agreement between the parties, fully superseding any and all prior negotiations, agreements,

representations, or understandings between [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] on the one hand, and Hoots on the other hand, whether oral or written, arising out of or related to the matters set forth in this Agreement. [Franchisee, Principal Owners] [Franchisee, Principal Owners, Transferor, Transferee], and Hoots hereby expressly affirm that there are no oral or written agreements, side-deals, arrangements, or understandings between [Franchisee and Principal Owners] [Franchisee, Principal Owners, Transferor, and Transferee] on the one hand, and Hoots on the other hand, arising out of or related to the matters set forth in this Agreement, except as expressly set forth in this Agreement. No course of dealing, whether occurring before or after the Effective Date of this Agreement, shall operate to amend, terminate, or waive any express written provision of this Agreement.

J. In the event of any conflict between any provision of this Agreement and a provision of the [Renewal] Franchise Agreement, the provision set forth in this Agreement shall control. Except as amended by this Agreement, all provisions of the [Renewal] Franchise Agreement shall remain in full force and effect according to their terms, and the parties shall continue to be bound by the [Renewal] Franchise Agreement as modified by this Agreement.

K. Except as otherwise set forth in this Section 2(K), if any provision of this Agreement is declared invalid or unenforceable for any reason, such provision shall be modified to the minimum extent necessary to make it valid and enforceable; or if it cannot be so modified, then severed, and the remaining provisions of this Agreement shall remain in full force and effect, and the parties agree that they would have signed this Agreement as so modified. Notwithstanding the foregoing, if any provision of this Agreement shall be declared invalid or unenforceable such that the Release set forth in Section 1 of this Agreement partially, substantially, or completely fails of its essential purpose, the [renewal of the Franchise-Entering into a Successor Franchise Agreement] [transfer of the Interest] shall be voidable by Hoots. If Hoots avoids the [renewal of the Franchise-Entering into a Successor Franchise Agreement] [transfer of the Interest], such avoidance may be as of the Effective Date or as of any time thereafter, at Hoots' discretion.

L. All obligations of this Agreement that expressly or by their nature require performance after the termination or expiration of the [Successor Franchise Agreement, or that by their nature would reasonably be expected to continue in effect after termination or expiration of the [Successor] Franchise Agreement, shall continue in full force and effect after and notwithstanding the termination or expiration of the [Renewal-Entering into a Successor Franchise Agreement] Franchise Agreement, until they are satisfied in full or by their nature expire.

M. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same agreement, and shall become effective upon execution by all of the parties, but its Effective Date shall be the date first written above.

IN WITNESS WHEREOF, the parties to this Agreement, intending to be legally bound by this Agreement, have duly executed and delivered this Agreement as of the Effective Date.

**Hoots:** \_\_\_\_\_:

HOOTS FRANCHISING, LLC \_\_\_\_\_

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

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

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

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

**[Form Only: Signatures of Hoots, Franchisee, Principal Owners, Transferor, and Transferee, as Appropriate]**

**EXHIBIT K**

**HOOTS FRANCHISING, LLC**

**FORM OF CONSTRUCTION PROJECT MANAGEMENT AGREEMENT**

## FORM OF CONSTRUCTION PROJECT MANAGEMENT AGREEMENT

This Construction Project Management Agreement (the “Agreement”) is made this \_\_\_ day of \_\_\_\_\_ (the “Effective Date”), by and between **RPM43, LLC**, a North Carolina limited liability company having an address of 20211 Sloop Court, Cornelius, NC 28031 (“Consultant”), and \_\_\_\_\_, a \_\_\_\_\_ having an address of \_\_\_\_\_ (“Client”), with reference to the facts set forth in the Recitals below:

### RECITALS

- A. Consultant is a limited liability company engaged in the business of providing project management services.
- B. Client is a franchisee of \_\_\_\_\_ (“Franchisor”), and Franchisor has approved Client’s application to license a new store location in the \_\_\_\_\_ geographic market (the “Market”). The store location ultimately selected by Client, if applicable, is hereinafter referred to as the “Unit”.
- C. Client desires to retain Consultant to perform the services described in Section 2 below and Client and Consultant desire to set forth their understanding and agreement with respect to such services.

### AGREEMENT

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. **Term of Agreement.** This Agreement shall remain in full force and effect for a term (the “Term”) commencing on the Effective Date and, unless sooner terminated as provided below, expiring upon the date that a certificate of occupancy for the Unit has been issued by the applicable governmental authority.
- 2. **The Services.** On the terms and subject to the conditions of this Agreement, Client hereby retains Consultant on an exclusive basis to provide the construction project management services described on the attached **Exhibit “A,”** which are hereby incorporated by reference into this Agreement as if fully set forth in this Agreement (the “Services”).
- 3. **Pricing.** Pricing for the Services shall be set forth on the attached **Exhibit “B.”**
- 4. **Client’s Cooperation.** Client shall use commercially reasonable efforts to assist and cooperate with Consultant and Consultant Personnel (as defined in Section 5 below) whenever necessary by making Client personnel available to Consultant for consultation, providing reasonable access to the Unit, and providing other information and data reasonably necessary for the performance of the Services.
- 5. **Consultant Personnel.** Consultant shall provide a sufficient number of its employees and/or agents (“Consultant Personnel”) necessary to perform the Services.
- 6. **No Authority to Execute Agreements.** Consultant shall have no right or power to enter into any contract, agreement or other similar document in the name of or on behalf of Client, or to otherwise obligate Client in any manner, without the prior written consent and approval of Client, which consent and approval shall not be unreasonably withheld. Notwithstanding the foregoing, Consultant shall have the right to negotiate on Client’s behalf and, as evidence of the same, Client

shall promptly execute the authorization letter attached hereto as **Exhibit “C”** upon request from Consultant.

7. **Independent Contractor.** This Agreement does not establish an employer-employee relationship between Client and Consultant. Consultant Personnel are not employees or agents of Client, and Consultant shall exercise full control and supervision over the performance, employment, direction, compensation and discharge of any and all of Consultant Personnel and Consultant’s obligations.
8. **Use of Deliverables.** Client acknowledges that Consultant may provide, among other things, reporting and data management structures, and business process management practices to its clients generally, including but not limited to database structures, management reports and electronic dashboards, web-based and other communication tools and practices. The methods and technology are considered intellectual property of Consultant and are not to be disclosed to third parties (including but not limited to Consultant’s competitors, but expressly excluding Client’s actual or prospective landlords, affiliates, lenders, brokers, accountants, lawyers, and other similar parties) without Consultant’s prior written consent.
9. **Termination.** Consultant may terminate this Agreement prior to the expiration date as set forth in Section 1 above upon the breach of this Agreement by Client. If this Agreement is terminated as provided pursuant to this Section 9, Consultant shall be paid for all Services through the effective date of termination.
10. **Indemnification.** Client acknowledges that Consultant’s pricing of the Services, and Consultant’s willingness to perform the Services in accordance with this Agreement, are based upon the risk allocation provisions set forth in this Agreement, including but not limited to the Indemnification provisions contained in this Section 10. Client shall indemnify, defend and hold Consultant harmless from all liability, claims for damages, loss, costs, expenses (including but not limited to the costs of defense or settlement of any such claim, including reasonable attorney’s fees actually incurred) arising out of or in connection with (i) any breach of this Agreement by Client, (ii) any negligent or more culpable conduct by Client, (iii) any expenditures authorized pursuant to Section 6, and/or (iv) any Services performed by Consultant in accordance with this Agreement.
11. **Limitation of Liability.** Consultant shall not be liable to Client for any mistake of fact or error in judgment in the performance of the Services so long as Consultant has acted reasonably and in good faith. Consultant’s total liability to Client hereunder, regardless of the nature of the claim made against Consultant, shall not exceed the total compensation actually paid to Consultant under this Agreement. As used in this Agreement, “Consultant” means only RPM43, LLC. No principal, manager, member, officer, director, employee, or partner of Consultant shall have any personal liability under any provision of this Agreement. If Consultant defaults in the performance of any of its obligations under this Agreement or otherwise, Client shall look solely to Consultant’s assets, and not to the assets, interest, or rights of any principal, manager, member, officer, director, employee, or partner of Consultant for satisfaction of Client’s remedies.
12. **Notices.** All notices, requests, demands, claims, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) at the time of delivery when physically delivered, (b) three (3) days after having been deposited in the United States Mail, as certified or registered mail (with return receipt requested and with first class postage pre-paid), or (c) one (1) business day after having been transmitted to a third party providing delivery services in the ordinary course of business which guarantees delivery on the next business day after such transmittal (e.g., via Federal Express), all of which notices or other communications shall be addressed to the recipient at the address set forth in the recitals above.

13. **Governing Law.** The Agreement will be governed by the laws of the State of North Carolina without regard to its conflict of laws principles. Any dispute, controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction. The arbitration shall be held in Charlotte, North Carolina unless the parties mutually agree on a different location.
  
14. **No Solicitation or Hire:** During the engagement with Consultant and for two (2) years following termination of such engagement, Client agrees not to directly recruit, solicit, or induce for employment, or hire for employment, any employee of Consultant with whom Client dealt or learned of through such engagement.
  
15. **Miscellaneous.** If any provision, or any portion of any provision, contained in this Agreement is held unenforceable, then it shall, to that extent alone, be deemed omitted and this Agreement shall be construed as if such unenforceable provision had never been contained herein. Waiver by either party of any default by the other party shall not be deemed a waiver of any other default. No provision of this Agreement shall be deemed waived, amended, or modified by either party, unless it is in writing and signed by both parties. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. All prior agreements, representations, statements, negotiations, understandings, and undertakings are superseded by this Agreement. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all or which together shall constitute one document. The terms, conditions, and warranties contained in this Agreement that are intended to survive the expiration or termination of this Agreement shall survive. Client shall not assign this Agreement without Consultant's prior written consent.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

CLIENT:

\_\_\_\_\_,  
 a \_\_\_\_\_

CONSULTANT:

RPM43, LLC,  
 A North Carolina limited liability company

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

By: \_\_\_\_\_  
 Robert A. Cambuzzi II, Manager

**EXHIBIT A**  
**Description of Services**

**Construction Project Management Services**

- During the pre-approval phase, Consultant will review the landlord's scope of work; prepare an existing conditions survey; and create a preliminary construction budget and schedule.
- During the pre-construction/bid phase, Consultant will manage the architect/engineering firm through the design process; provide value engineering suggestions; prepare and submit bid packages on Client's behalf; finalize the construction budget and schedule; coordinate final construction drawings; and prepare a construction draw schedule for the project.
- During the construction process, Consultant will coordinate and attend a kick-off meeting; coordinate contract administration between the architect/engineering firm, general contractor, and Client; coordinate Client's approval of any design changes; manage vendors from whom Client purchased any materials directly; verify and approve all progress payment applications; coordinate the creation an official punch-list of deficiencies upon substantial completion; and track and update the punch-list until completion and sign-off.
- During the closeout phase, Consultant will review the final pay application from the general contractor and final invoices/pay requests from other direct vendors and suppliers; assist with project closeout, including coordination of s as-built record drawings, warranty information, and lien waivers; and assist with any tenant improvement allowance documentation. where applicable.



**EXHIBIT B**  
**Services Pricing**

**Construction Project Management Services:**

[To be inserted after negotiations with client]

**EXHIBIT “C”**  
**Authorization to Act on Client’s Behalf**

<CLIENT LETTER HEAD>

SENT VIA E- MAIL

DATE

LL LEGAL ENTITY

Attn: LL CONTACT

LL ADDRESS on behalf of Company

CITY, STATE/PROV ZIP

RE: Notification of Consulting Partnership with RPM43, LLC (“RPM”)

TENANT ENTITY (PER LEASE ABSTRACT)

STORE #

STORE ADDRESS

Dear LL NAME:

Please be advised that \_\_\_\_\_ (“Company”) has engaged RPM as its advisor to assist in certain real estate functions pertaining to the management of the above-referenced store. You may be contacted by a representative of RPM, specifically pertaining to construction activities under the abovementioned lease. Company has authorized RPM to enter negotiations on behalf of Company, but RPM retains no execution authority.

Thank you in advance for your cooperation in this matter. We look forward to continuing our successful partnership.

Sincerely

**EXHIBIT L**  
**HOOTS FRANCHISING, LLC**  
**FORM OF SOFTWARE AND APPS AGREEMENTS**

[CUSTOMER LEGAL NAME]

FRANCHISEE ADOPTION AGREEMENT

This Franchisee Adoption Agreement is hereby made effective \_\_\_\_\_, 20\_\_ between [name of franchisee] located at [address of franchisee] (“Franchisee”) and NCR Corporation located at 864 Spring Street NW, Atlanta GA 30308-1007 (“NCR”).

- 1. NCR and [name of Customer] (“Customer”) have entered into a [name of master agreement] dated [date of agreement] (“Agreement”), which is incorporated by reference.
2. By execution of this Franchisee Adoption Agreement, Franchisee and NCR agree that purchases of products or services by Franchisee from NCR will be governed by the terms and conditions of the Agreement. All rights and benefits accruing to, and all duties and obligations pertaining to, Customer in the Agreement shall accrue to and bind Franchisee in the same manner and to the same extent, and Franchisee hereby affirmatively assumes all such duties and obligations.
3. Any notices to Customer required under the Agreement will be sent to the Franchisee address listed above.

AGREED TO AND ACCEPTED BY:

FRANCHISEE

NCR CORPORATION

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

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

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

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

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

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

**EXHIBIT M**  
**HOOTS FRANCHISING, LLC**  
**FORM OF THIRD-PARTY DELIVERY AGREEMENTS**



Sales Executive \_\_\_\_\_

Fax \_\_\_\_\_



**RESTAURANT INFORMATION**

Restaurant \_\_\_\_\_

Restaurant Phone # \_\_\_\_\_

Address \_\_\_\_\_

City / State / Zip \_\_\_\_\_

Sales Tax \_\_\_\_\_ %

Email \_\_\_\_\_

Fax (to Receive Orders) \_\_\_\_\_

**TAX INFORMATION**

Corporate Entity Name \_\_\_\_\_

Federal Taxpayer Identification # (9 digits)

Corporate Entity Address \_\_\_\_\_

same as above

Corporate Entity City/State/Zip \_\_\_\_\_

**PACKAGE**

Additional Processing Fee Applies on Prepaid Orders

Marketing Commission\* \_\_\_\_\_ %

Delivery Commission \_\_\_\_\_ %

\*In the event that Restaurant terminates the delivery services pursuant to Section 2c, and the Marketing Commission is below the market rate, upon termination, the market rate shall apply.

**CONTACT INFORMATION**

Owner \_\_\_\_\_

Owner Phone # \_\_\_\_\_

Owner Email \_\_\_\_\_

Primary Contact \_\_\_\_\_

Primary Contact Phone # \_\_\_\_\_

Primary Contact Email \_\_\_\_\_

**DELIVERY / PICKUP HOURS**

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

**GRUBHUB HOLDINGS INC.**

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

**RESTAURANT (authorized signatory)**

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

Agreement Dated: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

- I certify that I am a duly authorized representative of Restaurant, and I have read and agree to the foregoing terms of this Restaurant Agreement.
- I certify that this Restaurant is properly registered and in good-standing with all applicable health and sanitation regulatory authorities.

1. Term. This Restaurant Delivery Agreement (“Agreement”) may be cancelled by either party without cause on 3 days prior written notice to the other party.
2. Rights and Obligations of Grubhub Holdings Inc. (“GH”)
  - a. GH agrees to enable customers to purchase food from Restaurant via GH’s proprietary ordering system/advertising service at grubhub.com and associated apps, and, at its option, at any affiliated web-based or mobile property, including without limitation, Seamless, Dining In, Restaurants on the Run, Delivered Dish, and any other affiliated delivery service provider controlled by GH (each an “Affiliate”, and collectively the “System”). GH may create, maintain and operate a microsite (“MS”) and obtain the URL for such MS on Restaurant’s behalf, which Restaurant grants GH the right to do.
  - b. GH agrees to include certain content (including without limitation menus, photographs, trademarks and logos) provided by Restaurant (the “Restaurant Content”) on the System. GH owns all right, title, interest and copyright in and to the System and any content supplied by GH (including on the MS), and will have sole editorial control over the System and the Services, including the presentation of the Restaurant Content.
  - c. GH will transmit orders to Restaurant for processing for pickup or delivery (the “Marketing Services”) and will provide delivery services (“Delivery Services”) for the Restaurant. The Marketing Services and the Delivery Services will hereafter be referred to collectively as the “Services.” GH shall have the sole right to determine the delivery fee and other particulars of the Delivery Services, including the available hours and delivery area. GH may cease providing the Delivery Services at any time by notifying Restaurant. Restaurant may terminate the Delivery Services at any time on prior written notice to GH. Notwithstanding anything to the contrary herein, in the event the Delivery Services are cancelled by either party, this Agreement will continue in full force and effect except that the term “Services” shall be re-defined to exclude the Delivery Services. In such case, the Delivery Commission will be of no further force and effect and the definition of “Commissions” set forth below will mean the Marketing Commission only, and will exclude the Delivery Commission.
  - d. GH EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SYSTEM, SERVICES AND MS, INCLUDING WITHOUT LIMITATION IMPLIED OR EXPRESS WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. The Services are provided on an “as is” and “as available” basis, and GH shall not be liable to Restaurant for damages resulting from the failure of the MS, System, Services or Restaurant Content. GH’s maximum liability hereunder will be the amount of Commissions earned by GH during the prior six (6) month period.
  - e. GH will indemnify and hold harmless Restaurant from any claims, actions or proceedings arising out of GH’s gross negligence or willful misconduct in providing the Delivery Services.
3. Rights and Obligations of Restaurant.
  - a. Restaurant agrees to use its best efforts to prepare food orders placed via the System (the “Orders”) in accordance with the Hours of Operations specified herein. The item pricing must be at least as favorable to the consumer as that which is available for Restaurant’s standard menu or offered to any 3rd party service. Changes to Hours of Operations and menus require reasonable advance notice. Restaurant will provide notice to staff that telephone conversations related to the Services may be recorded and staff must advise caller that CSC (Card Security Code)/CVV/ CVV2 should not be transmitted over the phone.
  - b. Restaurant hereby grants to GH a perpetual, royalty-free worldwide right and license to use the Restaurant Content on the System, the MS and for marketing and promotional purposes via any means now known or hereinafter developed. Restaurant owns all right, title, interest and copyright in and to the Restaurant Content, subject to the license granted to GH herein.
  - c. Restaurant agrees that it will maintain the confidentiality of all non-public information that Restaurant acquires in the course of performing this Agreement, including without limitation all customer information, as well as the terms and conditions of this Agreement (the “Confidential Information”). Restaurant will not directly market to or solicit any consumer or company obtained through the System or via the Services for the purpose of soliciting that customer to order directly from Restaurant or through a 3rd party. (This excludes paper menus.)
  - d. Restaurant agrees to be bound by GH’s Terms of Use at <https://www.grubhub.com/legal/terms-of-use/>, which may be amended from time to time by GH.
  - e. Restaurant represents and warrants: (i) it has the authority to enter into this Agreement, and doing so won’t violate any other agreement to which it is a party; (ii) the Restaurant Content won’t violate the rights of any 3rd party; (iii) it will comply with all laws, rules and regulations relating to the preparation and sale of food and drink (including alcohol), as well as any other laws applicable to its business; and (iv) it will remit to the applicable taxing authority all legally-required taxes and will file all required tax returns and forms. Restaurant will indemnify and hold GH (including its directors, employees, officers, agents and affiliates) harmless from any and all claims, actions, proceedings and damages arising out of Restaurant’s activities (including any third party transactions or financing arrangement) or any breach or alleged breach of these representations and warranties.
  - ~~f. Restaurant agrees that GH will be Restaurant’s exclusive online and mobile food ordering platform (“Food Ordering Platform”) and that Restaurant will neither contract with any other Food Ordering Platform nor otherwise consent to Restaurant’s inclusion thereon during the Term.~~
4. Payment & Fees.
  - a. GH Commissions. Restaurant agrees to pay GH the Marketing Commission and Delivery Commission selected above, both on the product total (collectively, the “Commissions”). The parties acknowledge that the Delivery Commission does not apply to pickup

orders. The parties further acknowledge, in the event that Restaurant ceases to use Delivery Services, the Marketing Commission shall apply to the product total and delivery fee.

- b. A minimum of one time per month, GH will transmit via check or ACH to Restaurant the "Payment Amount." Payment Amount means the "Grand Total" (including product, tax, tip, delivery, or other fees) received by GH on behalf of Restaurant for Orders in a monthly time period or such other time period as the parties may agree (the "Billing Period"), less (i) the Commissions, (ii) any delivery fee, (iii) any delivery tips; and (iv) a processing fee (inclusive of credit charges) on the Grand Total. Affiliates may deposit applicable Payment Amounts to the Restaurant separately.
  - c. ONLY FOR RESTAURANTS in FL and UT on Grubhub platform (and at GH's option, on Seamless platform), Restaurant will provide the computation and GH will accurately collect and remit any sales, use, privilege, excise or other tax due in connection with the sale of food or drink (and delivery fee, if applicable) and will file all required sales tax returns and associated forms.
5. Restaurant and GH agree that all claims or disputes arising out of this agreement, shall be decided by an arbitrator through arbitration and not by a judge or jury ("Arbitration Agreement"). This Arbitration Agreement is governed by the Federal Arbitration Act ("FAA") and evidences a transaction involving commerce. The arbitration will be conducted before a single arbitrator under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), which are available at [www.adr.org](http://www.adr.org). The arbitrator's fees and the costs will be shared equally by the parties, unless prohibited by law. Parties are responsible for their own attorneys' fees. The arbitration proceeding shall take place in the county where the Restaurant is located unless otherwise agreed. A court of competent jurisdiction shall have the authority to enter judgment on the arbitrator's decision/award. The parties agree to bring any claim or dispute in arbitration on an individual basis only, and not as a class or collective action, and there will be no right or authority for any claim or dispute to be brought, heard or arbitrated as a class or collective action ("Class Action Waiver"). Regardless of anything herein and/or the applicable AAA Rules, the interpretation, applicability or enforceability of the Class Action Waiver may only be determined by a court and not an arbitrator. The following claims are excluded from this Arbitration Agreement: (1) claims in small claims court; (2) claims to enforce or to prevent the actual or threatened violation of a party's intellectual property rights; (3) claims for temporary relief in connection with an arbitrable controversy; and (4) claims that are non-arbitrable per the applicable federal statute.
  6. With the exception of the Arbitration Agreement in Section 5, which is governed by the FAA, this Agreement shall be governed by New York law. This Agreement constitutes the entire agreement between the parties and supersedes any prior understanding (written or oral) on the subject matter hereof. GH is an independent contractor of Restaurant. This Agreement can only be modified in writing signed by both parties. In the event that any portion of this Agreement is held to be unenforceable, the remainder of the provisions shall remain in full force and effect. In the event of a breach, in addition to any remedies at law or in equity, the non-breaching party shall be entitled to obtain specific performance and immediate injunctive relief. Failure by either party to require performance or claim breach will not be construed as a waiver. Restaurant may not assign this Agreement without the prior written consent of GH, and if permission is secured, the assignor will provide GH with advance written notice so that payment can be directed appropriately. This Agreement shall be binding on the parties' permitted heirs, successors and assigns. This provision as well as the ownership, warranties, indemnity, arbitration and confidentiality provisions shall survive any expiration or termination of this Agreement.



**Marketplace Addendum  
to UberEATS Master Framework Agreement**

This Marketplace Addendum (“Addendum”) is entered into and made effective as of the date last set forth below (“Addendum Effective Date”), by and between \_\_\_\_\_ (“Participant” or “you”) and Portier, LLC (“Portier” or “us”). This Addendum is governed by the terms and conditions of the Master Framework Letter Agreement between Portier and \_\_\_\_\_ (“Franchisor”) with an Effective Date of \_\_\_\_\_ (the “Letter”), provided that all references to “Restaurant” or “you” in the Letter shall be deemed a reference to Participant for purposes of this Addendum. This Addendum, together with the terms of the Letter, shall constitute a separate, enforceable agreement between Portier and Participant (“the Agreement”). In the event of any conflict between this Addendum and the Letter, the terms of this Addendum shall govern. Subject to the foregoing, undefined, capitalized terms in this Addendum will have the meaning set forth in the Letter.

1. **Marketplace.** This Addendum governs the general availability of your Meals via the Uber Platform (“Marketplace”). You agree to make items from your menu available via the Uber Platform during your normal business hours and as further set forth in this Addendum.

2. **Payment.**

a. **Pricing.** Notwithstanding Section 4(b) of the Letter, you agree that you will not make a Meal available under this Addendum at a price higher than the amount you are charging in-restaurant for similar meals. You agree that you will not make a Meal available under this Addendum at a price higher than the amount you are charging for similar meals through any comparable platform for food delivery services (including, but not limited to, GrubHub, Caviar, etc.).

b. **Service Fee.** In consideration for use of the Marketplace, Portier will charge you a Service Fee of \_\_\_\_\_ for each Meal sold by you via the Marketplace, which is a discounted amount that we are offering you in exchange for your expediting your customers’ orders via the Uber Platform. If you are paid for a Meal, you are responsible for the Service Fee even if a Delivery Partner is unable to complete the expedited provisioning services.

c. **Calculation.** Portier will calculate the Service Fee as follows: the Retail Price of all Meals sold by you via the Marketplace on the applicable day (excluding any sales tax collected on your behalf) multiplied by the Service Fee percentage. The Service Fee shall be net of any taxes that you are liable for. Portier will remit to you the total Retail Price collected for all Meals sold by you via the Marketplace (including any sales tax collected on your behalf) less:

(a) the retained Service Fee; and (b) any refunds given to your customers (such final remitted amount being the “Meal Revenue”). The Meal Revenue will be remitted within fourteen (14) business days of the Meals being sold.

d. **Activation Fee.** In consideration of Portier’s work to activate Restaurant on the Marketplace, you will pay to Portier a fee of \$ \_\_\_\_\_ (“Activation Fee”). You agree that Portier may deduct from the Meal Revenue the Activation Fee (or a portion thereof) prior to remitting Meal Revenue to you until you have paid the full Activation Fee.

e. **Promotional Fee.** In consideration of the enhanced promotion of the Restaurant on the Uber Platform as may be mutually agreed, you will pay to Portier a fee of \$ \_\_\_\_\_ (“Promotional Fee”).

3. **Reporting.** Portier will give you aggregate information regarding the number of Meals picked up by Delivery Partners and sold by you to your customers pursuant to this Addendum. Portier will also provide reasonable information regarding any refunds given to your

customers, including the date of the transaction, the Meal ordered, the reason for the refund and any other information Portier is permitted to provide under applicable privacy laws. Participant agrees that Portier may share Participant’s transactional data regarding ordered meals, including sales data with Franchisor.

4. **Restrictions.** Delivery Partners are independent contractors, and as such, they reserve the right to refuse to accept any item in their sole discretion. Orders cannot weigh (in the aggregate) more than 30 pounds. The following restricted items may not be sent via the Uber Platform: people or animals of any size, illegal items, alcohol, fragile items, dangerous items (like weapons, explosives, flammables, etc.), stolen goods, or any items that you do not have permission to send.

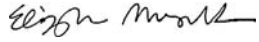
5. **Devices**

a. **Restrictions.** If Portier supplies a tablet or other mobile device (“Device”) to you to use in connection with the availability of your Meals via the Marketplace, you agree that: (i) Device(s) may only be used for the purpose of accepting orders via the Marketplace, and (ii) Device(s) may not be transferred, loaned, sold or otherwise provided in any manner to any third party. Devices(s) shall at all times remain the property of Portier, and upon expiration or termination of the Agreement or this Addendum, or the extended absence of Restaurant from the Marketplace for longer than forty-five (45) days, you shall return all applicable Device(s) to Portier within ten (10) days.

b. **Data Usage.** If you receive a wireless data plan with your Device, Portier will require reimbursement of \$15 per week from you for the costs associated with the wireless data plan of each applicable Device. You agree that Portier may deduct the reimbursement from the Meal Revenue prior to remittance of such Meal Revenue to you.

6. **Other Notes.** Additional terms and conditions:

Sincerely,



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

Name: Elizabeth Meyerdirk

Title: Authorized Signatory, Portier LLC

Accepted and Agreed:

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

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

Title: Authorized Signatory,

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

# Postmates Merchant Agreement

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**INCORPORATION.** The undersigned Merchant wishes to utilize, and Postmates Inc. (“Postmates”) hereby agrees to provide access to, Postmates’ mobile app and web-based on-demand platform (the “Platform”) pursuant to the terms and conditions of this Postmates Merchant Agreement and Postmates’ Privacy Policy (<https://postmates.com/privacy>), which is incorporated herein by reference, (collectively, the “Agreement”). Postmates reserves the right to update the Postmates’ Privacy Policy at any time without notice to Merchant. Postmates and Merchant may be referred to individually as a “Party,” and collectively as the “Parties”.

**INTELLECTUAL PROPERTY.** During the Term of this Agreement, each Party grants to the other Party a limited, non-exclusive, non-transferable, fully paid-up and royalty-free license to use such Party’s Marks for the purpose of performing its obligations under this Agreement, including without limitation in advertising and marketing materials and press releases. For the purposes of this Agreement, “Marks” shall include trademarks, trade names, service marks, copyrights, logos, slogans and other identifying symbols and indicia of the applicable Party. Use of a Party’s Marks shall only be in a manner that complies in all material respects with that Party’s trademark usage policies provided from time to time. Each Party’s use of the other Party’s Marks, and all goodwill generated thereby, will inure to the benefit of the owner of such Marks.

**PAYMENT AND FEES.** Postmates will remit to Merchant, no less frequently than once a week, all customer payments for item(s) purchased through the Platform, less the Postmates “Logistics Fee” as identified in Exhibit A, the “Pickup Fee” for pickup services, which shall be ten (10) percentage points less than the Logistics Fee, and \$.50 for any pickup order less than \$10 (as applicable) (collectively, the “Platform Fee”), and any payment processing fees associated with such remittance.

The Platform Fee is based upon the pre-tax purchase price of the ordered item(s), and consists of fees and costs attributed to, and in consideration for, the efforts expended by Postmates for, among other things, marketing Merchant’s products, customer acquisition efforts, and maintenance of the Platform.

Merchant will prepare items for delivery consistent with order information provided by Postmates. Merchant will reimburse Postmates for any costs Postmates incurs (e.g., refunds and credits) for orders inconsistent with order information. Postmates will deduct any such costs from its remittances to Merchant pursuant to this Section.

**MERCHANDISE PRICE AND TAXES.** Merchant and Postmates will mutually agree upon the pricing of Merchant’s goods on the Platform.

Merchant will provide Postmates with the sales tax rate applicable to items purchased through the Platform for any Merchant location included on the Platform. Merchant will indemnify Postmates for any sales, use, or other tax, duty or charge of any kind that is levied or imposed on the use of the Platform, excluding any tax based on Postmates’ net income.

**MERCHANT PROFILE.** Merchant will establish a “Merchant Profile” pursuant to Exhibit A, and any accompanying attachments, all of which are incorporated herein by reference.

**TABLET.** Postmates may provide Merchant with a tablet to help expedite orders made through the Platform. If Merchant receives a tablet from Postmates, Merchant will not owe the Platform Fee until Merchant has activated the tablet.

If Merchant does not activate the tablet within fifteen (15) days following receipt of the tablet, Postmates may immediately terminate this Agreement. If Merchant does not activate the tablet within thirty (30) days following receipt of tablet, Merchant shall pay to Postmates Two-Hundred and Fifty Dollars (\$250). Upon termination of this Agreement, Merchant shall promptly return the tablet to Postmates at Merchant's own expense. If Merchant fails to return the tablet, the cost of the tablet will be deducted from Merchant's final payment.

If Merchant permits a third party (except an authorized employee of Merchant) to access the tablet, Postmates may immediately terminate this Agreement.

**REPRESENTATIONS AND WARRANTIES.** Each Party hereby represents and warrants that: (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder; (b) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin; (c) it has not entered into, and during the Term will not enter into, any agreement that would prevent it from complying with or performing its obligations under this Agreement; (d) it will comply with all applicable laws and regulations in its performance of this Agreement; and (e) the content, media and other materials used or part of this Agreement shall not infringe or otherwise violate the intellectual property rights, rights of publicity, or other proprietary rights of any third party.

Merchant further represents and warrants that: (a) it will prepare and handle items in compliance with all applicable laws, including but not limited to food and beverage health and safety laws rules and regulations and product safety laws, rules and regulation; (b) all items sold will comply with applicable law; (c) it will remit all taxes owed to the relevant authorities; (d) all tax rate information provided to Postmates is accurate; and (e) all information provided to Postmates pursuant to this Agreement is complete, and no such information is inaccurate, misleading, or otherwise deceptive.

The above representations and warranties are true as of the Effective Date and the Parties covenant that they will continue to be true throughout the term of this Agreement.

**INDEMNIFICATION.** Each Party ("Indemnifying Party") shall, at its own expense, indemnify, defend and hold harmless the other Party, its subsidiaries, affiliates, officers, directors, agents, or employees ("Indemnified Party"), individually and collectively, from and against all taxes, losses, liabilities, damages, claims, suits, liabilities, costs and expenses including reasonable attorney's fees and other legal costs ("Claims"), brought against the Indemnified Party by a third party arising from or in connection with: (i) the gross negligence or willful misconduct of the Indemnifying Party, or its employees, contractors or agents in connection with the performance of this Agreement; (ii) any breach of this Agreement by the Indemnifying Party or its employees, contractors or agents; or (iii) any violation or claimed violation of a third party's rights resulting in whole or in part from use of Indemnifying Party's marks.

In addition, Merchant shall, at its own expense, indemnify, defend and hold harmless Postmates, its subsidiaries, affiliates, officers, directors, agents, or employees from and against all Claims brought against Postmates by a third party arising from or in connection with any violation or alleged violation of any rule, regulation, law, or health and safety code, applicable to Merchant's products as well as any Claims for illness or bodily injury resulting from Merchant's products delivered through the Platform.

The Indemnified Party shall provide the Indemnifying Party with: (i) prompt written notice of such Claim; (ii) control over the defense and settlement of such Claim, provided that the Indemnifying Party shall not enter into a settlement that involves a remedy other than the payment of money by the Indemnifying Party without the express written consent of the Indemnified Party; and (iii) proper and full information and assistance to settle and/or defend any such claim.

**DISCLAIMER.** EXCEPT AS SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS AND EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND (WHETHER EXPRESS OR IMPLIED), INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. MERCHANT ACKNOWLEDGES AND AGREES THAT THE

PLATFORM AND ANY TABLET PROVIDED TO MERCHANT HEREUNDER ARE PROVIDED "AS IS" AND "AS AVAILABLE". MERCHANT ACKNOWLEDGES AND AGREES THAT POSTMATES DOES NOT PROVIDE COURIER SERVICES. SERVICES PROVIDED THROUGH THE PLATFORM ARE PROVIDED BY THIRD PARTY COURIERS WHO ARE INDEPENDENT CONTRACTORS AND NOT EMPLOYEES OR AGENTS OF POSTMATES.

**LIMITATION OF LIABILITY.** TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, POSTMATES' MAXIMUM AGGREGATE LIABILITY IN CONNECTION WITH OR ARISING FROM THIS AGREEMENT SHALL NOT EXCEED ONE THOUSAND DOLLARS (\$1,000), REGARDLESS OF THE LEGAL THEORY UPON WHICH SUCH LIABILITY IS BASED, WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE, AND WHETHER FOR DIRECT DAMAGES OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, OR SPECIAL, INCIDENTAL, CONSEQUENTIAL, COMPENSATORY OR PUNITIVE DAMAGES.

**CONFIDENTIALITY.** "Confidential Information" means any confidential, proprietary or other non-public information disclosed by one Party (the "Discloser") to the other Party (the "Recipient") whether disclosed verbally, in writing, in electronic form, or by inspection of tangible objects, including but not limited to any personally identifiable information such as first and last name, email address, phone number, physical address etc.

Merchant authorizes Postmates to share any Merchant Confidential Information as well as any sales or other similar metrics with Franchisor and/or any entity from whom Merchant has received authorization to conduct its business.

Merchant provides Postmates a royalty-free, fully paid-up, irrevocable limited license to use non-identifiable, aggregated sales information and order data in any manner to benefit the business, but in no instance may Postmates use Confidential Information to benefit Merchant competitors or disclose aggregated data that a reasonable person would be able to determine is sourced from Merchant.

Recipient agrees that it will only disclose the Confidential Information to its employees and agents who have a need to know such Confidential Information and who are bound by written obligations of confidentiality and will not use the Confidential Information in any way other than as necessary to perform its obligations under this Agreement. Such prohibition on disclosure of Confidential Information shall not apply to the extent disclosure is required as a matter of law, provided Recipient gives Discloser prior written notice of such obligation and reasonably assists in obtaining a protective order prior to making such disclosure. Recipient will destroy Confidential Information and certify as to such upon Discloser's request.

**TERM AND TERMINATION.** This Agreement shall continue until terminated by either Party in accordance with this Agreement (the "Term"). Either Party may terminate this Agreement for convenience upon thirty (30) days prior written notice, which may include email. Upon termination of this Agreement, all outstanding payments owing by Merchant to Postmates shall be due and payable within five (5) days.

**INSURANCE.** During the Term, each Party shall maintain Commercial General Liability and, if required by law, Worker's Compensation insurance. The Commercial General Liability insurance policy shall have limits of coverage not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate. In addition, Postmates agrees to maintain Commercial Automobile Liability Insurance policy with limits of coverage not less than One Million Dollars (\$1,000,000).

**GENERAL. Relationship.** The relationship of the parties established by this Agreement is that of independent contractors, and nothing contained in this Agreement should be deemed or construed to create a partnership, joint venture, or employer-employee relationship, or give either Party the power to act as an agent for, or direct or control the day-to-day activities of the other. Each Party will be

responsible for its own costs of conducting business and performing its obligations under the Agreement. **Survival.** Upon expiration or termination of this Agreement, those rights and obligations that by their nature are intended to survive such expiration or termination will survive. **Assignment.** Merchant may not assign this Agreement or any of its rights and obligations hereunder. Postmates may assign this Agreement or any of its right and obligations hereunder pursuant to a merger, acquisition, or a sale of all or substantially all of its assets. This Agreement will be binding upon and inure to the benefit of the Parties' and each of their successors and permitted assigns. **Force Majeure.** Nonperformance by either Party due to a force majeure event will be excused. **Law/Venue.** This Agreement shall be governed by the laws of the State of California, without regard to the conflicts of law provisions of any jurisdiction. The Parties expressly consent to the exclusive jurisdiction and venue of the state and federal courts located in San Francisco County, California. **Severability.** If any part of this Agreement is unenforceable, the remaining portions will remain in full force and effect. **Entire Agreement.** This Agreement contains the entire agreement between the parties. All prior agreements, discussions understandings and negotiations relating to the subject matter thereof are merged into this Agreement. This Agreement may be amended only by a written document executed by both Parties, which may include electronic signatures. This Agreement may be executed and delivered in counterparts, each of which will be deemed an original, but all of which taken together will constitute the same instrument. **Waiver.** The waiver of a breach of any provision of this Agreement will not waive any other or subsequent breach.

**Agreed to and fully executed on the last Date below ("Effective Date").**

**Merchant**

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

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

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

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

**Postmates**

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

Name: Craig Whitmer

Title: Business Development Lead

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

# Exhibit A - Merchant Profile

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<b>Business Name</b>	Hoots
<b>Contact Email</b>	
<b>Business Address</b>	
<b>Logistics Fee</b>	17%
<b>Pickup Fee</b>	5%

## Partnered Locations

<b>Location 1</b>	
<b>Location 1 Tax Rate</b>	

<b>Location 2</b>	
<b>Location 2 Tax Rate</b>	

<b>Location 3</b>	
<b>Location 3 Tax Rate</b>	

<b>Location 4</b>	
<b>Location 4 Tax Rate</b>	

<b>Location 5</b>	
<b>Location 5 Tax Rate</b>	

**Location 6**

**Location 6 Tax Rate**

**Location 7**

**Location 7 Tax Rate**

**Location 8**

**Location 8 Tax Rate**

**Location 9**

**Location 9 Tax Rate**

**Location 10**

**Location 10 Tax Rate**



**EXHIBIT N**  
**HOOTS FRANCHISING, LLC**  
**HOOTERS FRANCHISEE 1 TO 1 ADDENDUM**

**HOOTS FRANCHISING, LLC**  
**HOOTERS FRANCHISEE 1 TO 1 ADDENDUM**

**THIS HOOTERS FRANCHISEE 1 TO 1 ADDENDUM** (this “**Addendum**”) is effective on \_\_\_\_\_ (“**Addendum Date**”). The parties to this Addendum are **HOOTS FRANCHISING, LLC**, a Florida limited liability company, with its principal office located at 1815 The Exchange, Atlanta, Georgia 30339 (referred to in this Addendum as “**we**,” “**us**” or “**our**”) and \_\_\_\_\_ whose principal address is \_\_\_\_\_

(Referred to in this Agreement as “**you**,” “**your**” or “**Developer**”).

1. **Hooters Franchisee 1 to 1 Program.** You are entering into this Addendum as an Existing Hooters Franchisee. We are offering this Addendum only to Existing Hooters Franchisees to enter into an Area Development Agreement and this Addendum amends, modifies and supersedes any conflicting terms of the Area Development Agreement and its corresponding Franchise Agreements.

2. **1 to 1 Unit Development Rights.** If you are in full compliance with all of the provisions of this Addendum and all of your Franchise Agreements, then during the term of this Addendum, we will:

(a) grant to you (and affiliates) the right to develop 1 hoots® wings restaurant for every Hooters Restaurant you must develop in accordance with the Development Schedule set forth on your Hooters Area Development Agreement (the “**Hooters Development Schedule**”) or which you currently own and operate (each a “**1 to 1 Unit**”);

(b) not operate (directly or through an affiliate) nor grant another party a franchise for the operation of any hoots® wings restaurant with its Site to be located within your Development Area, except for those franchises granted to you (and affiliates) pursuant to this Addendum and your Franchise Agreements.

However, the foregoing will not apply to any hoots® wings restaurants that have been previously granted rights, which have Sites or the right to have Sites in the Development Area, or if we or our affiliate(s) currently operate one or more hoots® wings restaurants at Sites in the Development Area (individually or collectively, “**Pre-Existing Sites**”). If there are any Pre-Existing Sites in your Development Areas, we will list them on an exhibit to this Addendum upon request.

3. **Rights Retained.** We (and our affiliates) retain the right in our sole discretion to: establish and grant to other franchisees the right to establish, own and operate hoots® wings restaurants anywhere outside the Development Area, on such terms and conditions as we deem appropriate (even immediately outside the border of the Development Area, but not within the Protected Market Area of any hoots® wings restaurant affiliated with you);

(b) operate and grant franchises to others to establish, own and operate businesses, whether inside or outside the Development Area, specializing in the sale of products or provision of services, other than a Competitive Business or hoots® wings restaurant, using certain of the Marks or Copyrights and pursuant to such terms and conditions as we deem appropriate;

(c) operate and grant franchises to others to establish, own and operate businesses, hoots® wings restaurants or other services, whether inside or outside the Development Area, that do not use any of the Marks or Copyrights;

(d) market and sell, inside and outside of the Development Area, through channels of distribution other than hoots® wings restaurants (like internet, mail order, direct mail or social media) or through special purpose sites (like at sporting or fitness events, conventions, shows, etc.), goods and services competitive with goods and services offered by hoots® wings restaurants, under the Marks, Copyrights, or under trade names, service marks or trademarks other than the Marks or Copyrights;

(e) grant to others the right to establish, own and operate hoots® wings restaurants in the Development Area if the rights we granted to them to do so pre-date the Addendum Date.

4. **Franchise Fee.** Your Franchise Fee for each 1 to 1 Unit is reduced as follows:

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5. **System Development Fund:** For each 1 to 1 Unit, we will not increase your System Fund Fees due to the System Development Fund until: \_\_\_\_\_

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6. **Local Advertising Contributions:** For each 1 to 1 Unit, we will not require your Local Advertising Expenditures to exceed 1% of Gross Sales.

7. **Continuing Royalty:** 3.5% up to \$1,000,000 annual Gross Sales. 5% if annual Gross Sales exceed \$1,000,000. Once the \$1,000,000 threshold is met for any year of the term, the 5% Gross Sales Continuing Royalty will apply going forward regardless of Gross Sales (i.e., it is not reduced once it is increased).

8. **Deal Specific terms for Non- 1 to 1 Units if under your Development Schedule:**

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9. **Term of Addendum.** This Addendum commences, with respect to each Franchise Agreement, on the Agreement Date of such Franchise Agreement, and expires, with respect to each Franchise Agreement, upon the expiration or termination of such Franchise Agreement. Upon expiration or termination of this Addendum, the Development Area and Development Schedule terminates and you will **not** have any further rights to acquire franchises to operate additional hoots® wings restaurants other than those for which you have executed our form of Franchise Agreement with us in accordance with their terms, and for which you are not in default under your Franchise Agreements as modified by this Addendum. Termination of the Development Schedule and Development Area does not terminate the Site Selection Area or Protected Market Area of any of your Franchise Agreements for which you are not in default.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
[Signature]  
\_\_\_\_\_  
[Print Name/ Title]  
Date: \_\_\_\_\_

**EXHIBIT O**  
**HOOTS FRANCHISING, LLC**  
**FORM OF POS SERVICE AGREEMENT**



NCR Corporation  
3097 Satellite Boulevard  
Duluth, GA 30096

Dear Client:

NCR Corporation ("NCR") currently provides ("you") with certain products and services pursuant to the terms of an agreement between our respective companies (the "NCR Agreement"). As you know, the NCR Agreement contains certain confidentiality restrictions that govern the disclosure of your data to third parties. You recently requested NCR to release certain data to Hawk, Parent, LLC and its subsidiaries and affiliates, and the franchisees, vendors and agents of such subsidiaries and affiliates ("HOA System Participants") for any business or franchise-related purposes approved by Hawk Parent, LCC or the HOA System Participant entity that is your franchisor.

Data tables that will be released are identified on the attached **Exhibits A** and **A-1** hereto.

If you are a multi-unit operator, this one agreement will be used for all restaurants or sites identified on the attached **Exhibit B** hereto.

Since your data is considered proprietary and confidential to you pursuant to the terms of the NCR Agreement, NCR requires your consent to release or otherwise provide HOA System Participants with access to the data described above.

By signing this letter below, you hereby consent to the release to and use of your of data to by HOA System Participants and acknowledge and agree that such release will not constitute a breach of any agreement you have with NCR. If you are a franchisee of an HOA System Participant, all such data is deemed such franchisor's confidential information under your franchise agreement and is governed by the terms of such franchise agreement.

The authorization to release data will remain in full force and effect until withdrawn by written notice from your HOA System participant to NCR. Such authorization may only be revoked by your HOA System participant franchisor in writing to NCR.

Acknowledged and Agreed to by:

\_\_\_\_\_  
Authorized Signature, with authority to sign  
on behalf of all entities/sites listed on the attached **Exhibit B**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date



NCR Corporation  
3097 Satellite Boulevard  
Duluth, GA 30096

**EXHIBIT A:**  
DATA TABLES TO BE RELEASED TO:

- Configuration:
- HistoricalData:
- Other specific tables with daily detail:



NCR Corporation  
3097 Satellite Boulevard  
Duluth, GA 30096

**EXHIBIT B:**  
LIST OF RESTAURANTS

**EXAMPLE SITE LISTING**

Restaurant entity legal name - #1234

4321 Any Blvd.

Sometown, ST 98765



**EXHIBIT P**  
**HOOTS FRANCHISING, LLC**  
**FORM OF PEPSI AGREEMENT**

ANNEX B – Form of Equipment Acknowledgement Agreement

This equipment acknowledgement agreement (this “**Equipment Agreement**”) is between PepsiCo Sales, Inc. (“**Pepsi-Cola**”), a Delaware corporation and subsidiary of PepsiCo, Inc. (“**PepsiCo**”), with its principal place of business at 700 Anderson Hill Road, Purchase, New York 10577, on its own behalf, on behalf of the Pepsi/Lipton Tea Partnership (“**Partnership**”), and on the other hand, \_\_\_\_\_, a \_\_\_\_\_ a \_\_\_\_\_ corporation or LLC having its principal place of business at \_\_\_\_\_, on its own behalf and on behalf of its affiliates and subsidiaries (“**Franchisee**”), being an authorized franchisee of Hoots Franchising, LLC (“**Franchisor**”).

**WHEREAS**, Pepsi-Cola is designated as the sole and exclusive authorized supplier of fountain beverage products to the entire corporate and franchised/licensed system of hoots® wings restaurants pursuant to an agreement between Pepsi-Cola and Franchisor, commencing on or about July 1, 2014, as amended (the “**Master Agreement**”); and

**WHEREAS**, Franchisee has been informed of the existence of the Master Agreement and the obligations on Franchisee therein, and now requests that Pepsi-Cola service, deliver and/or install fountain beverage dispensing equipment within all such hoots® wings restaurants that Franchisee owns or operates (the “**Outlets**”); and

**WHEREAS**, Franchisee is desirous of purchasing Pepsi-Cola's and the Partnership's corporate branded postmix products (“**Postmix Products**”) from Pepsi-Cola and the Partnership for use in preparing fountain beverage products sold under the trademarks of PepsiCo and the Partnership (“**Fountain Products**”) which will be the exclusive beverages of their respective types and categories advertised, sold and made available at the Outlets, subject to such exception as may be set forth in the Master Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Franchisee and Pepsi-Cola agree as follows. As used in this Equipment Agreement, capitalized terms not otherwise defined hereunder will have the respective meanings assigned thereto in the Master Agreement.

**1. Equipment.** Upon execution of this Agreement or at such time as the useful life of Franchisee’s existing fountain beverage dispensing equipment in each Outlet expires, as determined by Pepsi-Cola in its sole discretion, or in the event of a new Outlet opening or early replacement as described below, Pepsi-Cola will provide each Outlet that offers fountain beverage products with mutually agreeable fountain dispensing equipment to be used exclusively for dispensing the Fountain Products (“**Fountain Equipment**”), together with a water filter and initial water filter cartridge. At all times, legal title to the Fountain Equipment will belong to Pepsi-Cola. Franchisee will cooperate with Pepsi-Cola in maintaining the Fountain Equipment in good working order throughout the Term, and Pepsi-Cola will provide service in accordance with the Service Program set forth herein. Franchisee agrees that the Fountain Products shall be the exclusive fountain beverage dispensed on the Fountain Equipment except to the extent otherwise provided in the Master Agreement. For purposes of this Agreement, the term “**Fountain Equipment**” shall include any fountain dispensing equipment provided by Pepsi-Cola under the parties’ prior agreement relating to Pepsi-Cola’s fountain beverages, if any.

As new equipment technology is released, Pepsi-Cola may work with the Franchisee on roll out

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opportunities. To the extent that future technology enhancements, equipment platforms or products to support these platforms are substantially different in scope or composition compared to existing equipment components and products, Pepsi-Cola and the Franchisee will work in good faith to negotiate the economic terms for implementation of the new technology equipment.

#### 1.1 Remodeled Outlets:

If at any time during the Term subsequent to initial installation of any unit of Fountain Equipment (i.e., as a result of an Outlet remodeling/internal redesign/reconfiguration, redeployment/reinstallation, etc.), Franchisee requests that Pepsi-Cola disconnect/remove/relocate/reinstall Fountain Equipment in, within or between its premises and affected Outlets (each an “**Equipment Move**”), then Franchisee will notify Pepsi-Cola of such requests in writing and at least 30 days in advance of any Fountain Equipment Move(s). Franchisee will promptly reimburse Pepsi-Cola for any and all costs incurred by Pepsi-Cola in meeting Franchisee’s requirements, payable within 30 days of the date of Pepsi-Cola’s invoice for such Equipment Move(s).

#### 1.2 Equipment Removal /Early Replacements:

##### 1.2.1 Equipment Removal

If at any time Franchisee intends to permanently close any of its Outlets, or if for any other reason Franchisee requires Pepsi-Cola to remove Equipment from an Outlet, then Franchisee will notify Pepsi-Cola of such intent in writing and at least 30 days in advance of the closure of such affected Outlets or otherwise removal of Equipment (“**Equipment Removal**”). Upon notice of such Equipment Removal, Franchisee will cooperate with Pepsi-Cola and its Bottlers to provide access to such affected Outlet(s) to remove Equipment and will surrender the Equipment. As used herein, “permanently close” means cease to operate in the ordinary course of business for a period of at least 30 days without subsequently reopening and serving the Fountain Products within a period not to exceed 30 days thereafter.

##### 1.2.2 Early Replacements

If at any time during the Term subsequent to initial installation of any unit of Equipment (i.e., as a result of an Outlet remodeling/internal redesign/reconfiguration, etc.), Franchisee requests that Pepsi-Cola replace Equipment prior to full amortization (*as reasonably determined by Pepsi-Cola, applying generally accepted accounting principles using 10 year (7 year for Equipment provided under the parties’ prior agreement, and 5 year for beverage urns, if any) straight line depreciation methodology from the date the equipment was installed*), then Franchisee will notify Pepsi-Cola of such requests in writing and at least 30 days in advance, and Pepsi-Cola may, in its sole discretion, elect to replace affected Equipment (“**Early Replacement**”). Upon notice of such Early Replacement(s), Franchisee will cooperate with Pepsi-Cola and its Bottlers to provide access to such Outlet(s) to remove and replace Equipment and will surrender the pre-existing Equipment to be replaced.

In both Equipment Removal and Early Replacement scenarios above, Pepsi-Cola reserves the right to invoice Franchisee immediately for the current unamortized book value of such Equipment (*as reasonably determined by Pepsi-Cola, applying generally accepted accounting principles using 10 year (7 year for Equipment provided under the parties’ prior agreement, and 5 year for beverage urns, if any) straight line depreciation methodology from the date the equipment was installed*) excluding the unamortized book value of any fountain dispenser(s), or other unit(s) for which Pepsi-Cola seeks to retain title, which fountain dispenser(s) or unit(s) will be surrendered by Franchisee to Pepsi-Cola.

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## 2. Service Program

Pepsi-Cola will cause service to be provided to the Equipment through Bottlers or such other service  
**Error! Unknown document property name.**

providers as Pepsi-Cola may designate. Each Year, Franchisee will be entitled, at no charge (labor only) and on a per Outlet basis, to a maximum of 4 service calls for Equipment, plus 2 preventative maintenance calls. Franchisee shall be charged the costs of any and all parts that may be required in connection with the operation of the Equipment. Moreover, all service and maintenance calls in excess of those specified above will be charged to Franchisee at Pepsi-Cola's prevailing rates provided, however, that any water filter replacement cartridges will be charged to Franchisee directly by the service provider at its respective prevailing rates.

3 **Remedies.**

If the Master Agreement is terminated before its expiration date by Pepsi-Cola arising from a material default which is not timely cured pursuant to the terms and conditions of the Master Agreement, then Franchisee will immediately, to be received by Pepsi-Cola no later than 30 days following termination make a payment to Pepsi-Cola reflecting reimbursement to Pepsi-Cola for (a) the current unamortized book value of the Fountain Equipment (*as reasonably determined by Pepsi-Cola, applying generally accepted accounting principles using 10 year straight line depreciation methodology (5 year for beverage urns, if any)*) which Fountain Equipment will be surrendered by Franchisee to Pepsi-Cola, *plus* (b) an amount representing the costs of removal and refurbishment of such Fountain Equipment. The specification of the foregoing remedies is not intended to restrict the right of either party to pursue other remedies or damages if the other party has breached the terms of this Agreement.

4 **Expiration.**

Surrender to Pepsi-Cola all fountain dispensers placed by Pepsi-Cola, *and* make a payment to Pepsi-Cola reflecting reimbursement to Pepsi-Cola for the current unamortized book value of non-dispenser components of Equipment and dispensers that are missing, destroyed or rendered unusable through Franchisee's gross negligence (*as reasonably determined by Pepsi-Cola, applying generally accepted accounting principles using 10 year (7 year for Equipment provided under the parties' prior agreement, and 5 year for beverage urns, if any) straight line depreciation methodology from the date the equipment was installed*). Upon receipt of the foregoing amount from Franchisee, Pepsi-Cola will transfer legal title to non-dispenser on-premise components to Franchisee.

5. **List of Outlets; Acquisition and Assignment.**

Attached hereto as **Schedule 1** is a true and correct list of Franchisee's Outlets in existence as of the execution of this Equipment Agreement. Franchisee agrees to promptly notify Pepsi-Cola of any changes to such list, including new Outlet openings, closures, transfers, etc. In the event that a third party acquires the Franchisee or all or a group of its respective Outlets, or if Franchisee is acquired or merges with a third party, Franchisee will, in connection with such transaction, cause the acquiring party/merged entity, in writing, to ratify Franchisee's obligations and assume all of the obligations hereunder. In the event that Franchisee does not deliver written evidence of such ratification and assumption of this Equipment Agreement by the acquiring party/merged entity (or have the acquiring party/merged entity execute a separate Equipment Agreement) within 10 days following the closing of the transaction, Pepsi-Cola may, at its option, terminate this Equipment Agreement effective immediately and Franchisee will pay to Pepsi-Cola all sums specified above under Remedies with respect to all affected Outlets. This Agreement will not be assigned without the written consent of Pepsi-Cola, which will not be unreasonably withheld.

*[signature page follows]*

If the foregoing correctly sets forth our understanding, please sign below to confirm our agreement.

**PEPSICO SALES, INC.**

\_\_\_\_\_  
**(FRANCHISEE LEGAL NAME)**

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

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

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

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

**Fed Tax Id No** \_\_\_\_\_

**Schedule 1**  
**List of Franchisee's Outlets**

**EXHIBIT Q**  
**HOOTS FRANCHISING, LLC**  
**SAMPLE BYLAWS OF COLLABORATIVE PURCHASING ORGANIZATION (CPO)**  
**OF**

[SAMPLE] BYLAWS  
OF THE  
COLLABORATIVE PURCHASING ORGANIZATION OF  
\_\_\_\_\_, LLC

ARTICLE I

**Offices and Business Purpose**

**Section 1.1. Principal Office.** The principal office of \_\_\_\_\_, LLC's Collaborative Purchasing Organization ("CPO") shall be located in shared space occupied by both \_\_\_\_\_, LLC and the CPO until altered by the Board of Directors. For the purpose of these Bylaws, the term "HOA" shall refer to, \_\_\_\_\_, LLC, the franchisor(s) of the Hoots system (currently HOA Systems, LLC and Hoots Franchising, LLC), and their respective successors and assigns.

**Section 1.2. Business.** The CPO shall conduct a supply chain program for its Members in order to provide its Members with the lowest possible sustainable store delivered costs for: (i) beverages, food, packaging and supplies, smallwares, equipment, and related services ("Goods"); (ii) other direct or indirect services ("Services"); and (iii) distribution of Goods ("Distribution Services") or other categories as determined by the Board of Directors from time to time. The CPO will not create specifications or provide for product development for the Goods, Services and Distribution Services, unless otherwise approved by the Board of Directors. HOA will maintain support and have authority as to product specifications and development for Goods, Services and Distribution Services. Participation in the CPO does not replace, supersede, modify or otherwise limit the license or franchise agreements in place between HOA or franchisees.

ARTICLE II

**Members**

**Section 2.1. Member Eligibility.** The following persons, firms or entities shall be eligible to be Members in the CPO: (a) each sole proprietor, partnership, corporation, limited liability company or other entity who is or becomes a franchisee, sublicensee, or licensee in good standing of HOA; and (b) HOA, in its role as \_\_\_\_\_ and Hoots restaurants.

**Section 2.2. Membership Requirements.** Each person, firm or entity which is eligible to be a Member in the CPO shall be a Member in the CPO when and if that person, firm or entity: (a) executes a Membership Agreement and (b) agrees to abide by the terms and commitments set forth in these Bylaws, as amended from time to time. If the Membership Agreement of a Member is terminated for any reason, such person, firm or entity shall no longer be a Member of the CPO.

**Section 2.3. Divisions of Membership into Series.**



(a) Each Member of the CPO shall be entitled to one Membership share of one of the following series set forth in Column 1 below, but only if such Member owns or operates, or pursuant to Section 2.3 hereof, is deemed to own or operate, a Hoots restaurant (each a "Restaurant") in one or more of the areas (each, a "Region") set forth in the corresponding line of Column 2 below, which may be adjusted by the Board of Directors from time to time.

Membership Series	Geographic Area	# Franchisees	Franchisees	% Restaurants
1				
2				
3				
4				
5				
6	HOA		HOA	
7	At Large		X	X

(b) When a Member of the CPO owns, operates, or pursuant to Section 2.3 hereof, is deemed to own or operate, a Restaurant in more than one Region, the Series Membership share to be issued to the Member shall be designated by the Board of Directors, taking into account any desire of the Member, the number of Restaurants located in each Region, and the objective of keeping the number of Members in each Region as even as practicable.

(c) no Member or individual person can serve in more than one Director role at any given time.

**Section 2.4. Purchase Commitments.** Members shall acquire virtually all of their Goods, Services and Distribution Services for use in the Member's Restaurant(s) located in the United States through the supply chain programs of the CPO. "Virtually all" with respect to Goods, Services and Distribution Services means all Goods, Services and Distribution Services except the following:

(a) Where the CPO agrees in advance in writing that the Member need not purchase the particular item or category of Goods, Services or Distribution Services through the supply chain programs of the CPO; or

(b) Where the Member has a specific purchase or distribution commitment which has been disclosed in detail in writing by the Member to the CPO prior to the date hereof and which the Member is unable, as a practical matter, to assign to the CPO or which is inappropriate for the CPO to assume or which cannot be terminated without penalty by the Member; provided, however, that the Member shall not renew such commitment beyond the expiration of its current term without the prior written consent of the CPO; or

(c) Where legal counsel to the Member has advised the Member that its commitments or the performance of its other duties under this Section could reasonably be expected in a material way to violate or breach any applicable material law, ordinance, rule or regulation of any governmental body or any material judgment, decree, writ, injunction, order or

aware of any court, governmental authority to arbitrate panel, and the Member has given written notice to the CPO of such legal advice; or

(d) Upon the proper termination of the CPO's Membership Agreement and the Member is no longer a Member of the CPO.

Pursuant to Section 2.4 (a), (b), and (c) hereof, any Goods, Services or Distribution Services excluded from these Bylaws shall be duly recorded on Exhibit A of the relevant Membership Agreement. As the CPO agrees from time to time, exceptions may be granted when there exists proven substantial business need for such exception. Members as permitted through separate agreements with the HOA may continue to buy items that the CPO may or may not source on behalf of its Members. This includes but is not limited to products that are seemingly the same but may have different technical recipes or otherwise different specifications.

**Section 2.5. Administration Fees.** By virtue of Membership in the CPO, each Member: (a) agrees that the CPO may from time to time collect from the Member a fee (an "Administration Fee") in consideration of and to fund the CPO's supply chain programs and services; and (b) authorizes the CPO to cause suppliers and distributors of Goods, Services and Distribution Services to collect one hundred percent (100%) of the Administration Fees, as authorized by the CPO's Board of Directors on behalf of the Members, from the Member for the account of the CPO. Administration Fees are collected on behalf of all Members and are contemplated to cover the administrative expenses of the CPO (or otherwise associated with the Goods, Services and/or Distribution Services for the Restaurants) and may include: reimbursement of salaries of HOA employees working on CPO matters (each a "CPO Employee") for the time that they work on CPO matters, supply chain program and travel related expenses, consumer research, product testing and related programs, technology in the form of software and hardware, and other CPO expenses as approved by the CPO's Board of Directors from time to time. The CPO shall be required to manage expenses and revenues generated by the Administration Fees in such a way as not to produce a profit for the CPO. The Board of Directors desires the CPO Employees to engage in work to identify and screen vendors unique to the Hoots restaurants, and enter into contracts with such vendors for Goods, Services and/or Distribution Services (collectively, the "Hoots Start-up Work"); provided, however, that during the 9-month period beginning July 1, 2018, the Administration Fees shall not be paid to reimburse HOA for the CPO Employees' Hoots Start-up Work.

Notwithstanding anything herein to the contrary, unless otherwise authorized by the Board of Directors, the CPO may only undertake consumer research, product testing and related programs for quality assurance or product substitution purposes of existing products. Unless otherwise authorized by the Board of Directors, the CPO may not undertake consumer research, product testing or related programs for the purpose of the development of new products, or the development of product specifications. For purpose of clarification, HOA-approved suppliers may charge such higher prices for new products (as approved by the CPO, which the CPO shall not unreasonably withhold or condition) to amortize the expenses incurred by such supplier related to research and development undertaken by such supplier at the request of HOA.

## **ARTICLE III**

### **Meetings of Members of the CPO**

**Section 3.1. Annual Meetings.** An annual meeting of CPO Members shall be held each year at such date, time and place selected by the Board of Directors.

**Section 3.2. Organization.** Meetings of Members shall be presided over by the Chairman of the Board, if any, or in his absence by the Vice Chairman of the Board, if any, or in his absence by a chairman designated by the Board of Directors, or in the absence of such designation by a Chairman chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his absence the Chairman of the meeting may appoint any person to act as secretary of the meeting. The Chairman of the meeting shall announce at the meeting of Members the date and time of the opening and the closing of the polls for each matter upon which the Members will vote.

## **ARTICLE IV**

### **Board of Directors**

**Section 4.1. General.** The property and affairs of the CPO shall be managed by a governing body to be known as the Board of Directors. The Board of Directors shall be composed of seven (7) voting Directors and one (1) non-voting executive Director. The voting Directors shall be comprised of: (i) one Director from each of the franchisee Membership series #1 through #5 as recorded in Section 2.3; (ii) one Director appointed by HOA (related to its operation of Restaurants); and (iii) one at large Hoots franchisee Director appointed by a majority decision of the Board. The at large franchisee Director's Restaurant may be in any of the five franchisee Regions. The one non-voting executive Director shall be the highest level CPO Employee ("CPO Leadership"). All persons who shall be nominated and elected and shall serve for terms as herein provided.

**Section 4.2. Vacancies.** Except as herein provided, all vacancies on the Board of Directors shall be filled by the Board of Directors. In filling any vacancy, the Board of Directors shall seek the advice and counsel of the holder or holders of the Series share who are entitled, as a Series, to provide such advice and counsel for the Director whose position became vacant. All vacancies shall be filled as soon as practicable; however, the Board need not fill a vacancy if the holder or holders of the Series share who are entitled, as a Series, to advice and counsel for the Director whose position became vacant decline to provide the Board with advice and counsel concerning the filling of the vacancy Member. For purposes of this Article IV, the number of voting Members of the Board shall not include the number of vacancies from time to time on the Board.

Directors elected as hereinabove provided in this Section 4.2 shall serve a term that equals two (2) years with an expiration that coincides with the next annual meeting of Members, at which time the holders of the Series share who provided advice and counsel to the Board of Directors to select the Director whose position became vacant shall be entitled to again provide advice and

counsel to the Board of Directors to select a successor who shall serve for the remainder, if any, of the term of the Director who shall have resigned, died or otherwise been removed from office.

**Section 4.3. Classes Of Directors.** Prior to the first annual meeting of Members, all voting Directors of the Company shall be divided into three classes, designated Class I, Class II, and Class III. Such classes shall be as nearly equal in number as the then total number of voting Directors permit, with the term of office of one class expiring each year. The Board of Directors shall by majority vote designate the classes of all voting Directors, within Class I, II, and III respectively.

The initial Class I Directors shall hold office for a term commencing with the Effective Date and expiring at the annual meeting of Members next ensuing and until their successors are selected and take office. The initial Class II Directors shall hold office for a term commencing with the Effective Date and expiring at the second annual meeting of Members thereafter and until their successors are selected and take office. The initial Class III Directors shall hold office for a term commencing with the Effective Date and expiring at the third annual meeting of Members thereafter and until their successors are selected and take office. The successors to the initial Class I, Class II, and Class III Directors shall each be elected for terms commencing as of the date of their election and continuing until the second annual meeting of Members thereafter and until their respective successors are duly elected and qualified.

The person elected to fill a vacancy must fulfill the eligibility requirements as determined and amended from time to time by the Board of Directors for the position of the Director whose position became vacant.

**Section 4.4. Organization.** Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in his absence by the Vice Chairman of the Board, if any, or in his absence by a chairman chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

**Section 4.5. Quorum.** A majority of the voting Members of the Board of Directors shall constitute a quorum.

**Section 4.6. Annual Meeting.** An annual meeting of the Membership shall be conducted at a time and location determined by the Board of Directors so long as that time and place has not exceeded more than twelve calendar months from the prior annual meeting. Additionally, the CPO should have a minimum of four (4) Board of Directors meetings annually inclusive of the Annual meeting.

**Section 4.7. Removal of Members of the Board of Directors.** No Member can be removed from the Board of Directors during their term unless and until the Member is no longer a i) franchisee of HOA or ii) a Member of the CPO or iii) for cause. Cause is defined as violating the Membership Agreement, Franchise Agreement or License Agreement.

**Section 4.8. Voting.** The affirmative vote of a majority of all voting Members of the Board of Directors shall, except as otherwise specifically provided in these Bylaws, be the act of the Board of Directors on any matter properly submitted to the Board of Directors. Members of the Board of Directors may participate in a meeting of the Board of Directors by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and such participation in a meeting shall constitute presence in person at such meeting. Upon the demand of a majority of the voting Members of the Board of Directors participating in a meeting, the voting upon any question before the meeting shall be by secret ballot. The CPO Leadership shall not be entitled to vote on matters brought before the Board of Directors. In any case, any voting Director may dispute (“Disputed Director”) the outcome of a vote by the Board of Directors and the proposed act will not be allowed to proceed if the Disputed Director has the affirmative vote in agreement with the stated disputed position by a duly elected or appointed Director or Directors on the Board whose individual series when combined with the Disputed Director equals fifty (50) plus one (1) percent of the CPO’s Member’s store sales. Should any Disputed Director’s volume of store sales exceed fifty (50) plus one (1) percent, then that Director must have the affirmative vote in agreement with that Disputed Director’s stated position by at least one other Director on the Board.

**Section 4.9. Chairman and Vice-Chairman.**

(a) The Board of Directors shall at each annual meeting elect by the affirmative vote of a majority of the entire Board of Directors a Chairman and a Vice-Chairman, each of whom shall serve until the next annual meeting of the Board of Directors and until his successor is duly elected and qualified.

(b) The duties of the Chairman shall be to preside at all meetings of the Board of Directors and Members. The Chairman shall have limited oversight of the CPO Leadership in his assigned duties as established and authorized by HOA. In the absence of the Chairman or his inability to perform, the Vice-Chairman shall assume his duties.

**Section 4.10. Meetings: Chairman and Secretary.** At all meetings of the Board of Directors, the Chairman, or in his absence, the Vice-Chairman, shall act as chairman of the meeting and the Secretary of the CPO shall act as secretary, except that if any one of them shall be absent, a chairman or secretary, or both, may be chosen at the meeting.

**Section 4.11. Compensation and Expenses.** All Members of the Board of Directors shall serve without compensation. Reasonable expenses of Members of the Board of Directors attending regular and called meetings shall be reimbursed by the CPO, provided, that such expenses are not in excess of the actual cost of traveling from and returning to the Member's home city, lodging, meals and other reasonable and necessary expenses. The CPO shall also reimburse Members of the Board of Directors and others for their reasonable expenses of attending seminars or other events at the direction of the Board of Directors.

## ARTICLE V

### Officers

**Section 5.1. Executive Officers.** Officers of the Board of Directors shall include at a minimum a Chairman, Vice Chairman, Secretary and Treasurer.

**Section 5.2. Vacancies.** Any vacancy in any office shall be filled by the Board of Directors.

## ARTICLE VI

### Committees

**Section 6.1. Committees.** The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate one or more committees, each committee to consist of one or more of the Directors of the CPO. The Board of Directors may designate one or more Directors as alternate Members of any committee, who may replace any absent or disqualified Member at any meeting of the committee. In the absence or disqualification of a Member of the committee, the Member or Members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another Member of the Board of Directors to act at the meeting in place of any such absent or disqualified Member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the affairs of the CPO, and may authorize the seal of the CPO to be affixed to all papers which may require it. In addition, the Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate one or more ad hoc committees and may in its discretion designate Directors or individuals who are not Directors or both as Members of any ad hoc committee. Any such ad hoc committee shall report to the Board of Directors.

**Section 6.2. Committee Rules.** Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to these bylaws.

## ARTICLE VII

### Finance, Audit and Fiscal Year

**Section 7.1. Banking.** All funds and money of the CPO shall be banked, handled and disbursed, and all bills, notes, checks and like obligations, and endorsements (for deposit or collection) shall be signed by such officers and other persons as HOA shall from time to time designate, who shall account therefore to the Treasurer as and when he may require. All money, funds, bills, notes, checks and other negotiable instruments coming to the CPO shall be collected and promptly deposited in the name of HOA in such depositories as the HOA shall select.

**Section 7.2. Financial Review and Reporting.** Quarterly reporting provided by HOA and the CPO's Treasurer on the accounts, books or otherwise financial records of the CPO shall be made available to the CPO's Board of Directors for their review. Additionally, the Board of Directors may request from time to time certain financial or other data in order to assess the overall financials of the CPO.

**Section 7.3. Fiscal Year.** The fiscal year of the CPO shall coincide with HOA's fiscal year.

## ARTICLE VIII

### Miscellaneous

**Section 8.1. Interested Directors; Quorum.** No contract or transaction between the CPO and one or more of its Directors or officers, or between the CPO and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose, if (1) the material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested Directors, even though the disinterested Directors be less than a quorum; or (2) the material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Members entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the Members; or (3) the contract or transaction is fair as to the CPO as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof, or the Members. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

**Section 8.2. Code of Conduct.** The CPO shall adhere to, and cause its officers, directors, employees and agents to adhere to, the Business Code of Conduct, as it may be revised by the Board of Directors from time to time.

**Section 8.3 Amendment of Bylaws.** The Board of Directors shall have the power to adopt, amend or repeal from time to time the Bylaws of the CPO at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors if notice of such adoption, amendment or repeal of the Bylaws is contained in the notice of such special meeting, subject to the right of the Members to adopt, amend or repeal the Bylaws, at any regular meeting of the Members or at any special meeting of the Members if notice of such adoption, amendment or repeal of the Bylaws is contained in the notice of such special meeting. The CPO will not amend the Bylaws in a manner adverse to HOA without HOA's prior written consent.

**EXHIBIT R**  
**HOOTS FRANCHISING, LLC**  
**FORM OF CPO MEMBERSHIP AGREEMENT**



# **HOOTERS OF AMERICA, LLC COLLABORATIVE PURCHASING ORGANIZATION**

## **BUSINESS CODE OF CONDUCT**

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The core mission (the "Mission") of Hooters of America, LLC's Collaborative Purchasing Organization ("CPO") is to: (a) assure that HOA (as defined below) and the franchisee members of the CPO (collectively, the "Members"), in a manner that is fair and equitable to all Members, receive the benefit of continuously available goods, services and distribution services in adequate quantities at the lowest possible sustainable delivered prices taking into consideration price, quality, service and the best interest of the Hooters concept and Hoots concept (each a "Concept"); and (b) coordinate with HOA in its ongoing development and innovation of goods, services and distribution services in support and promotion of each Concept. Hooters of America, LLC ("HOA" or "Franchisor," which reference also includes HOA Systems, LLC, HOA Franchising, LLC and the franchisor of the Hoots system – tentatively called Hoots Franchising, LLC), its affiliates, and certain of its/their franchisees or licensees are the Members of the CPO. The following are policies for conducting business for and on behalf of the CPO (this "Business Code of Conduct").

### **Supply Chain Programs and Directors**

The appropriate employees and other professionals working (whether on a full-time or part-time basis) for the CPO (the "CPO Employees") shall conduct the supply chain programs of the CPO including, but not limited to, the negotiations for the purchase of goods, services and distribution services. The Directors shall not, directly or indirectly, interfere, participate, or seek to participate, as individual Directors in the supply chain programs or any specific supply chain or selling decisions of the CPO except for the general policy decisions and guidance provided by the Board of Directors.

### **Public Responsibility**

The CPO will: (a) act in a manner consistent with the highest standards of business integrity within the framework of the laws and regulations of this country and elsewhere; and (b) not seek improper advantage by rendering gifts or other benefits to public officials, by making contributions to political groups or by becoming involved in political activities. The CPO will not make an illegal or improper payment to any person or entity.

The CPO believes that it is each citizen's right to decide whether or not to participate in political, community, educational and similar activities. Decisions by the CPO Employees whether to contribute time, money or resources of their own to any political or other activity are entirely personal and voluntary.

The CPO may, as appropriate, engage in legal lobbying activities on issues related to restaurants, their operations and supply chains.

## **Competitive Practices**

To foster the continuation of free enterprise, the CPO recognizes the importance of laws which prohibit restraints of trade, predatory economic activities, and unfair or unethical business practices. The CPO will continue to comply with all such laws which are applicable to the CPO. Furthermore, this Business Code of Conduct applies to relationships with and between the CPO's Members and affiliates, as well as with its suppliers, customers and competitors.

The CPO will refrain from any practice which is designed to increase sales on any basis other than the merit and desirability of products and services.

In individual actions, the CPO Employees will:

- (a) Compete vigorously and make clear to those about them that they are competing vigorously.
- (b) Treat all customers, suppliers and distributors objectively, honestly and fairly.
- (c) Not discuss pricing, costs, marketing, suppliers, distributors or territories with competitors or customers in contravention of applicable antitrust or other laws.
- (d) Avoid any program or practice which would be characterized as unfair or deceptive and always present the CPO's service and products in an honest and forthright manner.
- (e) Never make a false or deceptive statement about the business practices, financial status or reliability of a brand that competes with a Concept product.
- (f) Never criticize a competitor's product without specific proof that the statements are true, or act in a manner which could be construed as designed to exclude one or more competitors or to control market prices.
- (g) Make clear to all existing and potential suppliers and distributors that the CPO expects them to compete fairly and vigorously for the CPO's business and will select the CPO's suppliers and distributors strictly on their merits.
- (h) Support the Franchisor's reasonable food quality and safety policies and the Franchisor's reasonable competition policies with respect to suppliers and distributors.
- (i) Make clear to Members of the CPO that they are not to individually receive or benefit from any Supplier Income in connection with goods, services or distribution services purchased or used by Restaurants in the United States, except in accordance with the applicable Sections on Supplier Income in this Business Code of Conduct and the CPO Bylaws.

## **Conflicts of Interest**

The CPO and its Members and Directors represent various interests within the restaurant

system of each Concept (each a “System”), and they have important business relationships with restaurants, Members, franchisees, franchisors, distributors and suppliers. These interrelationships are open, well known and inherent in each System. The CPO shall always openly acknowledge these interrelationships.

A conflict of interest occurs when personal or family interests interfere, or appear to interfere, with the ability to make impartial, balanced and sound business decisions on behalf of the CPO. The CPO and its Members and Directors should avoid and/or disclose any situation that may create a conflict of interest.

(a) General Responsibilities of Directors and CPO Employees. In all business relationships with outside individuals, companies and organizations, and in all personal business undertakings, the CPO’s Directors and CPO Employees shall:

- Act in accordance with applicable law, established CPO standards and their own good consciences;
- Protect the interests of the CPO and their own reputations against actual or potential conflicting interests of outside parties;
- With respect to CPO Employees, avoid personal or business transactions or situations in which their own interests conflict or might be construed as conflicting with those of the CPO; and
- With respect to Directors, avoid or make open and well known, personal or business transactions or situations in which their own interests conflict, or might be construed as conflicting, with those of the CPO.

(b) Specific Guidelines for CPO Employees.

- CPO Employees shall select and deal with suppliers, manufacturers, distributors, customers and other persons doing or seeking to do business with the CPO in a completely impartial manner, without favor or preference based upon any considerations other than the best interest of the CPO and its Members.
- CPO Employees shall not be currently affiliated in any way with any business which competes with the CPO. For purpose of clarification, CPO Employees are employees of HOA.
- CPO Employees shall not seek or accept, directly or indirectly, any payments, fees, services, loans or other benefits of any kind from any person or business entity that does or seeks to do business with, or is in competition with, the CPO. This does not, however, prohibit an officer or employee from receiving compensation for outside services unrelated to the CPO’s business where such outside services will not affect the impartial discharge of such person's duties or obligations to the CPO, and the nature and extent of the services to be rendered and the compensation to be paid for such services have been fully disclosed to the CPO in writing and

specific written approval has been given in advance by the CPO.

- CPO Employees shall not conduct business on behalf of the CPO with any relative or a business entity with which the CPO Employee or a relative is associated, unless such dealings have been fully disclosed to the CPO in writing and specific written approval has been given in advance by the CPO.

(c) Specific Guidelines for Directors. No Director of the CPO elected by the franchisee Members of the CPO may be affiliated in any way with: (i) the Franchisor other than as a franchisee or licensee of the Franchisor, or (ii) any business which competes with the CPO.

(d) Investments. The CPO's Directors, CPO Employees and members of their families, are not permitted to have any significant interest in enterprises which conduct or seek to conduct business with the CPO, or which compete with the CPO, without first obtaining a written statement of clearance from the CPO to the effect that the Director's, and/or the CPO Employee's duties will not require the Director, and/or CPO Employee to participate in or make decisions which could be influenced by the ownership of such interest. Ownership of a small amount of publicly traded stock of such enterprises is permitted.

(e) Business Gifts. None of the CPO's Directors, Members or CPO Employees is permitted to give or to receive gifts, including items of value, travel, lodging, goods, services or meals when the person giving the gift is not attending, privileges or special treatment of any kind or nature whatsoever to or from any vendors, customers, suppliers, or enterprise which conducts or seeks to conduct business with the CPO or competes with the CPO unless:

- they are of a nominal value;
- they are unsolicited;
- they are in good taste and public disclosure of the gift would not embarrass the CPO;
- they are not cash or cash equivalents;
- they are consistent with accepted good business practice; and
- they are not otherwise prohibited by the CPO's organizational documents or other policy or policies.

No gifts of money or money equivalents (e.g., gift cards) should ever be accepted. This does not prohibit a Director or CPO Employee from borrowing money from a financial institution at normal customary interest rates.

(f) Entertainment. None of the CPO's Directors or CPO Employees is permitted to accept any entertainment (i.e., events attended by both the person offering and the person accepting) including but not limited to meals together, sporting events, concerts, plays or golf

outings unless:

- the purpose of the entertainment is to enhance the business relationship;
- it is irregular or infrequent;
- it is unsolicited;
- it is in a setting that is appropriate for a business discussion;
- it is modest and reasonable; and
- public disclosure of the entertainment would not embarrass the CPO.

Restrictions on gifts and entertainment apply year round including holidays. Gifts or entertainment that are inappropriate should be declined. If refusing the gift would embarrass or hurt the person offering the gift, the gift may be accepted on behalf of the CPO and then must be promptly reported to the CPO.

(g) Private Use of CPO Opportunities. No Director of the CPO or CPO Employee shall privately act upon an opportunity to make a purchase or investment in which the CPO would be interested prior to notifying the CPO of the opportunity to allow the CPO time to evaluate the opportunity and determine whether to grant approval for the Director or CPO Employee to act on it privately.

(h) Doing Business With or Supervising Family and Friends. A conflict of interest can arise if the Director of the CPO or CPO Employee, or their spouse, relative or close friend has a personal stake in a company that is a CPO supplier or distributor or potential supplier or distributor, or if the Director or CPO Employee supervises a family Member. To avoid such conflicts of interest:

- No Director of the CPO or CPO Employee shall use his or her position to influence the bidding process or negotiations with suppliers or distributors of the CPO in any way. If a personal or familial relationship exists in a company that is a CPO supplier or distributor or potential supplier or distributor, or that competes with the CPO, the Director or CPO Employee must notify the CPO immediately and remove themselves from the decision-making process;

- No Director of the CPO or CPO Employee shall hire a family member into a position at the CPO where he or she has direct decision-making authority over the family member. Employment relationships between family members are discouraged even if the relationship between the family members is indirect.

(i) Indirect Interests. A conflicting interest may be indirect. A Director or CPO Employee will be considered to have an interest in a firm or transaction if any of the following have an interest:

- The immediate family of the Director or CPO Employee (spouse, children, parents, brothers and sisters) or any relative living in the home of the Director or CPO Employee;
- A close friend of the Director or CPO Employee;
- An estate or trust of which the Director, CPO Employee or a member of their family is a beneficiary or trustee; or
- An enterprise in which the Director, CPO Employee, or member of their family has an equity interest greater than 3% and such interest is traded on a recognized national securities exchange.

(j) Interpretation. In all cases, the basic test to determine whether or not a conflict of interest exists will be: whether, in fulfilling his or her business duties, the Director or CPO Employee is acting in the best interests of the CPO and to the exclusion of considerations of personal preference or personal advantage to the Director or CPO Employee or to his or her employer, business, family or friends. The fact that an interest exists does not mean necessarily that a conflict (if it exists) is significant enough to be of practical importance. The CPO is not concerned with conflicts which are immaterial. The CPO is available to assist with interpretation.

(k) Disclosure. Every Director and CPO Employee shall disclose promptly, in writing, any personal situation or transaction which is or may be in conflict with the spirit or intent of this Section. Disclosure shall be made to the Chairman and Vice Chairman, who shall determine what action on the part of the CPO, if any, should be taken and what action the Director or CPO Employee should take. If a conflict exists, and there is no failure of good faith on the part of the Director or CPO Employee, the CPO's policy will be to allow a reasonable amount of time for the Director or CPO Employee to correct the situation, in order to prevent undue hardship or loss; provided, of course, that decisions in this regard shall be within the sole discretion of the CPO's management and, ultimately, the CPO's Board of Directors, whose first concern must be the interests of the CPO. Notwithstanding anything to the contrary herein, the CPO's Board of Directors hereby acknowledges that CPO Employees are HOA's employees, and such an arrangement is not a breach of this Business Code of Conduct.

### **Supplier Income**

Except as specifically provided in this Section, none of the CPO, HOA, the Members, nor any of their respective affiliates, Directors, officers or employees shall, directly or indirectly, receive or benefit from (nor authorize supplier, distributor or other party, directly or indirectly, to receive or benefit from) any "Supplier Income" in connection with goods, services or distribution services purchased or used by Concept restaurants operated by the Franchisor or the Members (collectively, the "Restaurants") in the United States (the "Area").

As used in this Section, "Supplier Income" means so called earned income, rebates, kick-backs, volume discounts, tier pricing, purchase commitment discounts, sales and service allowances, marketing allowances, advertising allowances, promotional allowances, label allowances, back-door income, application fees, inspection fees, quality assurance fees, mark-ups,

margins, etc., and includes, without limitation, (a) fees charged suppliers and distributors in the supplier and distributor approval process, (b) fees charged suppliers and distributors for quality inspections and "hot line" inquiries and complaints, (c) license or trademark fees or rebates charged or expected as a condition of supplier or distributor approval or use, typically paid as a percentage of System wide volume, (d) higher prices permitted suppliers to amortize research and development expenses undertaken by suppliers at the request of the Franchisor or otherwise, (e) higher prices permitted suppliers to amortize the cost of excess inventory, (f) higher prices permitted suppliers to amortize the cost of product changes, (g) special or atypical payment terms, (h) payments and allowances to distributors from suppliers based on distributor volume which are not reflected as a reduction in distributor cost or prices, (i) meetings and other sponsorship fees, and (j) special favors, gifts and entertainment.

However, the CPO, the Franchisor, the Members and any of their respective affiliates, Directors, officers or employees may, directly or indirectly, receive or benefit from "Approved Supplier Income" in connection with goods, , services or distribution services purchased or used by Restaurants in the Area. As used herein "Approved Supplier Income" means:

(a) Marketing or promotional allowances which are distributed or administered by the CPO for the benefit of Members pro rata based on the volume of the Restaurants purchases;

(b) Discounts, rebates or allowances which directly lower Outlet delivered prices pro rata among Restaurants based on the volume of the Restaurants purchases;

(c) Higher prices "approved by the CPO" for goods or services permitted or charged by suppliers to amortize supplier expenses related to research and development of goods;

(d) Reasonable and customary gifts and entertainment permissible under the CPO's Business Code of Conduct and the Franchisor's Code of Conduct as in effect from time to time;

(e) Supplier Income expressly "approved by the CPO" such as higher prices permitted to amortize the cost of excess inventory;

(f) Increase in the price of goods, or services negotiated or to be negotiated by the CPO that allows a supplier to amortize the cost of graphic and other product changes incurred directly as a result of a change in the applicable Franchisor specification that increase the supplier's actual labor, material or tooling costs associated with the goods, or services;

(g) Benefits to the Franchisor such as product development ideas or consumer research provided by suppliers and distributors in the ordinary course of business that do not impact: (i) the cost or other terms for the sale of goods, , services or the provision of distribution services; or (ii) the basis upon which suppliers, proposed suppliers or distributors are willing to conduct business with the CPO;

(h) Reasonable fees that do not exceed the actual cost charged by the Franchisor, in accordance with published schedules previously "approved by the CPO," which approval will not be unreasonably withheld or conditioned, to suppliers, proposed suppliers and distributors, in

connection with the Franchisor's approval/disapproval policy, or in connection with the Franchisor administered quality inspection and assurance programs;

(i) Reasonable fees charged suppliers and distributors by independent third party quality inspection or assurance companies, consistent with industry practices in the ordinary course of business, as part of the Franchisor's approval/disapproval policy or in connection with the Franchisor quality inspection and assurance requirements;

(j) Supplier Income or other benefits solicited from suppliers or distributors by the Franchisor and the CPO to participate in or sponsor franchisee conventions which income or benefits are: (i) consistent with industry practices in the ordinary course of business: and (ii) approved by the CPO's Board of Directors;

(k) Supplier Income or other benefits solicited from suppliers or distributors by the Franchisor and the CPO to participate in or sponsor the "Memorial Cup Golf Tournament" or other similar charitable events which income or benefits are: (i) consistent with industry practices in the ordinary course of business: and (ii) approved by the CPO's Board of Directors;

(l) Supplier Income or other benefits solicited from suppliers or distributors on behalf of the Member or Franchisor by the CPO to participate in or sponsor local charity events or otherwise donations not to exceed two thousand five hundred dollars (\$2500.00) per supplier or distributor per franchisee or licensee with an annual aggregate cap of \$10,000 per supplier or distributor; and

(m) Notwithstanding anything else herein, other Supplier Income expressly "approved by the CPO".

As used herein, "approved by the CPO" means approved by action of the CPO's Board of Directors and communicated to the Franchisor in writing.

Nothing in this Business Code of Conduct shall be construed to limit or prohibit: (i) the right or ability of the CPO to receive or benefit from any Supplier Income or Approved Supplier Income; provided that the CPO shall share such Supplier Income or Approved Supplier Income, or the benefit thereof, pro rata among each applicable Member Operator (including the Franchisor) based on the dollar volume of the purchases of such Restaurants that gave rise to the receipt or benefit of such Supplier Income or Approved Supplier Income; or (ii) the Franchisor's ability to collect Supplier Income or other benefits solicited by and provided to the Franchisor by suppliers and/or distributors when the Supplier Income or other benefits are totally unrelated to and not in consideration of the supply or provision of goods, services or distribution services to Restaurants.

If the Franchisor or the CPO receive or benefit from any Supplier Income, then the Franchisor or the CPO will disclose such Supplier Income to the other party within forty-five (45) days of the receipt or benefit. Such disclosure will include the amount, source and reasons for accepting the Supplier Income.

### **Accounts And Record Keeping**



The CPO will observe the most stringent standards in the keeping and maintaining of its records and accounts. The CPO's books shall reflect all components of transactions, as well as its own standard of insisting upon honest and forthright presentation of the facts.

It is the responsibility of each officer and employee to uphold these standards. Appropriate records must be kept of all transactions. Directors, officer and employees are expected to cooperate fully with the CPO's internal and external auditors. Information must not be falsified, misleading or concealed under any circumstances.

### **Corporate Communications**

The CPO will provide frank and complete responses to all requests for information, unless those requests are for information which is proprietary or confidential or which would compromise the CPO's standing in the marketplace or its legal position. This includes continuation of effective communication with the news media and others involved or interested in business and finance. All requests for information from the news media and all releases of information to the news media shall be cleared through the CPO Leadership. Unless you are the designated, authorized spokesperson, you should not answer any questions, whether asked directly or through another person. All questions should be referred to the CPO Leadership or to the designated spokesperson.

### **Confidential Information**

Directors, CPO Employees are prohibited from releasing to any party, other than to whom the CPO intends the information be communicated, any information whatsoever about the CPO which is of a proprietary or confidential nature, or which could be deemed to constitute a "trade secret." The duty to keep the CPO's information private does not end when the Director's, officer's or employee's employment ends; it cannot be shared with a new employer. Directors, CPO Employees shall not use, in any manner whatsoever, information which is confidential, proprietary or privileged, whether for their personal benefit or gain or for that of any other person, other than the CPO. Any information which has not been disclosed publicly in writing shall be treated as confidential. Directors, CPO Employees of the CPO shall take every reasonable measure to keep information confidential which is proprietary or confidential information of or concerning each Concept and their Members including, but not limited to, franchisees, customers, suppliers, distributors, or employees, or each System. Directors, CPO Employees will keep all personnel related information confidential. Directors, CPO Employees will remain familiar and comply with the CPO's policy regarding the retention and use of Concept Member information. Each Member of the Board of Directors of the CPO and each officer and employee will enter into a confidentiality agreement in the form and substance prescribed by the CPO's Board of Directors.

### **No Rights Created**

This Business Code of Conduct is a statement of certain fundamental principles, policies and procedures that govern the CPO's Directors and CPO Employees in the conduct of the CPO's business. It is not intended to and does not create any rights in any Director, officer, employee, franchisee, customer, supplier, distributor, competitor, Member, stockholder or any other person

or entity.

**Failure to Adhere**

Failure to adhere to this Business Code of Conduct is beyond the scope of any Director's, officer's or employee's authority and may subject the Director or CPO Employee to disciplinary action, which could include removal or termination.

\* \* \* \* \*

**HOOTERS OF AMERICA, LLC COLLABORATIVE PURCHASING ORGANIZATION**

**BUSINESS CODE OF CONDUCT**

**ACKNOWLEDGEMENT AND AGREEMENT**

I hereby certify that: (i) I have received a copy of the Hooters of America, LLC's Collaborative Purchasing Organization ("CPO") Business Code of Conduct (the "Code"); and (ii) I have read the Code and understand its contents. Further, I hereby certify that I will abide by the Code, will not engage in any conduct prohibited by the Code and will not permit any persons under my supervision to engage in any prohibited conduct. I understand that my failure to comply with the Code not only may subject CPO and its Members to penalties but will also subject me to disciplinary measures which, for employees, may include termination of employment.

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Signature

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Printed Name

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Date

**EXHIBIT S**  
**HOOTS FRANCHISING, LLC**  
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**EXHIBIT T**

**HOOTS FRANCHISING, LLC**

**LIST OF HOOTS® WINGS RESTAURANT FRANCHISEES  
AS OF DECEMBER 31, 2020**

Name of Franchisee	Address of Franchised hoots® wings restaurant	City	State	Zip	Telephone Number of hoots® wings restaurant
None					

**LIST OF HOOTS® WINGS RESTAURANT FRANCHISEES  
AS OF THE ISSUANCE DATE OF THIS DISCLOSURE DOCUMENT**

Name of Franchisee	Address of Franchised hoots® wings restaurant	City	State	Zip	Telephone Number of hoots® wings restaurant
AE Restaurant Group, LLC	26742 E. University Drive, Bldg 200	Aubrey	TX	76227	214-882-1414

**LIST OF HOOTS® WINGS RESTAURANT COMPANY-OWNED LOCATIONS  
AS OF DECEMBER 31, 2020**

Name of Affiliate	Address of Company Owned hoots® wings restaurant	City	State	Zip	Telephone Number of Company owned hoots® wings restaurant
Hoots Restaurant Holder, LLC	935 Memorial Drive	Atlanta	GA	30316	470-462-3030
Hoots Restaurant Holder, LLC	1565 Church Street	Decatur	GA	30033	404-984-2269

**LIST OF HOOTS® WINGS RESTAURANT FRANCHISEES  
WHO HAVE SIGNED FRANCHISE AGREEMENTS AND ARE NOT YET OPEN AS OF DECEMBER 31,  
2020)**

Name of Franchisee	Address of Franchised hoots® wings restaurant	City	State	Zip	Telephone Number of hoots® wings restaurant
None					

**LIST OF HOOTS® WINGS RESTAURANT FRANCHISEES  
WHO HAVE SIGNED FRANCHISE AGREEMENTS AND ARE NOT YET OPEN  
AS OF THE ISSUANCE DATE OF THIS DISCLOSURE DOCUMENT**

Name of Franchisee	Development Agreement (DA)	Address of Franchised hoots® wings restaurant	City	State	Zip	Telephone Number of hoots® wings restaurant
<b>CALIFORNIA</b>						
SOCAL Chicken, Inc.	DA (18 Units)	3136 E. Abbey Lane	Orange	CA	92867	626-485-8277
<b>NEW JERSEY</b>						
Hoot Owl Restaurants, LLC	DA (6 Units)	[site yet to be determined]		NJ		302-368-9464
<b>FLORIDA</b>						
Lott Brands, LLC	DA (7 Units)	[site yet to be determined]	Plant City	FL	33566	813-267-3005
<b>NEW JERSEY</b>						
Hackensack Wings, LLC		525 Washington Blvd.	Jersey City	NJ	07310	
<b>PENNSYLVANIA</b>						
ANZ Restaurants, LLC	DA (16 Units)	[site yet to be determined]		PA		908-327-4384
<b>TEXAS</b>						
AE Restaurant Group, LLC	DA (60 Units)	2947 S. Buckner Blvd.	Dallas	TX	75227	214-882-1414
AE Restaurant Group, LLC		26742 E. University Drive, Bldg 200	Aubrey	TX	76227	214-882-1414
AE Restaurant Group, LLC		4105 N. Hwy 121	Bedford	TX	76021	214-882-1414
AE Restaurant Group, LLC		983 W. Centerville Rd., Suite 987	Garland	TX	75041	214-882-1414
AE Restaurant Group, LLC		1108 N. Beach Street	Fort Worth	TX	76111	214-882-1414
AE Restaurant Group, LLC		5313 Golden Triangle Blvd.	Fort Worth	TX	76244	214-882-1414
AE Restaurant Group, LLC		2200 E. Palm Valley Blvd., Suite 125	Round Rock	TX	78665	214-882-1414
AE Restaurant Group, LLC		2810 E. Trinity Mills Rd., Suite 237	Carrollton	TX	75006	214-882-1414
AE Restaurant Group, LLC		6600 North Fwy, #128	Fort Worth	TX	76137	214-882-1414
AE Restaurant Group, LLC		4200 South Fwy, Suite 1995	Fort Worth	TX	76115	214-882-1414
AE Restaurant Group, LLC		801 E. William Cannon Drive, Suite 245	Austin	TX	78745	214-882-1414

**LIST OF LICENSED HOOTS® WINGS RESTAURANT LICENSEES  
As of December 31, 2020**

Name of Franchisee/Licensee	Address of Licensed hoots® wings restaurant	City	State	Zip	Telephone Number of Licensed hoots® wings restaurant
Hooters, Inc.	Hoots of Cicero, Inc. 2201 S. Cicero Avenue	Cicero	IL	60804	708-652-3859
Hooters, Inc.	Hoots of Diversey, Inc. 4059 W. Diversey	Chicago	IL	60639	331-240-4668
Hooters, Inc.	Hoots on 1 <sup>st</sup> , Inc. 204 1 <sup>st</sup> Avenue N.	St. Petersburg	FL	33701	727-220-4607
Hooters, Inc.	Hoots of South Loop, Inc. 1238 S. Canal St.	Chicago	IL	60607	872-249-8001

**EXHIBIT U**  
**HOOTS FRANCHISING, LLC**  
**FINANCIAL STATEMENTS**



ONLY THE FINANCIAL STATEMENTS AS OF JULY 11, 2021 ARE UNAUDITED FOR HOOTS FRANCHISING, LLC. THESE FINANCIAL STATEMENTS HAVE BEEN PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO CONTENT OR FORM.

**HOOTS Franchising, LLC**

**Balance Sheet**

**July 11, 2021**

(dollar amounts in thousands)

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	<b>2021</b>
<b>Assets</b>	
Trademark	\$ 15,199
Goodwill	<u>1,401</u>
Total assets	<u><u>\$ 16,600</u></u>
<b>Liabilities and Member's Equity</b>	
Deferred revenue	<u>\$ 824</u>
Total liabilities	<u>824</u>
Member's equity	
Member's cumulative contributions, net	\$ 24,901
Accumulated deficit	<u>(9,125)</u>
Total member's equity	<u>15,776</u>
Total liabilities and member's equity	<u><u>\$ 16,600</u></u>

**HOOTS Franchising, LLC**  
**Statement of Operations**  
**Year-to-Date for the Period Ended July 11, 2021**  
*(dollar amounts in thousands)*

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	<b>2021</b>
<b>Revenue</b>	<u>\$ -</u>
<b>Operating expenses</b>	
Selling, general, and administrative expenses	<u>(125)</u>
Operating loss	<u>(125)</u>
Net loss	<u>\$ (125)</u>

HOOTS Franchising, LLC  
**Statements of Member's Equity**  
**Year-to-Date for the Period Ended July 11, 2021**  
*(dollar amounts in thousands)*

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<i>(dollar amounts in thousands)</i>	<b>Member's Cumulative Contributions, Net</b>	<b>Accumulated Deficit</b>	<b>Total</b>
<b>Balance at December 29, 2019</b>	\$ 25,500	\$ -	\$ 25,500
Net Loss	-	(9,000)	(9,000)
Non-cash contribution from parent	100	-	100
<b>Balance at December 27, 2020</b>	<u>25,600</u>	<u>(9,000)</u>	<u>16,600</u>
Net Loss		(125)	(125)
Non-cash contribution from parent	125	-	125
Distributions to member	(824)	-	(824)
<b>Balance at July 11, 2021</b>	<u>\$ 24,901</u>	<u>\$ (9,125)</u>	<u>\$ 15,776</u>

**HOOTS Franchising, LLC**  
**Statement of Cash Flows**  
**Year-to-Date for the Period Ended July 11, 2021**  
*(dollar amounts in thousands)*

---

	<b>2021</b>
<b>Cash flows provided from operating activities</b>	
Net loss	\$ (125)
Adjustments to reconcile net loss to net cash provided by operating activities	
Non-cash management fee expense	<u>125</u>
Net cash used in operating activities	<u>-</u>
Net decrease in cash and cash equivalents and restricted cash	<u>\$ -</u>
<b>Cash</b>	
Beginning	<u>-</u>
Ending	<u>\$ -</u>
<b>Supplemental disclosures of noncash investing and financing activities</b>	
Contribution of management fees from parent	\$ 125

# **HOOTS Franchising, LLC**

## **Financial Statements**

**As of and for the year ended December 27, 2020, as  
of December 29, 2019 and for the period from  
June 28, 2019 to December 29, 2019**

**HOOTS Franchising, LLC**  
**Index**  
**December 27, 2020 and December 29, 2019**

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## Report of Independent Auditors

To the Management of  
HOOTS Franchising, LLC

We have audited the accompanying financial statements of HOOTS Franchising, LLC, which comprise the balance sheet as of December 27, 2020, and the related statements of operations, member's equity and cash flows for the year then ended.

### ***Management's Responsibility 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; 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 the 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 our 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, we consider internal control relevant to the Company'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 Company'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 HOOTS Franchising, LLC as of December 27, 2020, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.





***Other Matter***

The financial statements of the Company as of December 29, 2019 and for period from June 28, 2019 to December 29, 2019 were audited by other auditors whose report, dated April 29, 2020, expressed an unmodified opinion on those financial statements and included a paragraph regarding substantial doubt about the Company's ability to continue as a going concern.

*PricewaterhouseCoopers LLP*

Atlanta, Georgia  
April 29, 2021

**HOOTS Franchising, LLC**  
**Balance Sheets**  
**December 27, 2020 and December 29, 2019**

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*(dollar amounts in thousands)*

	<b>2020</b>	<b>2019</b>
<b>Assets</b>		
Trademark	\$ 15,199	\$ 16,600
Goodwill	<u>1,401</u>	<u>8,900</u>
Total assets	<u>\$ 16,600</u>	<u>\$ 25,500</u>
Commitments and contingencies (Note 5)		
<b>Member's Equity</b>		
Member's equity		
Member's cumulative contributions	\$ 25,600	\$ 25,500
Accumulated deficit	<u>(9,000)</u>	<u>-</u>
Total member's equity	<u>\$ 16,600</u>	<u>\$ 25,500</u>

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

**HOOTS Franchising, LLC**  
**Statements of Operations**  
**Year Ended December 27, 2020 and Period From June 28, 2019 to**  
**December 29, 2019**

---

*(dollar amounts in thousands)*

	<b>2020</b>	<b>2019</b>
<b>Revenue</b>	\$ <u>          -</u>	\$ <u>          -</u>
<b>Operating expenses</b>		
Provision for asset impairment	(8,900)	-
Selling, general, and administrative expenses	<u>          (100)</u>	<u>          -</u>
Operating loss	<u>          (9,000)</u>	<u>          -</u>
Net loss	<u>\$          (9,000)</u>	<u>\$          -</u>

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

**HOOTS Franchising, LLC**  
**Statements of Member's Equity**  
**Year Ended December 27, 2020 and Period From June 28, 2019 to**  
**December 29, 2019**

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<i>(dollar amounts in thousands)</i>	<b>Member's Cumulative Contributions</b>	<b>Accumulated Deficit</b>	<b>Total</b>
<b>Balances at June 28, 2019</b>	\$ 25,500	\$ -	\$ 25,500
<b>Balances at December 29, 2019</b>	25,500	-	25,500
Net Loss	-	(9,000)	(9,000)
Non-cash contribution from parent	100	-	100
<b>Balances at December 27, 2020</b>	<u>\$ 25,600</u>	<u>\$ (9,000)</u>	<u>\$ 16,600</u>

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

**HOOTS Franchising, LLC**  
**Statements of Cash Flows**  
**Year Ended December 27, 2020 and Period From June 28, 2019 to**  
**December 29, 2019**

---

*(dollar amounts in thousands)*

	2020	2019
<b>Cash flows provided from operating activities</b>		
Net loss	\$ (9,000)	\$ -
Adjustments to reconcile net loss to net cash provided by operating activities		
Non-cash management fee expense	100	
Provision for asset impairment	8,900	-
Net cash used in operating activities	<u>\$ -</u>	<u>\$ -</u>
Net decrease in cash and cash equivalents and restricted cash	-	-
<b>Cash</b>		
Beginning	-	-
Ending	<u>\$ -</u>	<u>\$ -</u>
<b>Supplemental disclosures of noncash investing and financing activities</b>		
Acquisition of business through push-down accounting	\$ -	\$ 25,500
Contribution of management fees from parent	100	-

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

# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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*(dollar amounts in thousands)*

### 1. Nature of Business and Summary of Significant Accounting Policies

#### a. Organization

HOOTS Franchising, LLC (the Company) is a single-member, special-purpose Delaware limited liability company. The Company is a direct, wholly owned subsidiary of HOA Funding, LLC (HOA Funding or the Master Issuer (Note 2), which through a series of direct ownership is a wholly owned subsidiary of HOA Holdings, LLC (“HOA” or the “Ultimate Parent”). The Company was formed on June 25, 2018 to offer, sell and grant franchises for Hoots Restaurants.

On June 28, 2019, Hawk Acquisitions LLC, specifically its subsidiary, Hawk Parent, LLC (“Hawk”) and its “Merger Sub,” Hawk Merger Sub LLC, completed its merger with and into HOA. The acquisition was pursuant to an agreement and plan of merger by and among Hawk, Merger Sub, HOA, and Camaro Representative LLC, as equityholders’ representative, dated as of June 28, 2019 (the “Merger Agreement”). In accordance with the terms of the Merger Agreement, Merger Sub merged\* with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk. Hawk Acquisitions LLC was formed by Nord Bay Capital (“Nord Bay”) and its advisor TriArtisan Capital Advisors LLC (“TriArtisan”) for the purposes of the merger. Hawk Acquisitions LLC houses the governance functions of Hawk, while the equity units in the transaction are issued at Hawk. Prior to the merger, the Company was primarily owned by H.I.G. Capital (“H.I.G.”) through its majority ownership. However, through the transaction, Hawk obtained 75% of the voting, Class C Units, resulting in a change in control through the transfer of the majority of voting rights.

#### b. Fiscal Year

The Company’s fiscal year is the 52 or 53 week period ending the last Sunday of the calendar year. The year ended December 27, 2020 contained 52 weeks. The period ended December 29, 2019 contained only 26 weeks due to the business combination as described in Note 3.

Accounting Standards Codification (“ASC”) 220 requires a separate statement of comprehensive income. However, as net income is the only material component of comprehensive income, the Company elected not to include a separate consolidated statement of comprehensive income because it would not be meaningful to the users of the consolidated financial statements.

#### c. Business and Operations

The Company serves as “franchisor” of the Hoots brand with respect to, and owns (i) the Hoots franchise agreements and all franchisee payments thereon; (ii) development agreements and all franchisee payments thereon; (iii) all rights to enter into new franchise agreements; and (iv) rights to any and all other property of every nature, now or thereafter transferred, mortgaged, pledged, or assigned as security for payment or performance of any obligation of the franchisees, as applicable, to the Company under the new franchise agreements or the development agreements and all guarantees of such obligations and the rights evidenced by or reflected in the franchise agreements or the development agreements.

The activities of the Company are limited to:

# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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(dollar amounts in thousands)

- Entering into the applicable new franchise agreements;
- Pursuant to the applicable Intellectual Property (IP) license agreement, (i) paying the related franchisee payments on the new franchise agreements to the IP Holder (as defined in Note 2) and (ii) causing such franchisee payments to be deposited into the franchisee payment account;
- Entering into the “Guarantee and Collateral Agreement” (Note 2), pursuant to which it will guarantee the Senior Notes (as defined in Note 2) and any additional notes from time to time and grant to the trustee a lien on its collateral as security for the guaranteed obligations;
- Entering into a management agreement, pursuant to which the manager will manage the contributed franchise agreements and provide certain other services on behalf of the securitization entities; and
- Entering into the other related documents to which it is a party and undertaking any other activities related thereto.

**d. Goodwill and Indefinite Lived Assets**

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business acquisition. The Company reviews goodwill for impairment annually or more frequently if events or circumstances dictate. All of the Company’s goodwill has been allocated to its reporting units. The impairment review for goodwill allows the Company to first assess the qualitative factors to determine whether it is necessary to perform the more detailed quantitative goodwill impairment test. The Company would perform the quantitative test if the qualitative assessment determined it is more-likely-than-not that a reporting unit’s estimated fair value is less than its carrying amount. The Company may also elect to bypass the qualitative assessment and proceed directly to the quantitative test for any reporting unit.

In January 2017, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2017-04, *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. The ASU simplifies the measurement of goodwill impairment by eliminating the requirement that an entity compute the implied fair value of goodwill based on the fair values of its assets and liabilities to measure impairment. Instead, goodwill impairment will be measured as the difference between the fair value of the reporting unit and the carrying value of the reporting unit. The ASU also clarifies the treatment of the income tax effect of tax-deductible goodwill when measuring goodwill impairment loss. The Company adopted ASU No. 2017-04 on a prospective basis as of December 30, 2019 reducing the cost and complexity of evaluating goodwill for impairment. Refer to Note 4 for a discussion of impairment recorded during the fiscal year ended December 27, 2020.

Trademarks are estimated to have an indefinite useful life and are not amortized but are reviewed for impairment at least annually and as events or circumstances dictate. The impairment review for trademarks allows the Company to first assess the qualitative factors to determine whether it is necessary to perform a more detailed quantitative trademark impairment test. The Company would perform the quantitative assessment test if the qualitative assessment determined it was more-likely-than-not that the trademarks are impaired. The Company may also elect to bypass the qualitative assessment and proceed directly to the quantitative test. The Company’s trademarks would be considered impaired if

# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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*(dollar amounts in thousands)*

their carrying value exceeds their estimated fair value. Refer to Note 4 for discussion of impairment recorded during the fiscal year ended December 27, 2020.

### **e. Fair Value Measurements**

The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

Level 1 inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date;

Level 2 inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability;

Level 3 inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

Long-lived assets are measured at fair value on a non-recurring basis in certain circumstances, such as when there is evidence of impairment. There are no assets or liabilities measured at fair value on a recurring basis as of December 27, 2020 and December 29, 2019.

### **f. Use of Estimates**

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclose contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Significant items subject to such estimates and assumptions include the valuation of goodwill and intangible assets. Actual results could differ from those estimates.

## **2. Securitization Transaction**

Under the Securitization Transaction, HOA Funding and other directly owned entities (Securitization Entities), issued \$275,000 Series 2014-1 fixed rate senior secured notes bearing interest at 4.846%, Class A-2 (the Offered Notes) with an anticipated repayment date of August 2021 and final maturity date of August 2044 and \$25,000 Series 2014-1 variable funding senior secured notes, Class A-1 (the Series 2014-1 Class A-1 notes and, together with the Offered Notes, the Senior Notes). In 2015, the Company completed an additional securitization transaction in which the Securitization Entities issued an additional aggregate principal amount of \$25,000



# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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*(dollar amounts in thousands)*

Series 2015-1 Class A-2 Senior Secured Notes bearing interest at 5.5% with an anticipated repayment date in August 2021 and a legal final maturity date in August 2044 and \$20,000 Series 2015-1 Class B Senior Subordinated Secured Notes bearing interest at 9% with an anticipated repayment date in August 2021 and a final legal maturity date in August 2044.

The Senior Notes are secured by substantially all assets of the Master Issuer and the other Co-Issuers (Securitization Entities), the Company, and any additional securitization entities. Each Co-Issuer is jointly and severally liable for the Series 2014-1 Senior Notes and all other obligations of the Co-Issuers under the related indenture and the other related documents. The Senior Notes are subject to series of covenants and restrictions customary for transactions of this type. As of December 27, 2020, and December 29, 2019, HOA Funding was in compliance with all such financial covenants.

The Company unconditionally and irrevocably is the guarantor of the obligations of the Co-Issuers under the related indenture, any notes issued thereunder, and the other related documents (the Guarantees). The Guarantees will be collateralized by a pledge of substantially all of the assets of the Company, pursuant to a guarantee and collateral agreement (the Guarantee and Collateral Agreement).

Long-term debt guaranteed by the Company is summarized as follows:

	December 27, 2020	December 29, 2019
Variable Funding Notes	\$ 25,000	\$ 25,000
Series 2014-1 Class A-2 Senior Secured Notes	240,625	246,125
Series 2015-1 Class A-2 Senior Secured Notes	22,500	23,000
Series 2015-1 Class B Senior Subordinated Secured Notes	20,000	20,000
Total debt	308,125	314,125
Less: Current portion	(308,125)	(4,862)
Total long-term debt	\$ -	\$ 309,263

During August 2014, HOA and the Securitization Entities entered into a management agreement, whereby HOA will act as the manager of Hooters restaurant system. In accordance with the management agreement between HOA and the Securitization Entities, HOA Restaurant Group, LLC will absolutely and unconditionally guarantee the performance by HOA of all of HOA's duties and obligations under the management agreement dated August 12, 2014, which duties included HOA's required support and services to franchisees under the franchise and development agreements within the Hooters franchise system.

# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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(dollar amounts in thousands)

### 3. Business Combination

As described in Note 1(a), on June 28, 2019, Hawk completed its merger with and into HOA Holdings, LLC. In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk.

In conjunction with the HOA merger, HOA and its four audited subsidiaries (collectively “the Company”), HOA Restaurant Group, LLC (“HOARG”), HOA Holdco, LLC, HOA Franchising, LLC, and HOOTS Franchising, LLC, all have applied the acquisition method of accounting in accordance with Accounting Standard Codification (“ASC”) Topic 805, *Business Combinations*, which created a new basis of accounting as of that date. As the Company includes four separate subsidiaries subject to stand-alone audits, the Company has elected the application of pushdown accounting. As a result, the fair value adjustments and goodwill recognized from the merger are recorded in the financial statements of each of the respective subsidiaries.

The final allocation of consideration to the net tangible and intangible assets of HOOTS Franchising, LLC acquired is presented in the table below:

Fair value of consideration exchanged	<u>\$ 25,500</u>
Recognized amounts of identifiable assets	-
Intangible assets	<u>16,600</u>
Total identifiable net assets	16,600
Goodwill	<u>8,900</u>
Total net assets acquired	<u>\$ 25,500</u>

### 4. Valuation of Goodwill and Trademark

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business acquisition. The Company performed its annual impairment analysis of goodwill for all reporting units and it was determined for Hoots Franchising, LLC the fair value no longer exceeded the carrying value due to the market, macroeconomic and business conditions resulting from the COVID-19 pandemic. Fair value was determined by referencing market valuation multiples implied by companies that have comparable businesses which is a Level 3 measurement. Goodwill impairment charges have been recognized of \$7,499 for the year ended December 27, 2020. It was determined there was no impairment for the period ended December 29, 2019.

The value of the trademark is based on the relief from royalty method under the income approach. As of the acquisition date the trademark was revalued based upon its fair value. The value was determined to be \$16,600 on June 28, 2019. The trademark has an indefinite life and, therefore is not amortized. The Company performed its annual impairment analysis of its trademark at a consolidated level using a discounted cash flow analysis and determined the fair value no longer exceeded the carrying value. As a result, an impairment charge of \$1,401 has been recognized for the year ended December 27, 2020 due to market, macroeconomic and business conditions resulting from the COVID-19 pandemic. Fair value

# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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(dollar amounts in thousands)

was determined by completing a relief from royalty valuation, which is a Level 2 measurement. It was determined there was no impairment for the period ended December 29, 2019.

The carrying amount of goodwill and the trademark is as follows:

	<u>Goodwill</u>
<b>Successor</b>	
<b>Balance at June 28, 2019</b>	\$ 8,900
Provision for impairment	-
<b>Balance at December 29, 2019</b>	<u>8,900</u>
Provision for impairment	(7,499)
<b>Balance at December 27, 2020</b>	<u>\$ 1,401</u>

	<u>Trademark</u>
<b>Successor</b>	
<b>Balance at June 28, 2019</b>	\$ 16,600
Provision for impairment	-
<b>Balance at December 29, 2019</b>	<u>16,600</u>
Provision for impairment	(1,401)
<b>Balance at December 27, 2020</b>	<u>\$ 15,199</u>

### 5. Litigation

The Company may be named as a defendant from time to time in litigation matters arising in the ordinary course of business, including dram shop claims, employment related claims, and claims from customers or employees alleging illness, injury, or other food quality, health, or operational wrongdoing. Such matters are subject to many uncertainties, and the related outcomes are remote or reasonably possible, but not estimable with reasonable assurance. As of December 27, 2020 and December 29, 2019, the Company has not recorded a liability with respect to any litigation.

### 6. Related-Party Transactions

In connection with the Securitization Transaction, the Company's parent, HOA HOLDCO, LLC, and the Ultimate Parent entered into a Management Agreement. Pursuant to the Management Agreement, the Ultimate Parent will provide certain management services to the HOA HOLDCO, LLC and its subsidiaries, including the Company, in exchange for a weekly management fee. Management fees incurred under this agreement were \$100 and \$0 in the year ended December 27, 2020, and period from June 28, 2019 to December 29, 2021, respectively. These fees are

# HOOTS Franchising, LLC

## Notes to Financial Statements

As of and for the year ended December 27, 2020 , as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019

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*(dollar amounts in thousands)*

included in selling, general, and administrative expenses in the accompanying consolidated statements of operations.

### **7. Subsequent Events**

The Company has evaluated subsequent events from the balance sheets date through April 29, 2021, the date at which the financial statements were available to be issued.

During February and March 2021, the Company signed three franchisee and development agreements totaling a commitment of 73 stores to be opened in Texas, Florida, New Jersey, Pennsylvania, and Rhode Island. The restaurants are scheduled to open between 2021 and 2027.

No other significant matters were identified impacting the Company's financial position or requiring further disclosure.

**HOOTS FRANCHISING, LLC**

Financial Statements

December 29, 2019

(With Independent Auditor's Report Thereon)



RSM US LLP

## Independent Auditor's Report

Board of Directors  
HOOTS Franchising, LLC

### Report on the Financial Statements

We have audited the accompanying financial statements of HOOTS Franchising, LLC (the Company), which comprise the balance sheets as of December 29, 2019 (Successor) and December 30, 2018 (Predecessor), the related statements of operations, changes in member's equity, and cash flows for the period from June 28, 2019 through December 29, 2019 (Successor), the period from December 31, 2018 through June 27, 2019 (Predecessor), and the period from June 25, 2018 (inception) through December 30, 2018 (Predecessor), and the related notes to the financial statements, (collectively, 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.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free 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 auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of HOOTS Franchising, LLC as of December 29, 2019 (Successor) and December 30, 2018 (Predecessor), and the results of its operations and its cash flows for the period from June 28, 2019 through December 29, 2019 (Successor), the period from December 31, 2018 through June 27, 2019 (Predecessor), and the period from June 25, 2018 (inception) through December 30, 2018 (Predecessor) in accordance with accounting principles generally accepted in the United States of America.

**Emphasis of Matter Regarding Going Concern**

The accompanying financial statements have been prepared assuming that HOOTS Franchising, LLC will continue as a going concern. As discussed in Note 5 to the financial statements, the Company's parent has experienced declines in results of operations and cash flows due to the impact of COVID-19, which may impact the parent company's ability to maintain compliance with loan covenants, and the related debt is guaranteed by the Company. Therefore, management has stated that substantial doubt exists about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 5. These financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to this matter.

*RSM US LLP*

Atlanta, Georgia  
April 29, 2020

**HOOTS FRANCHISING, LLC**  
 Balance Sheets  
 (Dollar amounts in thousands)

	<b>Successor</b>	<b>Predecessor</b>
<b>Assets</b>	<b>December 29, 2019</b>	<b>December 30, 2018</b>
Trademark	\$ 16,600	\$ -
Goodwill	8,900	-
Total assets	\$ 25,500	-
<b>Member's Equity</b>		
Member's equity:		
Member's cumulative contributions, net	\$ 25,500	-
Total member's equity	\$ 25,500	-

See accompanying notes to the financial statements.



**HOOTS FRANCHISING, LLC**  
 Statements of Operations  
 (Dollar amounts in thousands)

	<b>Successor</b>	<b>Predecessor</b>	
	<b>Period from June 28, 2019 through December 29, 2019</b>	<b>Period from December 31, 2018 through June 27, 2019</b>	<b>Period from June 25, 2018 through December 30, 2018</b>
Revenue	\$ -	\$ -	\$ -
Operating expenses	-	-	-
Operating loss	-	-	-
Net loss	\$ -	\$ -	\$ -

See accompanying notes to the financial statements.

**HOOTS FRANCHISING, LLC**  
 Statements of Cash Flows  
 (Dollar amounts in thousands)

	<b>Successor</b>	<b>Predecessor</b>	
	<b>Period from June 28, 2019 through December 29, 2019</b>	<b>Period from December 31, 2018 through June 27, 2019</b>	<b>Period from June 25, 2018 through December 30, 2018</b>
Cash flows provided from operating activities:			
Net loss	\$ -	\$ -	\$ -
Net cash provided by operating activities	-	-	-
Cash flows provided from investing activities:			
Acquisition of business, net of cash acquired	-	-	-
Net cash provided by investing activities	-	-	-
Net change in cash	-	-	-
Cash, beginning	-	-	-
Cash, ending	\$ -	\$ -	\$ -
Supplemental disclosures of non-cash investing and financing activities:			
Acquisition of business through push-down accounting	\$ 25,500	\$ -	\$ -

See accompanying notes to the financial statements.

**HOOTS FRANCHISING, LLC**  
 Statements of Member's Equity  
 (Dollar amounts in thousands)

<u>Predecessor:</u>	<b>Member's cumulative contributions, net</b>	<b>Retained Earnings</b>	<b>Total</b>
Balance at June 25, 2018 (inception) (Predecessor)	\$ -	\$ -	\$ -
Balance at December 30, 2018 (Predecessor)	\$ -	\$ -	\$ -
Balance at June 27, 2019 (Predecessor)	\$ -	\$ -	\$ -
<hr/>			
<u>Successor:</u>	<b>Member's cumulative contributions, net</b>	<b>Retained Earnings</b>	<b>Total</b>
Balance at June 28, 2019 (Successor)	\$ 25,500	\$ -	\$ 25,500
Balance at December 29, 2019 (Successor)	\$ 25,500	\$ -	\$ 25,500

See accompanying notes to the financial statements.

## HOOTS FRANCHISING, LLC

Notes to Financial Statements

(Dollar amounts in thousands)

### (1) Nature of Business and Summary of Significant Accounting Policies

#### (a) Organization

HOOTS Franchising, LLC (the Company) is a single-member, special-purpose Delaware limited liability company. The Company is a direct, wholly owned subsidiary of HOA Funding, LLC (HOA Funding or the Master Issuer (Note 2), which through a series of direct ownership is a wholly owned subsidiary of HOA Holdings, LLC (“HOA” or the “Ultimate Parent”). The Company was formed on June 25, 2018 (inception) to offer, sell and grant franchises for Hoots Restaurants.

On June 28, 2019, Hawk Acquisitions LLC, specifically its subsidiary, Hawk Parent, LLC (“Hawk”) and its “Merger Sub,” Hawk Merger Sub LLC, completed its merger with and into HOA. The acquisition was pursuant to an agreement and plan of merger by and among Hawk, Merger Sub, HOA, and Camaro Representative LLC, as equity-holders’ representative, dated as of June 28, 2019 (the “Merger Agreement”). In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk. Hawk Acquisitions LLC was formed by Nord Bay Capital (“Nord Bay”) and its advisor TriArtisan Capital Advisors LLC (“TriArtisan”) for the purposes of the merger. Hawk Acquisitions LLC houses the governance functions of Hawk, while the equity units in the transaction are issued at Hawk. Prior to the merger, the Company was primarily owned by H.I.G. Capital (“H.I.G.”) through its majority ownership. However, through the transaction, Hawk obtained 75% of the voting, Class C Units, resulting in a change in control through the transfer of the majority of voting rights.

Periods ended prior to June 28, 2019, refer to the Company prior to the merger and have been termed the predecessor entity (Predecessor). Financial results with periods ending on or after June 28, 2019, refer to the newly merged entity and have been termed the successor entity (Successor). Refer to Note 2 for additional information on the transaction. A heavy black line separates the Predecessor and Successor financial statements to highlight the lack of comparability between these two periods.

The Company did not generate any revenues or incur any expenses in the Predecessor or Successor periods, and the Company did not have any assets or liabilities recorded on its balance sheet at December 31, 2018 (Predecessor).

#### (b) Fiscal Year

The Company’s fiscal year is the 52- or 53-week period ending the last Sunday of the calendar year. The year ended December 29, 2019 contained 52 weeks.

#### (c) Business and Operations

The Company serves as “franchisor” of the Hoots brand with respect to, and owns (i) the Hoots franchise agreements and all franchisee payments thereon; (ii) development agreements and all franchisee payments thereon; (iii) all rights to enter into new franchise agreements; and (iv) rights to any and all other property of every nature, now or thereafter transferred, mortgaged, pledged, or assigned as security for payment or performance of any obligation of the franchisees, as applicable, to the Company under the new franchise agreements or the development agreements and all guarantees of such obligations and the rights evidenced by or reflected in the franchise agreements or the development agreements.

## HOOTS FRANCHISING, LLC

Notes to Financial Statements

(Dollar amounts in thousands)

The activities of the Company are limited to:

- Entering into the applicable new franchise agreements;
- Pursuant to the applicable Intellectual Property (IP) license agreement, (i) paying the related franchisee payments on the new franchise agreements to the IP Holder (as defined in Note 2) and (ii) causing such franchisee payments to be deposited into the franchisee payment account;
- Entering into the “Guarantee and Collateral Agreement” (Note 2), pursuant to which it will guarantee the Senior Notes (as defined in Note 2) and any additional notes from time to time and grant to the trustee a lien on its collateral as security for the guaranteed obligations;
- Entering into a management agreement, pursuant to which the manager will manage the contributed franchise agreements and provide certain other services on behalf of the securitization entities; and
- Entering into the other related documents to which it is a party and undertaking any other activities related thereto.

### (d) *Goodwill and Indefinite Lived Assets*

Goodwill is generally acquired in conjunction with a business combination using the acquisition method of accounting. The acquisition method requires that the total purchase price of the acquired entity be allocated to the assets acquired and liabilities assumed based on their fair values at the acquisition date. Goodwill is an asset representing the future economic benefits arising from other assets acquired in a business combination that are not individually identified and separately recognized. Indefinite lived intangible assets are assets that are not amortized as there is no foreseeable limit to cash flows generated from them.

The Company reviews goodwill for impairment in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification 350 – *Intangibles – Goodwill and Other* (“ASC 350”), at least annually. ASC 350 provides an entity the option to perform a qualitative assessment to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount prior to performing the two-step goodwill impairment test. If this is the case, the two-step goodwill impairment test is required. If it is more likely than not that the fair value of a reporting unit is greater than its carrying amount, the two-step goodwill impairment test is not required. If the two-step goodwill impairment test is required, first, the fair value of the reporting unit is compared with its carrying amount (including goodwill). If the fair value of the reporting unit is less than its carrying amount, an indication of goodwill impairment exists for the reporting unit and the entity must perform step two of the impairment test (measurement). Under step two, an impairment loss is recognized for any excess of the carrying amount of the reporting unit’s goodwill over the implied fair value of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the reporting unit in a manner similar to a purchase price allocation and the residual fair value after this allocation is the implied fair value of the reporting unit goodwill. Fair value of the reporting unit is determined using a discounted cash flow analysis. If the fair value of the reporting unit exceeds its carrying amount, step two does not need to be performed. The Company performed its annual impairment review of goodwill at December 29, 2019 (Successor) and determined that it is not more likely than not that the fair value of the reporting unit was less than its carrying amount. Accordingly, no impairment loss was recorded in the Successor period. The Company did not have goodwill in the Predecessor period.

## HOOTS FRANCHISING, LLC

Notes to Financial Statements

(Dollar amounts in thousands)

ASC 350 provides an entity the option to perform a qualitative assessment to determine whether it is more likely than not that the fair value of the asset is less than its carrying amount prior to performing the two-step impairment test. If this is the case, the two-step impairment test is required. If it is more likely than not that the fair value of the asset is greater than its carrying amount, the two-step impairment test is not required. The Company performed its annual impairment review using a qualitative assessment of indefinite-lived intangible assets at December 29, 2019 (Successor) and determined that it is not more likely than not that the fair values were less than the carrying values. Accordingly, no impairment loss was recorded in the Successor period. The Company did not have any indefinite lived intangible asset in the Predecessor period.

Changes in fair value assumptions could cause the Company to realize a material impairment charge. The Company considered macroeconomic conditions, industry and market considerations, cost factors of commodities, financial performance, and other events that might impact the fair value of goodwill and indefinite lived assets in its December 29, 2019 (Successor) assessment.

### *(e) Fair Value Measurements*

The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

Level 1 inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date;

Level 2 inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability;

Level 3 inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

Long-lived assets are measured at fair value on a non-recurring basis in certain circumstances, such as when there is evidence of impairment. There are no assets or liabilities measured at fair value on a recurring basis as of December 29, 2019 (Successor) or December 30, 2018 (Predecessor).

### *(f) Use of Estimates*

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclose contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Significant items subject to such estimates and assumptions include the valuation of intangible assets. Actual results could differ from those estimates.

## HOOTS FRANCHISING, LLC

Notes to Financial Statements

(Dollar amounts in thousands)

### **(g) Recently Issued Accounting Standards Not Yet Adopted**

In January 2017, the FASB issued ASU 2017-04, *Intangibles - Goodwill and Other* (Topic 350): Simplifying the Test for Goodwill Impairment. The ASU simplifies the measurement of goodwill impairment by eliminating the requirement that an entity compute the implied fair value of goodwill based on the fair values of its assets and liabilities to measure impairment. Instead, goodwill impairment will be measured as the difference between the fair value of the reporting unit and the carrying value of the reporting unit. The ASU also clarifies the treatment of the income tax effect of tax-deductible goodwill when measuring goodwill impairment loss. ASU 2017-04 will be effective for the Company beginning on January 1, 2022. The Company is currently evaluating the impact of the adoption of this guidance on its financial statements.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement* (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement, which modifies the disclosure requirements for fair value measurements by removing, modifying, or adding certain disclosures. ASU 2018-13 is effective for all entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. The company is currently evaluating the impact of this new standard on its financial statements.

### **(2) Securitization Transaction**

Under the Securitization Transaction, HOA Funding and other directly owned entities (Securitization Entities), issued \$275,000 Series 2014-1 4.846% fixed rate senior secured notes, Class A-2 (the Offered Notes) with an anticipated repayment date of August 2021 and final maturity date of August 2044 and \$25,000 Series 2014-1 variable funding senior secured notes, Class A-1 (the Series 2014-1 Class A-1 notes and, together with the Offered Notes, the Senior Notes). The Senior Notes are secured by substantially all assets of the Master Issuer and the other Co-Issuers (Securitization Entities), the Company, and any additional securitization entities. Each Co-Issuer is jointly and severally liable for the Series 2014-1 Senior Notes and all other obligations of the Co-Issuers under the related indenture and the other related documents.

The Company unconditionally and irrevocably is the guarantor of the obligations of the Co-Issuers under the related indenture, any notes issued thereunder, and the other related documents (the Guarantees). The Guarantees will be collateralized by a pledge of substantially all of the assets of the Company, pursuant to a guarantee and collateral agreement (the Guarantee and Collateral Agreement).

During August 2014, HOA and the Securitization Entities entered into a management agreement, whereby HOA will act as the manager of Hooters restaurant system. In accordance with the management agreement between HOA and the Securitization Entities, HOA Restaurant Group, LLC will absolutely and unconditionally guarantee the performance by HOA of all of HOA's duties and obligations under the management agreement dated August 12, 2014, which duties included HOA's required support and services to franchisees under the franchise and development agreements within the Hooters franchise system.

## HOOTS FRANCHISING, LLC

Notes to Financial Statements

(Dollar amounts in thousands)

### (3) Business Combination

As described in Note 1(a), on June 28, 2019, Hawk completed its merger with and into HOA Holdings, LLC. In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk.

In conjunction with the HOA merger, HOA and its four audited subsidiaries (collectively “the Company”), HOA Restaurant Group, LLC (“HOARG”), HOA Holdco, LLC, HOA Franchising, LLC, and HOOTS Franchising, LLC, all have applied the acquisition method of accounting in accordance with ASC Topic 805, *Business Combinations*, which created a new basis of accounting as of that date. As the Company includes four separate subsidiaries subject to stand-alone audits, the Company has elected the application of push-down accounting. As a result, the fair value adjustments and goodwill recognized from the merger are recorded in the financial statements of each of the respective subsidiaries.

The final allocation of consideration to the net tangible and intangible assets of HOOTS Franchising, LLC acquired is presented in the table below:

Fair value of consideration exchanged	\$	25,500
Recognized amounts of identifiable assets		-
Intangible assets		<u>16,600</u>
Total identifiable net assets		16,600
Goodwill		<u>8,900</u>
Total net assets acquired	\$	<u><u>25,500</u></u>

### (4) Goodwill and Intangibles

#### (a) Goodwill

As of the acquisition date, the goodwill was determined to be \$8,900 on June 28, 2019. The goodwill is not being amortized.

#### (b) Trademark

As of the acquisition date, the trademark was valued using the relief from royalty method under the income approach. The value was determined to be \$16,600 on June 28, 2019. The trademark has an indefinite life and, therefore, is not amortized.



## HOOTS FRANCHISING, LLC

Notes to Financial Statements

(Dollar amounts in thousands)

### (5) Subsequent Events - Going Concern

On March 11, 2020, the World Health Organization declared the outbreak of the coronavirus (COVID-19) a pandemic. The COVID-19 outbreak in the United States as well as globally has resulted in reduced customer traffic, temporary reduction of operating hours, and temporary restaurant closures where government mandated, which has resulted in a steep decline in sales. The COVID-19 virus has created substantial uncertainty around revenue forecasts, impacts on supply chain, workforce availability, commodity pricing, debt service, and credit ratings. On March 27, 2020, the CARES Act, which was designed to provide economic relief for the damage caused by COVID-19, was signed into law.

As of the date of the report, subsidiaries of the Company's parent have received \$27,004 in Small Business Administration ("SBA") loan proceeds under the Paycheck Protection Program (Sections 1102 and 1106 of the CARES Act). The interest rate is fixed at 1% per year, beginning on the date of the note. To the extent the SBA loans are not forgiven under the Paycheck Protection Program, the subsidiaries of the Company's parent must make equal monthly payments of principal and interest, beginning six months from the date of the notes until maturity, which is two years from the date of the notes.

While the federal assistance provided by the SBA loan proceeds will provide relief, there is still substantial doubt about the parent company's ability to meet all of its current and future obligations including maintaining compliance with debt covenants, raising substantial doubt about the Company's ability to continue to operate one year from the date of issuance of the Company's financial statements due to the fact the Company is a guarantor of the debt.

Management's plans to mitigate the uncertainties include the following:

- Utilizing the SBA loans referred to above to provide liquidity
- Working with lenders to consider covenant relief in the event of default
- Evaluating options for refinancing long-term debt
- Substantially lowering the cost structure of the Company through reduced payroll and other costs
- Continuing the solid growth of the Food to Go business
- Streamlining store and field operations to meet demand
- Opening in-house dining in the geographic areas less directly impacted by COVID-19

While management has plans to manage through the business downturn, due to the unprecedented nature of the crisis, and the uncertainty as to the length of time and severity of the impact on the Company's business, there is uncertainty as to whether the Company's parent will be able to meet its debt covenants for a period of one year from the date of the report. This uncertainty raises substantial doubt about the Company's ability to continue as going concern since the Company guarantees the debt, and failure to meet debt covenants under the debt agreement would constitute an event of default and the parent company's ability to cure such an event is unknown.

The Company has evaluated subsequent events from the balance sheet date through April 29, 2020, the date at which the financial statements were available to be issued.

ONLY THE FINANCIAL STATEMENTS AS OF JULY 11, 2021 ARE UNAUDITED FOR HOA RESTAURANT GROUP, LLC. THESE FINANCIAL STATEMENTS HAVE BEEN PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO CONTENT OR FORM.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

Unaudited Consolidated Balance Sheets

(Dollar amounts in thousands)

<b>Assets</b>	<b>July 11, 2021</b>
Current assets:	
Cash and cash equivalents	\$ 49,995
Restricted cash	14,551
Receivables, net of allowance	4,486
Inventories	5,634
Prepaid expenses and other current assets	5,883
Total current assets	80,549
Property and equipment, net	104,418
Trademark	153,000
Franchise rights, net	16,100
Goodwill	36,372
Other assets	1,829
Total assets	392,268
<b>Liabilities and Members' Equity</b>	
Current liabilities:	
Accounts payable	23,943
Accrued expenses	23,203
Deferred revenue	5,122
Current portion of long-term debt	340,347
Current portion of lease obligations	1,634
Total current liabilities	394,249
Long-term debt, less current portion	—
Deferred revenue	1,839
Deferred lease obligations, less current portion	18,167
Unfavorable leases, net	2,082
Total liabilities	416,337
Members' deficit:	
Members' cumulative contributions, net	63,830
Accumulated deficit	(87,899)
Total members' deficit	(24,069)
Total liabilities and members' deficit	\$ 392,268

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**Unaudited Consolidated Statements of Operations  
(Dollar amounts in thousands)

	<u>July 11, 2021</u>
Revenue:	
Restaurant sales, net	\$ 251,559
Royalty and franchise fee revenues	10,228
Other revenues	677
	<hr/>
Total revenues	262,464
	<hr/>
Operating expenses:	
Restaurant operating costs:	
Cost of restaurant sales	68,631
Labor	63,846
Other operating costs	70,905
Selling, general, and administrative expenses	23,833
National marketing	3,762
Depreciation and amortization	12,244
Loss on disposal of assets	39
Preopening expenses	15
	<hr/>
Total operating expenses	243,275
	<hr/>
Operating (loss) income	19,189
	<hr/>
Non-operating expenses:	
Interest expense, net	9,448
	<hr/>
Total non-operating expenses, net	9,448
	<hr/>
Loss before provision for income taxes	9,741
	<hr/>
Provision, for income taxes	(1,097)
	<hr/>
Net income	\$ 8,644
	<hr/> <hr/>

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**  
Unaudited Consolidated Statements of Changes in Members' Equity (Deficit)  
(Dollar amounts in thousands)

	<b>Members' cumulative contributions, net</b>	<b>Accumulated Deficit</b>	<b>Total</b>
Balance at December 29, 2019	\$ 63,326	\$ (19,465)	\$ 43,861
Share-based compensation	757	—	757
Distributions	(384)	—	(384)
Net loss	—	(77,078)	(77,078)
Balance at December 27, 2020	\$ 63,699	\$ (96,543)	\$ (32,844)
Share-based compensation	194	—	194
Distributions	(63)	—	(63)
Net income	—	8,644	8,644
Balance at July 11, 2021	<u>\$ 63,830</u>	<u>\$ (87,899)</u>	<u>\$ (24,069)</u>

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**  
Unaudited Consolidated Statements of Cash Flows  
(Dollar amounts in thousands)

	<b>July 11, 2021</b>
Cash flows provided by operating activities:	
Net income	\$ 8,644
Adjustments to reconcile net loss to net cash provided by operating activities:	
Depreciation and amortization	12,244
Noncash rent – amortization of unfavorable leases	(199)
Non cash rent	382
Noncash interest	608
(Gain) loss on disposal of assets	39
Noncash share based compensation	194
Bad debt expense	307
Changes in operating assets and liabilities:	
Receivables, net	5,329
Inventories, net	(8)
Prepaid expenses and other assets	(4,869)
Accounts payable	6,331
Accrued expenses	1,406
Deferred revenue	(28)
Deferred lease obligations	711
Net cash provided by operating activities	31,091
Cash flows from investing activities:	
Purchases of property and equipment	(4,740)
Net cash (used in) investing activities	(4,740)
Cash flows from financing activities:	
Repayment of long-term debt and direct-financing lease obligations	(3,093)
Distributions	(63)
Net cash (used in) financing activities	(3,156)
Net increase in cash and cash equivalents and restricted cash	23,195
Cash and cash equivalents and restricted cash, beginning of the period	41,351
Cash and cash equivalents and restricted cash, end of period	\$ 64,546

# **HOA Restaurant Group, LLC and Subsidiaries**

**Consolidated Financial Statements**

**As of and for the year ended December 27, 2020  
(Successor), as of December 29, 2019 and for the  
period from June 28, 2019 to December 29, 2019  
(Successor) and for the period from December 30,  
2018 to June 27, 2019 (Predecessor)**

# HOA Restaurant Group, LLC and Subsidiaries

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## Report of Independent Auditors

To the Management of  
HOA Restaurant Group, LLC

We have audited the accompanying consolidated financial statements of HOA Restaurant Group, LLC and its subsidiaries which comprise the consolidated balance sheet as of December 27, 2020, and the related consolidated statements of operations, changes in members' equity (deficit) and cash flows for the year then ended.

### ***Management's Responsibility for the Consolidated Financial Statements***

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

### ***Auditors' Responsibility***

Our responsibility is to express an opinion on the consolidated 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 consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Company's preparation and fair presentation of the consolidated 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 Company'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 consolidated financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Opinion***

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of HOA Restaurant Group, LLC and its subsidiaries as of December 27, 2020, 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.



***Other Matter***

The consolidated financial statements of the Company as of December 29, 2019 and for period from June 28, 2019 to December 29, 2019 (Successor) and the period from December 31, 2018 to June 27, 2019 (Predecessor) were audited by other auditors whose report, dated April 29, 2020, expressed an unmodified opinion on those consolidated financial statements and included a paragraph regarding substantial doubt about the Company's ability to continue as a going concern and a paragraph describing a change in the manner of accounting for revenue effective December 31, 2018 in the 2019 consolidated financial statements.

*PricewaterhouseCoopers LLP*

Atlanta, Georgia  
April 29, 2021

**HOA Restaurant Group, LLC and Subsidiaries**  
**Consolidated Balance Sheets**  
**December 27, 2020 and December 29, 2019**

<i>(dollar amounts in thousands)</i>	<b>December 27, 2020</b>	<b>December 29, 2019</b>
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 27,362	\$ 9,191
Restricted cash	13,989	12,653
Receivables, net of allowance of \$1,420 and \$502 in 2020 and 2019	10,122	8,911
Inventories	5,626	5,540
Prepaid expenses and other current assets	1,510	1,348
Total current assets	<u>58,609</u>	<u>37,643</u>
Property and equipment, net	111,032	135,723
Trademark	153,000	167,100
Franchise rights, net	16,679	17,756
Goodwill	36,372	56,902
Other assets	1,683	2,331
Total assets	<u>\$ 377,375</u>	<u>\$ 417,455</u>
<b>Liabilities and Members' Equity</b>		
Current liabilities		
Accounts payable	\$ 17,612	\$ 23,550
Accrued expenses	21,801	22,240
Deferred revenue	5,169	5,696
Current portion of long-term debt, net of debt issuance costs and debt discount	315,734	4,862
Current portion of lease obligations	1,667	1,634
Total current liabilities	<u>361,983</u>	<u>57,982</u>
Long-term debt, less current portion	27,004	307,272
Deferred revenue, less current portion	1,081	931
Lease obligations, less current portion	17,870	4,760
Unfavorable leases, net	2,281	2,649
Total liabilities	<u>410,219</u>	<u>373,594</u>
Commitments and contingencies (See Notes 9 and 11)		
Members' (deficit) equity		
Members' cumulative contributions, net	63,699	63,326
Accumulated deficit	(96,543)	(19,465)
Total members' (deficit) equity	<u>(32,844)</u>	<u>43,861</u>
Total liabilities and members' equity	<u>\$ 377,375</u>	<u>\$ 417,455</u>

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

**HOA Restaurant Group, LLC and Subsidiaries**  
**Consolidated Statements of Operations**  
**Year Ended December 27, 2020 (Successor), Period From June 28, 2019 to**  
**December 29, 2019 (Successor), and Period From December 30, 2018 to June 27,**  
**2019 (Predecessor)**

	Successor		Predecessor
	Year Ended December 27, 2020	Period From June 28, 2019 to December 29, 2019	Period From December 31, 2018 to June 27, 2019
<i>(dollar amounts in thousands)</i>			
<b>Revenue</b>			
Restaurant sales, net	\$ 357,372	\$ 220,441	\$ 226,607
Royalty and franchise fee revenues	14,728	12,411	13,482
Other revenues	1,467	1,376	711
Total revenues	373,567	234,228	240,800
<b>Operating expenses</b>			
Restaurant operating costs			
Cost of restaurant sales	91,816	59,394	61,085
Labor	98,796	65,640	67,451
Other operating costs	123,460	67,913	65,823
Selling, general, and administrative expense	34,836	24,844	33,739
National marketing	6,135	4,921	5,466
Depreciation and amortization	30,486	20,500	11,846
Provision for asset impairment	34,630	-	-
Loss (gain) on disposal of assets	2,212	(303)	67
Preopening expenses	715	674	928
Total operating expenses	423,086	243,583	246,405
Operating (loss)	(49,519)	(9,355)	(5,605)
<b>Nonoperating expenses</b>			
Interest expense, net	(26,231)	(9,014)	(10,460)
Total nonoperating expenses, net	(26,231)	(9,014)	(10,460)
Loss before provision for income taxes	(75,750)	(18,369)	(16,065)
(Provision) benefit for income taxes	(1,328)	(1,096)	633
Net loss	\$ (77,078)	\$ (19,465)	\$ (15,432)

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

**HOA Restaurant Group, LLC and Subsidiaries**  
**Consolidated Statements of Changes in Members' Equity (Deficit)**  
**Year Ended December 27, 2020 (Successor), Period From June 28, 2019 to**  
**December 29, 2019 (Successor), and Period From December 30, 2018 to June 27,**  
**2019 (Predecessor)**

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<i>(dollar amounts in thousands)</i>	<b>Members' Cumulative Contributions, Net</b>	<b>Accumulated Deficit</b>	<b>Total</b>
<b><u>Predecessor</u></b>			
<b>Balances at December 30, 2018</b>	\$ 5,563	\$ (72,621)	\$ (67,058)
Adoption of ASC 606		(2,641)	(2,641)
Share-based compensation	1,028	-	1,028
Distributions	(99)	-	(99)
Net loss	-	(15,432)	(15,432)
<b>Balances at June 27, 2019</b>	<b>\$ 6,492</b>	<b>\$ (90,694)</b>	<b>\$ (84,202)</b>
<b><u>Successor</u></b>			
<b>Balances at June 28, 2019</b>	\$ 63,326	\$ -	\$ 63,326
Net loss	-	(19,465)	(19,465)
<b>Balances at December 29, 2019</b>	63,326	(19,465)	43,861
Share-based compensation	757	-	757
Distributions	(384)	-	(384)
Net loss	-	(77,078)	(77,078)
<b>Balances at December 27, 2020</b>	<b>\$ 63,699</b>	<b>\$ (96,543)</b>	<b>\$ (32,844)</b>

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

**HOA Restaurant Group, LLC and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**Year Ended December 27, 2020 (Successor), Period From June 28, 2019 to**  
**December 29, 2019 (Successor), Period From December 30, 2018 to June 27, 2019**  
**(Predecessor)**

	<b>Successor</b>		<b>Predecessor</b>
	<b>Year Ended December 27, 2020</b>	<b>Period From June 28, 2019 to December 29, 2019</b>	<b>Period From December 31, 2018 to June 27, 2019</b>
<i>(dollar amounts in thousands)</i>			
<b>Cash flows provided by operating activities</b>			
Net loss	\$ (77,078)	\$ (19,465)	\$ (15,432)
Adjustments to reconcile net loss to net cash provided by operating activities			
Depreciation and amortization	30,486	20,500	11,846
Change in fair value of derivative liability	8,500	-	-
Noncash rent expense	6,659	(187)	(335)
Noncash share-based compensation	757	-	1,028
Noncash change in bonus units	-	-	133
Noncash interest	1,176	570	2,062
Loss (gain) on disposal of assets	2,212	(303)	67
Provision for asset impairment	34,630	-	-
Bad debt expense	1,489	380	497
Changes in operating assets and liabilities			
Receivables, net	(2,700)	(2,960)	4,058
Inventories	(86)	(274)	(9)
Prepaid expenses and other assets	(164)	(239)	741
Accounts payable	(5,938)	(878)	1,850
Transaction costs	-	-	10,485
Accrued expenses	(442)	3,383	(4,708)
Deferred revenue	(376)	339	(1,937)
Deferred lease obligations	6,256	3,201	3,013
Net cash provided by operating activities	<u>5,381</u>	<u>4,067</u>	<u>13,359</u>
<b>Cash flows from investing activities</b>			
Acquisition of business, net of cash acquired	-	9,934	-
Purchases of property and equipment	(8,826)	(8,235)	(12,609)
Insurance proceeds	1,843	403	-
Proceeds from the disposal of property and equipment	700	-	-
Proceeds from sale/leaseback transactions	-	-	3,199
Net cash (used in) provided by investing activities	<u>(6,283)</u>	<u>2,102</u>	<u>(9,410)</u>
<b>Cash flows from financing activities</b>			
Repayment of term-debt and direct-financing lease obligations	(6,136)	(3,045)	(2,584)
Proceeds from new long-term debt	27,004	-	-
Payment of debt issuance costs	(75)	-	-
Proceeds from finance lease	-	413	-
Paid in capital	-	18,307	-
Distributions	(384)	-	(99)
Net cash provided by (used in) financing activities	<u>20,409</u>	<u>15,675</u>	<u>(2,683)</u>
Net increase in cash and cash equivalents and restricted cash	19,507	21,844	1,266
<b>Cash and cash equivalents and restricted cash</b>			
Beginning of the period	<u>21,844</u>	<u>-</u>	<u>25,329</u>
End of period	<u>\$ 41,351</u>	<u>\$ 21,844</u>	<u>\$ 26,595</u>
<b>Supplemental disclosures of cash flow information</b>			
Cash paid for interest, net	\$ 16,104	\$ 8,350	\$ 8,438
Cash paid for income taxes	1,228	44	75

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

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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*(dollar amounts in thousands)*

### 1. Nature of Business and Summary of Significant Accounting Policies

#### a. Description of Business

HOA Restaurant Group, LLC, together with its subsidiaries, (the Company), a Delaware limited liability company, is in the business of owning, operating, sublicensing, and franchising restaurants under the trade name "Hooters", and "Hoots." The Company is also involved in a variety of marketing activities to promote the Hooters and Hoots restaurant brands, including merchandise sales, and sponsorship of a wide range of events, including sporting events, beauty pageants, bike and car shows, and TV programming featuring the Hooters Girls. HOA Holdings, LLC ("HOA") was the ultimate parent of the Company.

On June 28, 2019, Hawk Acquisitions LLC, specifically its subsidiary, Hawk Parent, LLC ("Hawk") and its "Merger Sub," Hawk Merger Sub LLC, completed its merger with and into HOA. The acquisition was pursuant to an agreement and plan of merger by and among Hawk, Merger Sub, HOA, and Camaro Representative LLC, as equity holders' representative, dated as of June 28, 2019 (the "Merger Agreement"). In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk. Hawk Acquisitions LLC was formed by Nord Bay Capital ("Nord Bay") and its advisor TriArtisan Capital Advisors LLC ("TriArtisan") for the purposes of the merger. Hawk Acquisitions LLC houses the governance functions of Hawk, while the equity units in the transaction are issued at Hawk. Prior to the merger, the Company was primarily owned by H.I.G. Capital ("H.I.G.") through its majority ownership of HOA. However, through the transaction, Hawk obtained 75% of the voting, Class C Units, resulting in a change in control through the transfer of the majority of voting rights.

Periods ended prior to June 28, 2019, refer to the Company prior to the merger and have been termed the predecessor entity ("Predecessor"). Financial results with periods ending on or after June 28, 2019, refer to the newly merged entity with Hawk and have been termed Successor ("Successor"). Please refer to Note 2 for additional information on the transaction.

At December 27, 2020, there were 379 Hooters restaurants, including 200 Company restaurants all of which were wholly owned and 179 franchise restaurants.

At December 29, 2019, there were 411 Hooters restaurants, including 203 Company restaurants all of which were wholly owned and 208 franchise restaurants.

#### b. Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries and other entities over which the Company exercises control and have been prepared on the accrual basis of accounting. All intercompany balances and transactions have been eliminated in consolidation.

Accounting Standards Codification ("ASC") 220 requires a separate statement of comprehensive income. However, as net income is the only material component of comprehensive income, the Company elected not to include a separate consolidated statement of comprehensive income because it would not be meaningful to the users of the consolidated financial statements.

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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*(dollar amounts in thousands)*

**c. Fiscal Year**

The Company's fiscal year is the 52 or 53 week period ending the last Sunday of the calendar year. The years ended December 27, 2020 and December 29, 2019 contained 52 weeks, respectively.

**d. Use of Estimates**

The preparation of consolidated financial statements in conformity with U.S. generally accepted accounting principles 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 consolidated financial statements and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include the valuation of goodwill, intangibles, and share-based compensation; and reserves for closed stores and other contingencies.

**e. Concentration of Risks**

Although the Company attempts to maintain multiple vendors to the extent practicable, its foods and beverages are currently acquired from only a few sources, with one vendor providing approximately 35% and 34% of food and supplies in 2020 and 2019, respectively. Although the Company believes alternative vendors could be found in a timely manner, any disruption of these services could potentially have an adverse impact on operating results.

Financial instruments that could potentially subject the Company to credit risks consist principally of trade accounts receivable. Concentrations of credit risk with respect to these receivables are limited due to the composition of the customer base, which includes a large number of customers. One customer accounted for 14% in the Successor year ended December 27, 2020 and 12% and 13% of royalty revenue for the Successor and Predecessor periods in 2019, respectively.

**f. Cash and Cash Equivalents**

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company's cash balance is held with several different U.S. financial institutions, for which the related cash balances may exceed amounts federally insured during the year. The Company has not experienced any losses in such accounts, and management believes that the Company mitigates its risk by utilizing major financial institutions.



# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

**g. Restricted Cash**

Restricted cash includes deposits for principal and interest payments that are required by the Company's lenders and cash held by the Company for its national marketing advertising fund. Restricted cash is included in cash and cash equivalents in the consolidated statements of cash flows.

	December 27, 2020	December 29, 2019
Cash and cash equivalents	\$ 27,362	\$ 9,191
Restricted cash	<u>13,989</u>	<u>12,653</u>
Total cash and cash equivalents and restricted cash shown in consolidated statements of cash flows	<u>\$ 41,351</u>	<u>\$ 21,844</u>

**h. Receivables**

Receivables consist principally of amounts due for royalties and fees from franchise restaurants, and credit card receivables.

Trade accounts receivable are recorded at the invoiced amount and do not bear interest. Amounts collected on trade accounts receivable are included in net cash provided by operating activities in the consolidated statements of cash flows. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions as well as the franchisees' financial condition, the amount of receivables in dispute, and the current receivables aging and payment patterns. Past-due balances over a specified amount are reviewed individually for collectability. All other remaining balances are reviewed on an aggregate basis. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. For the Successor year ended December 27, 2020, bad debt expense was approximately \$1,489. Bad debt expense was approximately \$380 and \$497 in the Successor and Predecessor periods in 2019, respectively.

**i. Inventories**

Inventories, consisting of foods, beverages, wearables, and collectibles, are stated at the lower of cost or net realizable value on a first-in, first-out basis.

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

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*(dollar amounts in thousands)*

### j. **Revenue Recognition**

The Company adopted ASC 606 as of December 31, 2018 for all contracts not completed as of the date of adoption. The Company recognizes revenue using the following five steps:

1. Identifying the contract(s) with a customer;
2. Identifying the performance obligations in the contract;
3. Determining the transaction price;
4. Allocating the transaction price to the performance obligations in the contract; and
5. Recognizing revenue when, or as, the Company satisfies a performance obligation.

The Company only applies the five-step model when it is probable that the Company will collect the consideration it is entitled to in exchange for goods or services it transfers to the customer. The Company must utilize judgment to determine whether promised goods or services are capable of being distinct within the context of the contract. If these criteria are not met, the promised goods or services are combined with other goods or services and accounted for as a single performance obligation. Revenue is then recognized either at a point in time or over time depending on the Company's evaluation of when the customer obtains control of the promised goods or services. See Note 3 for further information regarding the adoption of ASC 606 and adjustments.

The Company derives revenue from the following revenue streams: Restaurant Sales, Franchise Fees, and Royalty Revenues.

#### **Restaurant Sales Revenue**

The Company owns stores of its own brand, solely operates locations, and records revenue and expense related to the operations of these owned stores. Company-owned store revenues are recognized when payment is tendered at the point of sale as the performance obligation has been satisfied. Company-owned store revenues are reported excluding sales, use, or other transaction taxes that are collected from customers and remitted to taxing authorities.

#### **Other Revenue**

Other revenues include amortization of gift card breakage and fees associated with third party gift card sales. The Company records a liability in the period in which a gift card is sold. As gift cards are redeemed at Company owned restaurants, restaurant sales and related administrative costs are recognized, and the liability is reduced. When gift cards are redeemed at a franchisee operated restaurant, the Company reimburses the franchisee for the card value net of any administrative costs and derecognizes the liability. When a gift card is not subject to escheatment and it is probable that a portion of a gift card will not be redeemed, this amount is considered for breakage. Under ASC 606, the Company recognizes gift card breakage income using the Remote Method. Under the remote method, breakage revenue is recognized once the probability of the redemption of a gift card becomes remote. Breakage is recognized as revenue consistent with historic redemption patterns of the associated gift cards.

# HOA Restaurant Group, LLC and Subsidiaries

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*(dollar amounts in thousands)*

### **Franchise Fee Revenue**

The Company grants the right for franchisees to operate a franchise store and performs several preopening, opening, and post-opening activities related to the initial fee charges for services rendered to ensure Company policies and standards are followed. The pre-opening through post-opening activities are not distinguishable from the franchise right, which is considered symbolic intellectual property (IP) under ASC 606. Given the use of the symbolic IP over the life of the franchise term, revenue from these franchise fees are to be recognized over the term of the franchise agreement using the straight-line method. Franchise agreements generally have 20-year terms. Additionally, a separate charge is assessed by the Company related to the right for an individual to develop and operate a number of stores in a certain area, which is executed under an Area Development Agreement (ADA). Similar to the individual franchise fees, these revenues related to the development agreement are recognized over the term of the agreement once the related stores are opened. Lastly, the Company charges fees related to the renewal of an expiring franchise contract, the act of transferring the franchise to another individual, relocating or restructuring a franchise agreement, and the expiring of franchise agreements or ADAs. These fees for renewals, transfers, relocations, and restructures are recognized over the remaining term of the franchise agreement, while expiring contract fees are recognized at a point-in time.

### **Royalty Revenue**

The Company's royalty revenues are primarily generated from the licensing of the Hooters name under franchise agreements. The Company charges franchisees a sales-based royalty which typically ranges from 2.0% to 6.0% of the franchised locations' monthly net sales. Royalty revenues are currently being recognized on an accrual basis as related franchisee revenues are reported to the Company. Franchised locations are also required to pay the Company national advertising fees for Hooters brand marketing activities sponsored by the Company. These fees range from 0.5% to 2.5% of the franchised locations' net revenue. National advertising fees are recognized on an accrual basis as related franchisee revenues are reported by the Company and are included in royalty revenues in the accompanying consolidated statements of operations.

#### **k. Advertising and Marketing Costs**

The Company administers a national advertising fund on behalf of its owned and franchised stores. In the Successor year ended December 27, 2020, costs under this program were \$6,135. Costs under this program were \$4,921 and \$5,466 in the Successor and Predecessor periods in 2019, respectively.

Other advertising and marketing costs are expensed as incurred and are classified as selling, general, and administrative expenses in the accompanying consolidated statements of operations. In the Successor year ended December 27, 2020, these costs were \$682. These costs were \$507 and \$858 in the Successor and Predecessor periods in 2019, respectively.

#### **l. General and Administrative Expenses**

General and administrative expenses primarily comprise salaries and expenses associated with corporate and administrative functions that support the development and operations of the Company's restaurants, insurance premium expense, professional fees, and share-based compensation expense and are classified as selling, general, and administrative expenses in the accompanying consolidated statements of operations.

# HOA Restaurant Group, LLC and Subsidiaries

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*(dollar amounts in thousands)*

### **m. Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation, with the exception that property and equipment acquired in an acquisition are recorded at estimated fair value on the date of the acquisition. Expenditures for maintenance and repairs are expensed as incurred, while major additions and improvements are capitalized. Upon disposition, the cost and related accumulated depreciation are removed from the accounts, and the resulting gain or loss is reflected in the accompanying consolidated statements of operations.

Depreciation on property and equipment is calculated on the straight-line method over the estimated useful lives of the assets assessed as of the date of acquisition. In the Successor period, the estimated useful life of buildings ranges from 1 to 14 years, while that of equipment ranges from 1 to 22 years. Prior to the date of change in control, in the Predecessor periods, the estimated useful life of buildings ranged from 15 to 39 years, while that of equipment ranged from 5 to 7 years. Leasehold improvements in Predecessor and Successor periods are amortized straight-line over the shorter of the lease term or the estimated useful life.

### **n. Deferred Revenue**

Deferred revenue represents amounts received from franchisees for franchise rights, territory rights, unredeemed restaurant gift cards, and other unearned income. Amounts received from franchisees for franchise rights are deferred and amortized on a straight-line basis over the term of the respective franchise agreement. In regard to amounts received for territory rights from ADAs, these are deferred and begin amortizing over the term of the franchise agreement once the related store opens. For amounts received from restaurant gift cards, the Company defers the revenue until the gift card is redeemed or the probability of redemption is considered "remote" under the Remote Model of breakage. Other unearned income primarily represents proceeds from the disposals of property and equipment that have been leased back to the Company. The proceeds from the disposals are recorded as a reduction in rent expense on a straight-line basis over the related lease terms.

The deferred revenues arise from both the initial franchise fees received upon executing the Franchise Agreement and fees paid for territory rights per the ADA. The revenue from these franchise fees are to be recognized on a straight-line basis over the term of the franchise agreement once the related store is opened. Franchise agreements generally have 20-year terms.

### **o. Insurance Liabilities**

The Company maintains various insurance policies for workers' compensation, general liability, medical benefits, and property damage claims. The terms of these policies limit the Company's responsibility for losses up to certain deductibles for workers' compensation, general liability, medical benefits, and property damage liability claims. The Company is required to estimate a liability that represents the ultimate exposure for aggregate losses. This liability is based on management's estimates of the ultimate costs to be incurred to settle known claims and claims not reported as of the balance sheet date. The estimated liability is not discounted and is based on a number of assumptions and factors, including historical trends of claims, claims costs, and economic conditions. If actual trends differ from the estimates, the financial results could be impacted. Insurance liabilities exclude estimates of legal costs related to known claims, which are expensed as incurred.

# HOA Restaurant Group, LLC and Subsidiaries

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(dollar amounts in thousands)

**p. Goodwill and Indefinite-Lived Assets**

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business acquisition. The Company reviews goodwill for impairment annually or more frequently if events or circumstances dictate. All of the Company's goodwill has been allocated to its reporting units. The impairment review for goodwill allows the Company to first assess the qualitative factors to determine whether it is necessary to perform the more detailed quantitative goodwill impairment test. The Company would perform the quantitative test if the qualitative assessment determined it is more-likely-than-not that a reporting unit's estimated fair value is less than its carrying amount. The Company may also elect to bypass the qualitative assessment and proceed directly to the quantitative test for any reporting unit.

In January 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2017-04, *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. The ASU simplifies the measurement of goodwill impairment by eliminating the requirement that an entity compute the implied fair value of goodwill based on the fair values of its assets and liabilities to measure impairment. Instead, goodwill impairment will be measured as the difference between the fair value of the reporting unit and the carrying value of the reporting unit. The ASU also clarifies the treatment of the income tax effect of tax-deductible goodwill when measuring goodwill impairment loss. The Company adopted ASU No. 2017-04 on a prospective basis as of December 30, 2019 reducing the cost and complexity of evaluating goodwill for impairment. Refer to Note 6 for a discussion of impairment recorded during the fiscal year ended December 27, 2020.

Trademarks are estimated to have an indefinite useful life and are not amortized but are reviewed for impairment at least annually and as events or circumstances dictate. The impairment review for trademarks allows the Company to first assess the qualitative factors to determine whether it is necessary to perform a more detailed quantitative trademark impairment test. The Company would perform the quantitative assessment test if the qualitative assessment determined it was more-likely-than-not that the trademarks are impaired. The Company may also elect to bypass the qualitative assessment and proceed directly to the quantitative test. The Company's trademarks would be considered impaired if their carrying value exceeds their estimated fair value. Refer to Note 6 for discussion of impairment recorded during the fiscal year ended December 27, 2020.

**q. Long-Lived Assets**

Long-lived assets, such as property and equipment and purchased intangible assets subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset or asset group be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by that asset or asset group to its carrying amount. If the carrying amount of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined through various valuation techniques including undiscounted cash flow models, quoted market values, and third-party independent appraisals, as considered necessary. No long-life asset impairment

# HOA Restaurant Group, LLC and Subsidiaries

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(dollar amounts in thousands)

charges were recognized in the year ended December 27, 2020, Successor Period 2019, or Predecessor Period 2019.

**r. Debt Issuance Costs and Debt Discounts**

Debt issuance costs and debt discounts are amortized using either the effective-interest method or straight-line method over the term of the related existing debt instruments. The amortization of debt issuance costs and debt discounts are included in interest expense, net in the accompanying consolidated statements of operations. Unamortized debt issuance costs and debt discounts are recorded as an offset to debt in the consolidated balance sheets. Unamortized debt issuance costs and debt discounts at December 27, 2020 and December 29, 2019 were \$891 and \$1,991, respectively. Amortization of debt issuance costs and discount on bonds related to the Senior Notes totaled \$1,176 for the year ended December 27, 2020. Amortization of debt issuance costs and discount on bonds related to the Senior Notes totaled \$570 and \$2,062 in Successor and Predecessor periods in 2019, respectively.

**s. Derivative Liability**

The Company evaluates its contracts to determine if those contracts or embedded components of those contracts are required to be recognized under ASC Topic 815, *Derivatives and Hedging*. The result of this accounting treatment is that the derivative is carried at fair value as an asset or a liability with changes in the fair value recognized in earnings as they occur. Although separately measured at fair value, the fair value of bifurcated embedded derivatives is presented with the host contract in the consolidated balance sheets. The one identified bifurcated derivative at December 27, 2020 and December 29, 2019 was \$8,500 and \$0, respectively, and included in current portion of long-term debt on the consolidated balance sheets. Changes in the fair value of derivative is recorded in the accompanying consolidated statement of operations as interest expense.

**t. Deferred Lease Obligations**

Leases typically have an initial lease term of between 10 and 20 years and contain renewal options. Certain leases contain rent escalation clauses that require higher rental payments in later years. Leases may also contain rent holidays or free-rent periods during the lease term.

The Company recognizes rent expense on a straight-line basis over the term of the lease, without consideration of renewal options, unless renewals are reasonably assured because failure to renew would result in an economic penalty. Deferred rent resulting from renewal options at December 27, 2020, and December 29, 2019 totaled \$9,902 and \$3,020, respectively.

The Company recognizes the present value of lease obligations on closed restaurant locations where an operating lease exists and the cost of meeting the lease obligations exceed the economic benefits expected to be received under the lease. The present value of deferred lease obligations at December 27, 2020 and December 29, 2019 were \$8,412 and \$2,161. The loss recognized for the year ending December 27, 2020 and December 29, 2019 was \$7,027 and \$867, respectively.

# HOA Restaurant Group, LLC and Subsidiaries

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(dollar amounts in thousands)

The Company receives lease incentives on some of its operating leases in the form of tenant allowances. These incentives are recognized as reductions to rental expense on a straight-line basis over the term of the lease. The unamortized lease incentives at December 27, 2020 and December 29, 2019 were \$332 and \$186, respectively.

### u. Income and Other Taxes

The Company is a limited liability company under the provisions of the Internal Revenue Code, which is treated as a pass-through entity for federal and most state income tax purposes. The taxable income or loss of the Company is included in the tax returns of the members. The Company has not recorded an income tax provision for federal and state purposes, with the exception of those states that impose income taxes at the entity level. Accordingly, the Company has provided for state and foreign income taxes for those jurisdictions where appropriate.

The Company recognizes the effect of income tax positions only if those positions are more likely than not to be sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The Company records interest and penalties related to unrecognized tax benefits in income tax expense.

During 2020 and 2019, the Company accounted for foreign withholding tax exposure, interest, and penalties relating to prior or current year tax positions.

The Company's provision for income taxes includes:

	<b>Successor</b>		<b>Predecessor</b>
	<b>Year Ended</b>	<b>Period From</b>	<b>Period From</b>
	<b>December 27,</b>	<b>June 28, 2019 to</b>	<b>December 31,</b>
	<b>2020</b>	<b>December 29,</b>	<b>2018 to</b>
		<b>2019</b>	<b>June 27, 2019</b>
Foreign taxes withheld (benefit)	\$ 781	\$ 661	\$ (874)
State income taxes	547	435	241
	<b>\$ 1,328</b>	<b>\$ 1,096</b>	<b>\$ (633)</b>

# HOA Restaurant Group, LLC and Subsidiaries

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(dollar amounts in thousands)

### v. Fair Value Measurements

The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

- Level 1 inputs Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date;
- Level 2 inputs Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability;
- Level 3 inputs Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

Long-lived assets are measured at fair value on a non-recurring basis in certain circumstances, such as when there is evidence of impairment.

Liabilities measured at fair value on a recurring basis are as follows as of December 27, 2020:

	<u>Fair Value Measurements at Reporting Date</u>			
	<u>Quoted</u>			
	<u>Prices in</u>	<u>Significant</u>	<u>Significant</u>	
	<u>Active Markets</u>	<u>Other</u>	<u>Unobservable</u>	
	<u>for Identical</u>	<u>Observable</u>	<u>Inputs</u>	
	<u>Assets</u>	<u>Inputs</u>	<u>(Level 3)</u>	
	<u>(Level 1)</u>	<u>(Level 2)</u>		<u>Total</u>
Embedded derivative liability	\$ -	\$ 8,500	\$ -	\$ 8,500
	<u>\$ -</u>	<u>\$ 8,500</u>	<u>\$ -</u>	<u>\$ 8,500</u>

The 2015 Notes contained a redemption feature which was determined to be an embedded derivative requiring bifurcation and separate accounting. The fair value of the derivative was determined based on an income approach that identified the cash flows using a “with-and-without” valuation methodology. The inputs used to determine the estimated fair value of the derivative instrument were based primarily on the probability of the underlying even triggering the embedded derivative occurring and the timing of such event.

### w. Share Option Plan

The Company recognizes all employee share-based compensation as a cost in the consolidated financial statements. Equity-classified awards are measured at the grant-date



# HOA Restaurant Group, LLC and Subsidiaries

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*(dollar amounts in thousands)*

fair value of the award. The Company estimates grant-date fair value using the Black-Scholes-Merton option pricing model.

A modification of the terms or conditions of an equity-classified award is treated as an exchange of the original award for a new award. In calculating the incremental compensation cost associated with modifications of equity-classified awards, the fair value of the modified award is compared to the fair value of the original award measured immediately before its terms or conditions are modified. For a share option, the current estimated fair value of the original award is calculated using a valuation model that reflects the award's inputs such as current share or strike price at the date of the modification. For fully vested share options as of the date of the modification, the incremental compensation cost is recognized immediately. For unvested share options as of the date of the modification, the incremental compensation cost is recognized ratably over the remaining vesting term of the award.

Share-based compensation costs that have been included in selling, general, and administrative expenses amounted to \$757 in the Successor year ended December 27, 2020 and \$0 and \$1,028 in the Successor and Predecessor periods, respectively, in 2019. Included within these costs were the exercise of options issued to management in relation to the change of control. There was no income tax benefit recognized in the consolidated statements of operations for share-based compensation arrangements.

### **x. Impact of and Company Response to COVID-19**

In March 2020, the World Health Organization recognized the novel strain of coronavirus, COVID-19, as a pandemic. The United States and various state and local jurisdictions have imposed, among other things, travel and business operation restrictions intended to limit the spread of the COVID-19 virus and have advised or required individuals to adhere to social distancing or limit or forego their time outside of their home. This pandemic and the governmental response have resulted in significant and widespread economic disruptions to, and uncertainty in, the United States economy, including in the regions in which the Company operates. In many jurisdictions, the Company was deemed an "essential business" and continued to operate, reducing the impact of these restrictions on its operations and results for the year ended December 27, 2020. Immediately after the initial wave of cases in the United States, the Company undertook several precautionary measures in order to ensure it maintained a strong financial position, including shifting in-store operations to carry-out and reducing certain selling, general and administrative expenses. In addition, while some suppliers and other parts of the supply chain were disrupted by the lockdown measures, the Company was able to obtain alternative products to maintain operations in both company-operated and franchised restaurants. However, the Company's management cannot reliably predict the future impact of the pandemic and the governmental response to the pandemic on the Company's operations and future results.

## **2. Business Combination**

As described in Note 1(a), on June 28, 2019, Hawk completed its merger with and into HOA Holdings, LLC. In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk.

## HOA Restaurant Group, LLC and Subsidiaries

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*(dollar amounts in thousands)*

The final purchase price per the Merger Agreement was \$56,496, derived from the net of the estimated enterprise value of \$366,000 and target net indebtedness of \$298,000 (\$68,000) less adjustments for Net Working Capital, Net Debt and Unpaid Seller Transaction Expenses, as defined within the Merger Agreement. The accounting consideration transferred utilized in the purchase price allocation was \$63,019 (see below for final allocation), which consisted of \$18,000 in cash from the new ownership interest and \$45,019 of rollover equity units from the prior owners, as determined through the fair value analysis. In the fair value analysis of rollover equity, the Company employed the Option Pricing Method, while also utilizing the Black Scholes Option Pricing Model. The rollover equity was allocated between Class A and Class B Units (\$38,325) and in Class C Units (\$6,694). In the transaction, HOA incurred \$10,485 in seller expenses, which were assumed liabilities by the Successor, and classified as operating cash outflows when paid. In addition, there was \$2,000 contributed by Hawk to cover Hawk transaction related expenses which were excluded from the total consideration. Hawk acquisition related transaction expenses totaled \$1,693 resulting in \$307 of additional paid in capital as of December 29, 2019.

In conjunction with the HOA merger, HOA and its four audited subsidiaries (collectively “the Company”), HOA Restaurant Group, LLC (“HOARG”), HOA Holdco, LLC, HOA Franchising, LLC, and HOOTS Franchising, LLC, all have applied the acquisition method of accounting in accordance with ASC Topic 805, *Business Combinations*, which created a new basis of accounting as of that date. As mentioned in Note 1(a), the Predecessor period is for periods ended prior to June 28, 2019, while the Successor period is on or after June 28, 2019. As the Company includes four separate subsidiaries subject to stand-alone audits, the Company has elected the application of push-down accounting. As a result, the fair value adjustments and goodwill recognized from the merger are recorded in the financial statements of each of the respective subsidiaries.

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

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(dollar amounts in thousands)

The final allocation of consideration to the net tangible and intangible assets of HOARG acquired is presented in the table below:

Fair value of consideration exchanged	<u>\$ 63,019</u>
Recognized amounts of identifiable assets acquired and liabilities assumed	
Cash and cash equivalents	27,934
Accounts receivable	6,331
Inventories	5,266
Prepaid expenses	1,109
Property and equipment	147,212
Intangible assets	186,700
Other assets, net	1,363
Accounts payable	(24,428)
Accrued expenses	(18,857)
Deferred revenue	(5,546)
Current portion of long-term debt	(4,862)
Long-term debt, less current portion	(309,702)
Deferred revenue, less current portion	(742)
Deferred lease obligations	(2,166)
Unfavorable leases, net	(2,836)
Direct-financing lease obligations	<u>(659)</u>
Total identifiable net assets	6,117
Goodwill	<u>56,902</u>
Total net assets acquired	<u>\$ 63,019</u>

### 3. Revenue Recognition

As a result of the adoption of ASC Topic 606, the Company determined there would be an adjustment to retained earnings as of December 31, 2018 because of the change in revenue recognition of franchise fees, including area development fees, renewal fees, relocation fees, and restructuring fees from up-front recognition to revenue being recognized over the term of the related franchise agreement on a straight-line basis as well as an adjustment for gift card breakage recognition. Based on the change in timing of revenue recognition related to these franchise fees, the Company concluded there to be an approximate \$3,785 adjustment needed to increase the deferred revenue balance as well as a decrease in retained earnings for revenue previously recognized upfront that needed to be recognized over the life of the remaining franchise terms.

In addition, there would also be a retained earnings adjustment related to gift card breakage. As the Company had not estimated gift card breakage in past years, a catch-up adjustment was needed as of December 31, 2018 in accordance with ASC 606. Using the Remote Model of breakage recognition, the Company concluded there to be an approximate \$1,144 adjustment needed to increase retained earnings and decrease the gift card liability for the recognition of estimated breakage of gift cards.

# HOA Restaurant Group, LLC and Subsidiaries

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(dollar amounts in thousands)

As a result of both adjustments, as of December 31, 2018, there would be a net \$2,641 decrease to the retained earnings balance.

### Contract Liabilities

Contract liabilities consist of deferred revenue resulting from initial and renewal franchise fees paid by franchisees, as well as upfront fees paid by franchisees in ADAs, which are generally recognized on a straight-line basis over the term of the underlying agreement. The Company classifies these contract liabilities as either current or non-current liabilities based on the expected timing of recognition of related revenue. The Company does not have any contract assets related to franchise fees. The following table reflects the change in contract liabilities included in deferred revenue between the opening balance sheet date (June 28, 2019) and December 27, 2020:

	<b>Contract Liabilities</b>
<b><u>Successor</u></b>	
<b>Balance at June 28, 2019 (opening balance sheet)</b>	\$ 742
Revenue recognized during period between 6/28/2019 - 12/29/2019	(298)
Increase in deferred balance from newly opened stores or unopened stores	487
<b>Balance at December 29, 2019</b>	931
Revenue recognized during period between 12/30/2020 - 12/27/2020	(25)
Increase in deferred balance from newly opened stores or unopened stores	175
<b>Balance at December 27, 2020</b>	<b>\$ 1,081</b>

#### 4. Inventories

Inventories consist of the following:

	<b>December 27, 2020</b>	<b>December 29, 2019</b>
Food and beverages	\$ 3,820	\$ 4,074
Wearables and collectibles	1,806	1,466
	<b>\$ 5,626</b>	<b>\$ 5,540</b>

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

#### 5. Property and Equipment, Net

Property and equipment, net consist of the following:

	December 27, 2020	December 29, 2019
Furniture and equipment	\$ 60,758	\$ 94,926
Leasehold improvements	95,998	58,435
Land and buildings	1,948	1,941
	<u>158,704</u>	<u>155,302</u>
Less: Accumulated depreciation	<u>(47,672)</u>	<u>(19,579)</u>
	<u>\$ 111,032</u>	<u>\$ 135,723</u>

Depreciation expense in the year ended December 27, 2020 was \$28,759. Depreciation expense for the Successor and Predecessor periods in 2019 was \$19,624 and \$10,767, respectively.

#### 6. Intangibles

##### a. Franchise Rights, Net

The Company franchises Hooters Restaurants to a number of franchisees. The initial value for the Predecessor of the franchise agreements was determined in 2011 based on the excess earnings method under the income approach and was being amortized over 17 years. As of the acquisition date, the franchise rights were revalued based upon their fair value, which was \$18,300 and are being amortized over 17 years. Amortization expense in the year ended December 27, 2020 was \$1,077. In the Successor period in 2019, the amortization expense was \$544. In the Predecessor period ended June 27, 2019, the amortization expense was \$1,076. Estimated amortization expense for each of the next five years is \$1,076 and \$11,300 thereafter.

Franchise rights, net consist of the following:

	December 27, 2020	December 29, 2019
Franchise rights	\$ 18,300	\$ 18,300
Less: Accumulated amortization	<u>(1,621)</u>	<u>(544)</u>
	<u>\$ 16,679</u>	<u>\$ 17,756</u>

##### b. Valuation of Goodwill and Trademark

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business acquisition. The Company performed its annual impairment

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

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(dollar amounts in thousands)

analysis of goodwill for all reporting units and it was determined for two reporting units, HOA Franchising, LLC and Hoots Franchising, LLC the fair values no longer exceeded the carrying values due to the market, macroeconomic and business conditions resulting from the COVID-19 pandemic. Fair value was determined by referencing market valuation multiples implied by companies that have comparable businesses which is a Level 3 measurement. Goodwill impairment charges have been recognized of \$20,530 for the year ended December 27, 2020. It was determined there was no impairment for the period ended December 29, 2019.

The value of the trademark is based on the relief from royalty method under the income approach. As of the acquisition date the trademark was revalued based upon its fair value. The value was determined to be \$167,100 on June 28, 2019. The trademark has an indefinite life and, therefore is not amortized. The Company performed its annual impairment analysis of its trademark at a consolidated level using a discounted cash flow analysis and determined the fair value no longer exceeded the carrying value. As a result, an impairment charge of \$14,100 has been recognized for the year ended December 27, 2020 due to market, macroeconomic and business conditions resulting from the COVID-19 pandemic. Fair value was determined by completing a relief from royalty valuation, which is a Level 2 measurement. It was determined there was no impairment for the period ended December 29, 2019.

The carrying amount of goodwill and the trademark is as follows:

	<b>Goodwill</b>
<b><u>Successor</u></b>	
<b>Balance at June 28, 2019</b>	\$ 56,902
Provision for impairment	-
<b>Balance at December 29, 2019</b>	56,902
Provision for impairment	(20,530)
<b>Balance at December 27, 2020</b>	<b>\$ 36,372</b>
	<b><u>Trademark</u></b>
<b><u>Successor</u></b>	
<b>Balance at June 28, 2019</b>	\$ 167,100
Provision for impairment	-
<b>Balance at December 29, 2019</b>	167,100
Provision for impairment	(14,100)
<b>Balance at December 27, 2020</b>	<b>\$ 153,000</b>

## HOA Restaurant Group, LLC and Subsidiaries

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As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

**c. Unfavorable Leases**

The Company evaluated real estate leases in existence on the date that the leases were acquired and determined, based on the income capitalization approach, an excess was to be paid as compared to the market. Based upon this assessment, an initial liability of \$19,011 was established in 2011. The unfavorable lease liability was amortized on a straight-line basis over the term of the related lease agreements. Amortization related to the liability for the Predecessor period ended June 27, 2019 was \$335 and is included in other operating costs in the accompanying consolidated statements of operations. As of the acquisition date, the Company revalued the unfavorable leases based on fair market value. Based upon the assessment, the initial liability as of the Successor Period was \$2,836. In the Successor periods ended December 27, 2020 and December 29, 2019, amortization related to the liability was \$368 and \$187.

**d. Internally- Developed Software**

The Company developed a point-of-sale system that enables HOA to integrate various aspects of its business, from order management to payment processing. As of the acquisition date, the Company valued the internally-developed software to be \$1,300 utilizing the replacement cost method. In the Successor periods ended December 27, 2020, and December 29, 2019 the amortization expense was \$650 and \$329, respectively.

**7. Other Assets**

Other assets consist of the following:

	December 27, 2020	December 29, 2019
Deposits	\$ 776	\$ 829
Notes receivable	586	531
Internally developed software, net	321	971
	<u>\$ 1,683</u>	<u>\$ 2,331</u>

# HOA Restaurant Group, LLC and Subsidiaries

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As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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*(dollar amounts in thousands)*

### 8. Accrued Expenses

Accrued expenses consist of the following:

	December 27, 2020	December 29, 2019
Accrued payroll and related expense	\$ 5,991	\$ 6,328
Accrued insurance expense	5,327	4,516
Accrued property taxes	3,552	3,615
Accrued utilities	633	903
Accrued interest	1,820	1,800
Accrued other expenses	4,478	5,078
	<u>\$ 21,801</u>	<u>\$ 22,240</u>

### 9. Commitments

#### a. Lease Commitments

The Company leases a majority of its restaurant locations under operating lease arrangements. Lease terms generally range from 10 to 20 years and typically contain renewal options. Most of the leases provide that the Company pay taxes, maintenance, insurance, and certain operating expenses related to the leased premises. Certain leases contain contingent rental provisions based on sales volume.

The Company is party to certain leases that have been accounted for as direct financing leases due to their terms, whereby the lease obligation is recognized, and the related real property is capitalized in the accompanying consolidated balance sheets.



## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

(dollar amounts in thousands)

Future minimum lease payments under the direct financing leases and all non-cancelable operating leases (with initial or remaining lease terms in excess of one year) as of December 27, 2020 are follows:

	<b>Direct Financing Leases</b>	<b>Operating Leases</b>
2021	\$ 233	\$ 39,870
2022	234	36,489
2023	131	34,983
2024	98	33,646
2025	52	32,074
Thereafter	<u>455</u>	<u>210,104</u>
Total minimum lease payments	1,203	387,166
Less: Amounts representing interest (at rates ranging from 7% to 7.98%)	<u>(312)</u>	
Present value of minimum direct-financing lease payments	891	
Less: Current installments of obligations under direct-financing leases	<u>(173)</u>	
Obligations under direct-financing leases, excluding current installments	<u>\$ 718</u>	

At December 27, 2020 and December 29, 2019, the gross amount of property and equipment and related accumulated depreciation recorded under direct financing leases were as follows:

	<b>December 27, 2020</b>	<b>December 29, 2019</b>
Equipment	\$ 578	\$ 586
Buildings	<u>477</u>	<u>477</u>
	1,055	1,063
Less: Accumulated depreciation	<u>(188)</u>	<u>(41)</u>
	<u>\$ 867</u>	<u>\$ 1,022</u>

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

Rent expense related to all operating leases is included in other restaurant operating costs in the accompanying consolidated statements of operations and consists of the following for the periods ended December 27, 2020, December 29, 2019 and June 27, 2019:

	<b>Successor</b>		<b>Predecessor</b>
	<b>Year Ended December 27, 2020</b>	<b>Period From June 28, 2019 to December 29, 2019</b>	<b>Period From December 31, 2018 to June 27, 2019</b>
Minimum rent	\$ 31,352	\$ 18,883	\$ 18,589
Contingent rent	1,059	720	796
	<b>\$ 32,411</b>	<b>\$ 19,603</b>	<b>\$ 19,385</b>

#### b. Purchase Commitments

The Company has a long-term supply agreement with a major beverage vendor that requires the Company to purchase a minimum number of gallons of product over a future period. The term of the contract expires once the Company's minimum purchase commitment is met. The Company has purchased approximately 71% and 64% of the minimum volume required under the agreement as of December 27, 2020 and December 29, 2019, respectively.

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

#### 10. Long-Term Debt

The Company's debt consists of the following:

	December 27, 2020	December 29, 2019
Variable Funding Notes	\$ 25,000	\$ 25,000
Series 2014-1 Class A-2 Senior Secured Notes	240,625	246,125
Series 2015-1 Class A-2 Senior Secured Notes	22,500	23,000
Series 2015-1 Class B Senior Subordinated Secured Notes	20,000	20,000
Payment Protection Program Loan-HRH	10,000	-
Payment Protection Program Loan-TWRH	10,000	-
Payment Protection Program Loan-TWRH	7,004	-
Fair value of embedded derivative	8,500	-
Total debt	<u>343,629</u>	<u>314,125</u>
Less: Debt issuance costs and discount on notes	(891)	(1,991)
Less: Current portion, net of discount on notes	<u>(315,734)</u>	<u>(4,862)</u>
Total long-term debt	<u>\$ 27,004</u>	<u>\$ 307,272</u>

On August 12, 2014, as part of a refinancing transaction (the Securitization Transaction), the Company obtained new long-term debt and used the proceeds from this transaction to pay off the outstanding principal plus any accrued and unpaid interest on its existing debt.

On August 12, 2014, the Company completed the Securitization Transaction. In contemplation of the Securitization Transaction, the Company completed an entity restructuring, consisting of the formation of several new entities and the merging of certain of our existing entities with and into the new entities. The Company also formed several additional new entities, the Co-Issuers (as defined), as part of the restructuring. In conjunction with the Securitization Transaction, the Company with the Co-Issuers issued an aggregate principal amount of \$275,000 Series 2014-1 Class A-2 Senior Secured Notes bearing interest at 4.846% with an anticipated repayment date in August 2021 and a legal final maturity date in August 2044 and \$25,000 Series 2014-1 Variable Funding Class A-1 Senior Secured Notes due August 2019 (the Variable Funding Notes). This debt was purchased by a new group in July 2018 with an anticipated maturity date extended to August 2021, with a final legal maturity date in August 2044.

On October 5, 2015, the Company completed an additional securitization transaction in which the Company with the Co-Issuers issued an additional aggregate principal amount of \$25,000 Series 2015-1 Class A-2 Senior Secured Notes bearing interest at 5.5% with an anticipated

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

**As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)**

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*(dollar amounts in thousands)*

repayment date in August 2021 and a legal final maturity date in August 2044 and \$20,000 Series 2015-1 Class B Senior Subordinated Secured Notes bearing interest at 9% with an anticipated repayment date in August 2021 and a final legal maturity date in August 2044.

The Variable Funding Notes together with the Class A-2 Series 2015-1 Senior Secured Notes and the Class B Notes (hereinafter referred to as the Senior Notes), were issued pursuant to the indenture governing the Senior Notes (the Indenture). The Indenture allows the Co-Issuers to issue additional series of notes in the future, subject to certain conditions.

The Variable Funding Notes provide for senior secured revolving facility in an aggregate amount of up to \$25,000. The Variable Funding Notes were set to mature in August 2019 under the original lender and contained options for renewal. The Variable Funding Notes were refinanced with a new lender in July 2018, and the maturity date was extended to August 2021, with a final legal maturity date of August 2044. The Variable Funding Notes bear interest at (i) the Base Rate (as defined) or (ii) the Eurodollar Rate (as defined) applicable to such Eurodollar interest accrual period for such advance, in each case except as otherwise provided in the definition of Eurodollar interest accrual period. The Variable Funding Notes require the Company to pay a commitment fee of 4.00% per annum and a commitment fee of 1.00% for unused commitments. Interest and other fees on the Variable Funding Notes are due quarterly in arrears on the 20th day of each February, May, August, and November. The Company had remaining availability of \$0 under the Variable Funding Notes as of December 27, 2020 and December 29, 2019.

The Series 2014-1 Class A-2 Secured Senior Notes bear interest at a rate of 4.846% per annum, payable quarterly in arrears. The Indenture governing the Senior Notes also includes scheduled quarterly principal payments of \$1,375 on the Class A-2 Notes, which is calculated based on a 2.00% scheduled annual amortization. The principal and interest payments for the Class A-2 Notes are due on the 20th day of each February, May, August, and November. As of December 27, 2020, and December 29, 2019, the outstanding principal amount of the Class A-2 Notes was \$240,625 and \$246,125, respectively.

The Series 2015-1 Class A-2 Secured Senior Notes bear interest at a rate of 5.50% per annum, payable quarterly in arrears. The Indenture governing the Senior Notes also includes scheduled quarterly principal payments of \$125 beginning in February 2016. The interest payments for the Series 2015-1 Class A-2 Notes are due on the 20th day of each February, May, August, and November. As of December 27, 2020, and December 29, 2019, the outstanding principal amount of the Series 2015-1 Class A-2 Notes was \$22,500 and \$23,000, respectively.

The Series 2015-1 Class B Senior Subordinated Secured Notes bear interest at a rate of 9.00% per annum, payable quarterly in arrears. The interest payments for the Series 2015-1 Class B Senior Secured Notes are due on the 20th day of each February, May, August, and November. As of December 27, 2020, and December 29, 2019, the outstanding principal amount of the Series 2015-1 Class B Notes was \$20,000, respectively.

The Series 2015-1 Class A-2 Secured Senior Notes and Series 2015-1 Class B Senior Subordinated Secured Notes were issued at discounts of approximately \$2,084 and \$2,700, respectively.

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

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*(dollar amounts in thousands)*

The Senior Notes are secured by substantially all assets of the Co-Issuers and their subsidiaries but are not guaranteed by or secured with the assets of the Parent or its other subsidiaries. The Indenture requires that the Company report and remit weekly cash flows of the Company's securitized entities to the trustee of the Senior Notes. The weekly cash flows are subject to priorities of payment that provide for the payment of funds to specific reserve accounts for debt service and other specified purposes set forth in the Indenture. The amount of weekly cash flow, if any, that exceeds the amounts required by the priorities of payment is generally remitted to the Parent.

The Senior Notes are subject to a series of covenants and restrictions customary for transactions of this type, which are found in the Indenture. If certain covenants or restrictions are not met, the Senior Notes are subject to accelerated repayment events and events of default. The Senior Notes are subject customary rapid amortization events provided for in the Indenture, including events tied to failure to maintain stated debt service coverage ratios, the sum of HOA systemwide sales being below certain levels on certain measurement dates, certain manager termination events, an event of default, and failure to repay or refinance the Senior Notes on the applicable maturity date. If the outstanding principal amounts on the Senior Notes are not repaid in full or the Senior Notes are not refinanced by August 21, 2021 a rapid amortization event will be triggered as stated in the Indenture. As of December 27, 2020, and December 29, 2019, the Company was in compliance with all financial debt covenants and restrictions. As of the date of these financial statements the company has not repaid the full outstanding principal amounts or refinanced the Senior Notes in accordance with the anticipated maturity date of August 2021, resulting in the entire outstanding principal amounts being presented as current.

The Indenture limits the ability of the Company to, among other things;

- a. Pay dividends, redeem subordinated indebtedness, or make other restricted payments;
- b. Incur or guarantee additional indebtedness that is not governed by the Indenture or issue preferred stock;
- c. Create or incur liens;
- d. Incur dividend or other payment restrictions affecting restricted subsidiaries;
- e. Consummate a merger, consolidation, or sale of all or substantially all of its assets;
- f. Enter into transactions with affiliates;
- g. Transfer or sell assets;
- h. Engage in business other than its current business and reasonably related extensions thereof;
- i. Designate subsidiaries as unrestricted subsidiaries;
- j. Issue capital of certain subsidiaries.

# HOA Restaurant Group, LLC and Subsidiaries

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(dollar amounts in thousands)

In April 2020, DW Restaurant Holder, LLC (“DWRH”), TW Restaurant Holder, LLC (“TWRH”), and HOA Restaurant Holder, LLC (“HRH”), subsidiaries of the Company entered into loan agreements in the amount of \$7,004, 10,000, and 10,000 as part of the Paycheck Protection Program in the aggregate amount of \$27,004 (the “Loans”) under the CARES Act. The Loans were necessary to support ongoing operations of the Company due to the economic uncertainty resulting from COVID-19 pandemic and lack of access to alternative sources of liquidity.

The Loans are scheduled to mature two years from the date of each loan, the Loans bear interest at a rate of 1% per annum and are subject to the terms and conditions applicable to loans administered by the U.S. Small Business Administration under the CARES Act. The Paycheck Protection Program provides that the use of the Loan amount shall be limited to certain qualifying expenses and may be partially or wholly forgiven in accordance with the requirements set forth in the CARES Act. The Company has used all of the loan proceeds toward qualifying expenses and is in the process of pursuing forgiveness of the Loans, but it is not able to determine the likelihood or the amount of forgiveness that will be obtained. The Company has recorded the Loans as long-term debt in its consolidated balance sheet at December 27, 2020 and related interest expense has been recorded to interest expense on its consolidated statement of operations for the year ended December 27, 2020.

Interest expense, excluding related amortization of debt issuance costs related to the Senior Notes and interest on direct financing leases computed using the effective-interest method, for the year ended December 27, 2020, Successor and Predecessor periods of 2019, consists of the following:

	Successor		Predecessor
	Year Ended	Period From	Period From
	December 27,	June 28, 2019 to	December 31,
	2020	December 29,	2018 to
		2019	June 27, 2019
Variable Funding Notes	\$ 1,165	\$ 778	\$ 805
Series 2014-1 Class A-2 Senior Secured Notes	11,734	6,066	5,965
Series 2015-1 Class A-2 Senior Secured Notes	1,245	643	632
Series 2015-1 Senior Class B Subordinated Secured Notes	1,790	910	885
Embedded Derivative	8,500	-	-
Payment Protection Program Loans	193	-	-
	<u>\$ 24,627</u>	<u>\$ 8,397</u>	<u>\$ 8,287</u>

### 11. Litigation

The Company is named as a defendant from time to time in litigation matters arising in the ordinary course of business, including dram shop claims, employment related claims, and claims from customers or employees alleging illness, injury, or other food quality, health, or operational wrongdoing. Such matters are subject to many uncertainties, and the related outcomes are remote or reasonably possible, but not estimable with reasonable assurance. In the opinion of management, none of these matters are expected to result in a settlement or judgement having a material adverse effect on the Company’s financial position, results of operation, or liquidity.

# HOA Restaurant Group, LLC and Subsidiaries

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*(dollar amounts in thousands)*

### 12. Related-Party Transactions

The Company leases 20 properties from various companies in which one of the minority investors in the Company is a majority owner of the property. The leases have varying expiration dates beginning in 2020 through 2034. Rent expense paid to these entities totaled \$6,676 in the Successor year ended December 27, 2020 and \$2,387 and \$2,414 in the Successor and Predecessor periods, respectively, in 2019. These expenses are included in other restaurant operating costs in the accompanying consolidated statements of operations. Future minimum lease payments on these leases totaled approximately \$37,621 and \$42,351 as of December 27, 2020 and December 29, 2019, respectively, and are included in the future minimum lease payments schedule in Note 9(a).

One of the investors, Chanticleer Holdings, LLC, is also a franchisee with locations in the state of Washington (USA), South Africa and United Kingdom. Royalties and National Marketing fees from these locations totaled \$350 for the Successor year ended December 27, 2020 and \$253 and \$382 in the Successor and Predecessor periods, respectively, in 2019.

The Company pays management fees to certain investors in the Company. The amount paid for the year ended December 27, 2020 was \$2,045 and during the Successor and Predecessor periods in 2019 was \$1,304 and \$807, respectively.

For the Successor period in the year ended December 27, 2020, of the \$2,045 amount paid, \$1,533 relates to management fees and \$512 relates to board compensation, which are included in selling, general, and administrative expenses in the accompanying consolidated statements of operations.

For the Successor period in the year ended December 29, 2019, of the \$1,304 amount paid, \$1,016 relates to management fees and \$288 relates to board compensation, which are included in selling, general, and administrative expenses in the accompanying consolidated statements of operations.

For the Predecessor period ended June 27, 2019, of the \$807 amount paid, \$615 relates to management fees, \$143 relates to transaction costs, and \$49 relates to compensation expense, which are included in selling, general, and administrative expenses in the accompanying consolidated statements of operations.

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

### 13. Members' Equity

#### a. Membership Interests

##### **Successor**

As part of the HOA merger described in Note 2, the Company issued Class A Units, Class B Units and Class C Units. The details of each class of Units issued in connection with HOA merger is as follows:

- a. *Class A Units*: On June 28, 2019 the Company issued 42,278 Class A Units. Each Class A Unit represents an interest in Hawk and shall be entitled to distributions and other rights. The Class A Units are redeemable at the holders' option upon a change of control. After nine years, the Class A Units are contingently redeemable upon Class A Unit holders exercising their put option. The Class A Units are also redeemable at the Company's option at any time. The redemption value of Class A Units is calculated based on the \$1,000 preference amount as defined in the Hawk Parent Amended and Restated Limited Liability Company Operating Agreement ("LLC Agreement") which is increased by 12% annual interest compounded quarterly. As the events triggering redemption are not considered probable or are at the option of the Company, Class A Units are not accreted to their redemption value each reporting period. Class A Units do not have voting rights. To the extent the Company's Board of Managers elect to make a distribution to unitholders, such distributions will first be received by Class A members in an amount equal to the preference amount described above.

In accordance with ASC 480, Distinguishing Liabilities from Equity, at each reporting period, the Company assesses the likelihood of whether changes exist whereby the put option mentioned above is considered mandatorily redeemable, and should be considered a liability. No such changes in the Company's determination exist at December 27, 2020 or December 29, 2019.

- b. *Class B Units*: On June 28, 2019 the Company issued 4,711 Class B Units. Each Class B Unit represents an interest in Hawk and shall be entitled to distributions and other rights. Class B Units are non-redeemable and do not have voting rights. To the extent the Board of Managers of the Company elect to make a distribution to unitholders, such distributions will be received by Class B Units in an amount equal to the Preferred Participation Percentage as defined in the LLC Agreement.
- c. *Class C Units*: On June 28, 2019, the Company issued 26,694 Class C Units. Each Class C Unit represents an interest in Hawk and shall be entitled to distributions and other rights. Class C Units have voting rights. In addition, pursuant to the LLC Agreement, the Company may issue options on the Class C Units in connection with the Management Option Plan (Option Plan). Such options will not constitute a limited liability company interest in the Company and the holders of such options shall not be members. Refer to the Share-based Compensation below for more detail.
- d. *Class D Units*: Pursuant to the LLC Agreement, the Company may issue Class D Units pursuant to the Management Incentive Plan (Incentive Plan). Class D Units are non-voting Units which are considered profits interests. Refer to the Share-based



# HOA Restaurant Group, LLC and Subsidiaries

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*(dollar amounts in thousands)*

Compensation Note below for more detail. To the extent the Board of Managers of the Company elects to make a distribution to unitholders, such distributions will be received by Class C and Class D members after required distributions are made to Class A and Class B unitholders.

### **Predecessor**

The interests of the members in the Parent are represented by units of different classes.

- a. *Class A Units.* Each Class A Unit represents an interest in the Parent and shall be entitled to distributions and other rights. Management of the Parent has the authority to issue options on the Class A Units and adopt option plans in connection with any such options. Such options will not constitute a limited liability company interest in the Company and the holders of such options shall not be members.
- b. *Class M Units.* Each Class M Unit shall represent an interest in the Parent, shall be designated as a Class M Unit of the Parent, may be issued pursuant to the Management Incentive Plan or otherwise, as approved by the board of managers, shall have a Conversion Price, as defined, determined in accordance with the terms of the Management Incentive Plan or grant document, as applicable, shall be subject to any vesting or forfeiture restrictions as the Board of Managers may determine, and shall be entitled to distributions. A vested Class M Unit may be converted into a Class A Unit at any time.

### **b. Share-Based Compensation**

#### **Successor**

The Company has adopted an Option Plan pursuant to which the Company may grant options to employees to purchase Class C Units and establish and implement a management option plan under which options to purchase Class C Units may be issued. A participant's option to purchase Class C Units will vest on the terms and conditions set forth in such Participant's Option Grant Notice. The number of grants that were awarded during the Successor year ended December 27, 2020 was 530.

The Company has also adopted an Incentive Plan. The maximum number of Class D Units available for grant under the Incentive Plan will be 3,489 minus the number of Class C Units delivered in satisfaction of awards under the Option Plan of the Company. A participant's Class D Units will vest on the terms and conditions set forth in such Participant's Award Agreement. The number of grants awarded during the Successor year ended December 27, 2020 was 2,399.

Compensation costs for both the Class C and Class D units ("share-based awards") are recognized over the awards' requisite service period. Compensation expense for the share-based awards for the year ended December 27, 2020 was \$757. Total unrecognized compensation expense at December 27, 2020 was \$1,262.

The grant-date fair value of each share-based award is estimated on the date of grant using the Black-Scholes-Merton option pricing model to estimate the fair value of the incentive units. The analysis was based on a number of assumptions, including but not limited to: (1) management's income statement and balance sheet forecasts, (2) management's current

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

(dollar amounts in thousands)

understanding of unit allocations based on available grant agreements, (3) an estimated exit multiple, (4) probability-weighted exit dates, using management's forecast and estimated exit multiple. Each scenario was then discounted according to the chosen WACC discount rate. Lastly a designated probability was then assigned to each exit scenario, whereby management could estimate the value available to the unitholders as of December 27, 2020.

	Number of Units	Fair Value at Grant Date	Weighted Weighted Average Remaining Contractual Term (years)
<b>Balance at December 29, 2019</b>	-	\$ -	-
Share-based awards granted	2,929	1,000	2.66
<b>Forfeited</b>	<u>(740)</u>	1,000	2.51
<b>Balance at December 27, 2020</b>	<u>2,189</u>	1,000	2.71
Exercisable at December 27, 2020	<u>821</u>	1,000	2.71

#### **Predecessor**

The Company has adopted an Option Plan (Predecessor Option Plan) pursuant to which the Company's Members may grant awards to officers and key employees. The Company has only granted awards that can be settled in units and not for cash. The Predecessor Option Plan authorizes grants to purchase up to 11,459,178 units of authorized but unissued Class A Units. Awards can be granted with an exercise price equal to or greater than the unit's fair value at the date of grant. The Board may determine the time or times at which an award will vest or become exercisable and the terms on which an award will remain exercisable; however, all awards granted in 2017 have ten-year terms and vest and become fully exercisable after five years of service from the date of grant. No grants were awarded during the Predecessor period ended June 27, 2019.

The Company has adopted the HOA Holdings, LLC 2011 Management Incentive Plan the (Predecessor Incentive Plan). The maximum number of Class M non-vested units available for grant under the Predecessor Incentive Plan will be 11,459,178 minus the number of Class A units delivered in satisfaction of awards under the Option Plan of the Company. A participant's Class M non-vested units will vest on the terms and conditions set forth in such Participant's Award Agreement. No Class M units were granted during the Predecessor period ended June 27, 2019.

Additional units available for the Company to grant under both the Option Plan and the Incentive Plan totaled 1,630,941 for the Predecessor period ended June 27, 2019, respectively. The Company's policy is to recognize the compensation cost for all awards with only a service condition that have a graded vesting schedule on a straight-line basis over the

## HOA Restaurant Group, LLC and Subsidiaries

### Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

requisite service period for the entire award. Compensation expense for both unit options and non-vested unit awards included in the consolidated statements of operations was \$1,028, for the Predecessor period ended June 27, 2019, respectively. The compensation expense in the 2019 Predecessor period includes the acceleration of \$894 for all remaining compensation expenses upon the change of control on June 28, 2019.

The grant-date fair value of each Class A Unit option award is estimated on the date of grant using the Black-Scholes-Merton option pricing model for options granted through 2016 and using a Monte Carlo simulation for options granted in 2017. No options were granted in 2018 and 2019.

Class A Unit option activity during the periods indicated is as follows:

	Number of Units	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)
<b>Balance at December 30, 2018</b>	6,097,523	\$ 0.68	6.70
Forfeited	<u>(280,000)</u>	0.57	3.44
<b>Balance at June 27, 2019</b>	<u>5,817,523</u>	0.54	6.22
Exercisable at June 27, 2019	<u>3,172,710</u>	0.52	4.73

As of December 29, 2019, and December 30, 2018, there was \$0 and \$1,028, respectively, of total unrecognized compensation cost related to unvested unit options under the Option Plan. The remaining cost was recognized as of June 27, 2019 upon the change of control.

As of June 27, 2019, there were no non-vested Class M Unit awards and there was no unrecognized compensation cost related to unvested units granted under the Incentive Plan. The total fair value of shares vested during the periods ended June 27, 2019 was \$0. The total number of vested shares of Class M Units was 4,010,712 at June 27, 2019.

The Company currently uses authorized and unissued units to satisfy unit award exercises.

During 2016, the Company granted cash bonus units (CBU's) to certain employees. The units vest over a five-year period and contain both service and market conditions. Since CBU's require a cash settlement, the units are considered share-based compensation in accordance with U.S. GAAP and are classified as liabilities.

The Company estimates the fair value of the CBU's using a Monte Carlo Simulation approach. Key input assumptions used to estimate the fair value of the units include the value of the Company's equity, expected term until the exercise of the award, the expected volatility of the equity value, and interest rate. The Company does not expect to pay dividends in the future; therefore, the Company did not include an estimate of dividends. The Company's expected

# HOA Restaurant Group, LLC and Subsidiaries

## Notes to Consolidated Financial Statements

As of and for the year ended December 27, 2020 (Successor), as of December 29, 2019 and for the period from June 28, 2019 to December 29, 2019 (Successor) and for the period from December 30, 2018 to June 27, 2019 (Predecessor)

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(dollar amounts in thousands)

term until the exercise of the award represents the period of time the CBU's are expected to remain outstanding. Since the Company is not publicly traded, expected volatility is estimated based on the average historical volatility of similar entities with publicly traded shares. The interest rate is based on the risk-free rate for the expected term.

	<b>Predecessor December 30, 2018</b>
Valuation assumptions	
Expected dividend yield	-
Expected volatility	85.00 %
Expected term (years)	1.0
Interest rate	2.54 %

No units were granted in 2020 or 2019. The compensation cost associated with the CBU's has been included in selling, general and administrative expenses and amounted to \$133 in Predecessor 2019 respectively. There was no expense recorded in the Successor 2019 period. All outstanding CBUs were settled upon the change of control on June 28, 2019. The fair value balance upon settlement was \$714.

#### **14. Defined-Contribution Plans**

The Company has a defined-contribution 401(k) plan whereby eligible employees may contribute pretax wages in accordance with the provisions of the plan. Any company match is discretionary in accordance with the plan documents. No employer match has been made for the year ended December 27, 2020 or the Successor period ended December 29, 2019. Matching contributions of \$169 were made during the Predecessor period ended June 27, 2019, respectively. The Company's management team and certain other individuals are eligible to participate in the Company's Highly Compensated Employee Plan, which allows these employees to contribute a portion of their compensation into their deferred compensation account. The Company has provided a discretionary match of 25% of the employee's elective deferral, up to a maximum contribution amount of 6% of their compensation. There were no Company contributions to this plan during 2020 or 2019.

#### **15. Subsequent Event**

The Company has evaluated subsequent events from the balance sheet date through April 29, 2021, the date at which the consolidated financial statements were available to be issued.

During February and March 2021, the Company signed three HOOTS franchisee and development agreements totaling a commitment of 73 stores to be opened in Texas, Florida, New Jersey, Pennsylvania, and Rhode Island. The restaurants are scheduled to open between 2021 and 2027.

No other significant matters were identified impacting the Company's financial position or requiring further disclosure.

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**

Consolidated Financial Statements

December 29, 2019 and December 30, 2018

(With Independent Auditor's Report Thereon)



RSM US LLP

## Independent Auditor's Report

The Members  
HOA Restaurant Group, LLC

### Report on the Financial Statements

We have audited the accompanying consolidated financial statements of HOA Restaurant Group, LLC and its subsidiaries (the Company), which comprise the consolidated balance sheets as of December 29, 2019 and December 30, 2018, the related consolidated statements of operations, changes in members' equity (deficit) and cash flows for the period from December 31, 2018 through June 27, 2019 (Predecessor), the period from June 28, 2019 through December 29, 2019 (Successor), and the year ended December 30, 2018, and the related notes to the consolidated financial statements (collectively, 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.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free 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 auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of HOA Restaurant Group, LLC and Subsidiaries as of December 29, 2019 and December 30, 2018, and the results of their operations and their cash flows for the Predecessor and Successor periods, and for the year ended December 30, 2018, in accordance with accounting principles generally accepted in the United States of America.

**Emphasis of Matter Regarding Going Concern**

The accompanying financial statements have been prepared assuming that HOA Restaurant Group, LLC and Subsidiaries will continue as a going concern. As discussed in Note 17 to the financial statements, the Company has experienced declines in results of operations and cash flows due to the impact of COVID-19, which may impact their ability to maintain compliance with loan covenants. Therefore, management has stated that substantial doubt exists about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 17. These financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to this matter.

**Emphasis of Matter Regarding New Accounting Standard**

As discussed in Notes 1 and 3, to the financial statements, in 2019, the Company adopted new accounting guidance related to Accounting Standards Codification 606, Revenue Recognition. Our opinion is not modified with respect to this matter.

*RSM US LLP*

Atlanta, Georgia  
April 29, 2020

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**

Consolidated Balance Sheets  
(Dollar amounts in thousands)

Assets	Successor December 29, 2019	Predecessor December 30, 2018
Current assets:		
Cash and cash equivalents	\$ 9,191	\$ 13,301
Restricted cash	12,653	12,028
Receivables, net of allowance of \$502 and \$226 in 2019 and 2018	8,911	10,886
Inventories	5,540	5,257
Prepaid expenses and other current assets	1,348	1,622
Total current assets	37,643	43,094
Property and equipment, net	135,723	117,039
Trademark	167,100	134,800
Franchise rights, net	17,756	20,338
Internally-developed software, net	971	—
Goodwill	56,902	50,436
Other assets	1,360	2,029
Total assets	\$ 417,455	\$ 367,736
<b>Liabilities and Members' Equity (Deficit)</b>		
Current liabilities:		
Accounts payable	\$ 23,550	\$ 21,239
Accrued expenses	22,240	25,144
Deferred revenue	5,696	7,759
Current portion of long-term debt	4,862	2,010
Current portion of deferred lease obligations	1,488	577
Current portion of direct-financing lease obligations	146	158
Total current liabilities	57,982	56,887
Long-term debt, less current portion	307,272	307,281
Deferred revenue	931	40,786
Deferred lease obligations, less current portion	3,879	19,092
Unfavorable leases, net	2,649	7,356
Direct-financing lease obligations, less current portion	881	844
Other liabilities	—	2,548
Total liabilities	373,594	434,794
Members' equity (deficit):		
Members' cumulative contributions, net	63,326	5,563
Retained deficit	(19,465)	(72,621)
Total members' equity (deficit)	43,861	(67,058)
Total liabilities and members' equity (deficit)	\$ 417,455	\$ 367,736

See accompanying notes to consolidated financial statements.



**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**  
Consolidated Statements of Operations  
(Dollar amounts in thousands)

	Successor	Predecessor	
	Period from June 28, 2019 to December 29, 2019	Period from December 31, 2018 to June 27, 2019	Period from January 1, 2018 to December 30, 2018
Revenue:			
Restaurant sales, net	\$ 220,441	\$ 226,607	\$ 458,645
Royalty and franchise fee revenue:	12,411	13,482	26,215
Other revenues	1,376	711	1,560
Total revenues	<u>234,228</u>	<u>240,800</u>	<u>486,420</u>
Operating expenses:			
Restaurant operating costs:			
Cost of restaurant sales	59,394	61,085	123,020
Labor	65,640	67,451	133,604
Other operating costs	67,913	65,823	125,639
Selling, general, and administrative expense	24,844	33,739	46,850
National marketing	4,921	5,466	8,864
Depreciation and amortization	20,500	11,846	24,215
Provision for asset impairments	—	—	1,268
(Gain) loss on disposal of assets	(303)	67	707
Preopening expenses	674	928	3,650
Total operating expenses	<u>243,583</u>	<u>246,405</u>	<u>467,817</u>
Operating (loss) income	<u>(9,355)</u>	<u>(5,605)</u>	<u>18,603</u>
Non-operating expenses:			
Interest expense, net	(9,014)	(10,460)	(21,590)
Total non-operating expenses, net	<u>(9,014)</u>	<u>(10,460)</u>	<u>(21,590)</u>
Loss before provision for income taxes	(18,369)	(16,065)	(2,987)
(Provision), benefit for income taxes	(1,096)	633	(2,545)
Net loss	<u>\$ (19,465)</u>	<u>\$ (15,432)</u>	<u>\$ (5,532)</u>

See accompanying notes to consolidated financial statements

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**  
Consolidated Statements of Changes in Members' Equity (Deficit)  
(Dollar amounts in thousands)

<u>Predecessor:</u>	<u>Members' cumulative contributions, net</u>	<u>Members' Deficit</u>	<u>Total</u>
Balance at December 31, 2017	\$ 5,217	\$ (67,089)	\$ (61,872)
Share-based compensation	504	—	504
Distributions	(158)	—	(158)
Net loss	—	(5,532)	(5,532)
Balance at December 30, 2018	<u>5,563</u>	<u>(72,621)</u>	<u>(67,058)</u>
Adoption of ASC 606	—	(2,641)	(2,641)
Share-based compensation	1,028	—	1,028
Distributions	(99)	—	(99)
Net loss	—	(15,432)	(15,432)
Balance at June 27, 2019	<u>\$ 6,492</u>	<u>\$ (90,694)</u>	<u>\$ (84,202)</u>

<u>Successor:</u>	<u>Members' cumulative contributions, net</u>	<u>Members' Deficit</u>	<u>Total</u>
Balance at June 28, 2019	\$ 63,326	\$ —	\$ 63,326
Net loss	—	(19,465)	(19,465)
Balance at December 29, 2019	<u>\$ 63,326</u>	<u>\$ (19,465)</u>	<u>\$ 43,861</u>

See accompanying notes to consolidated financial statements.

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**  
Consolidated Statements of Cash Flows  
(Dollar amounts in thousands)

	Successor	Predecessor	
	<u>Period from June 28, 2019 to December 29, 2019</u>	<u>Period from December 31, 2018 to June 27, 2019</u>	<u>Period from January 1, 2018 to December 30, 2018</u>
Cash flows provided by operating activities:			
Net loss	\$ (19,465)	\$ (15,432)	\$ (5,532)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	20,500	11,846	24,215
Noncash rent – amortization of unfavorable leases	(187)	(335)	(1,096)
Noncash share-based compensation	—	1,028	504
Noncash change in bonus units	—	133	411
Noncash interest	570	2,062	4,152
(Gain) loss on disposal of assets	(303)	67	707
Provision for asset impairments	—	—	1,268
Bad debt expense	380	497	616
Changes in operating assets and liabilities:			
Receivables, net	(2,960)	4,058	2,615
Inventories, net	(274)	(9)	103
Prepaid expenses and other assets	(239)	741	2,286
Accounts payable	(878)	1,850	(2,984)
Transaction costs	—	10,485	—
Accrued expenses	3,383	(4,708)	4,376
Deferred revenue	339	(1,937)	(2,314)
Deferred lease obligations	3,201	3,013	2,863
Net cash provided by operating activities	<u>4,067</u>	<u>13,359</u>	<u>32,190</u>
Cash flows from investing activities:			
Acquisition of business, net of cash acquired	9,934	—	—
Purchases of property and equipment	(8,235)	(12,609)	(31,385)
Insurance proceeds	403	—	—
Proceeds from sale/leaseback transactions	—	3,199	2,175
Net cash provided by (used in) investing activities	<u>2,102</u>	<u>(9,410)</u>	<u>(29,210)</u>
Cash flows from financing activities:			
Repayment of long-term debt and direct-financing lease obligations	(3,045)	(2,584)	(6,159)
Revolving facility proceeds	—	—	6,500
Repayment of variable funding notes	—	—	(25,000)
Proceeds for new long-term debt	—	—	25,000
Payment of debt issuance costs	—	—	(563)
Proceeds from finance lease	413	—	—
Paid in capital	18,307	—	—
Distributions	—	(99)	(158)
Net cash provided by (used in) financing activities	<u>15,675</u>	<u>(2,683)</u>	<u>(380)</u>
Net increase in cash and cash equivalents and restricted cash	<u>21,844</u>	<u>1,266</u>	<u>2,600</u>
Cash and cash equivalents and restricted cash, beginning of the period	<u>—</u>	<u>25,329</u>	<u>22,729</u>
Cash and cash equivalents and restricted cash, end of period	<u>\$ 21,844</u>	<u>\$ 26,595</u>	<u>\$ 25,329</u>
Supplemental disclosures of cash flow information:			
Cash paid for interest, net	\$ 8,350	\$ 8,438	\$ 16,772
Cash paid for income taxes	44	75	115

See accompanying notes to consolidated financial statements.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

### (1) Nature of Business and Summary of Significant Accounting Policies

#### (a) Description of Business

HOA Restaurant Group, LLC, together with its subsidiaries, (the Company), a Delaware limited liability company, is in the business of owning, operating, sublicensing, and franchising restaurants under the trade name “Hooters.” The Company is also involved in a variety of marketing activities to promote the Hooters restaurant brand, including merchandise sales, and sponsorship of a wide range of events, including sporting events, beauty pageants, bike and car shows, and TV programming featuring the Hooters Girls. The Company was formed in January 2011 along with entities Owl Restaurant Holdings, LLC, Owl Wings, LLC, Night Owl, LLC, and HOA Holdings, LLC. HOA Holdings, LLC (“HOA”) was the ultimate parent of the Company.

On June 28, 2019, Hawk Acquisitions LLC, specifically its subsidiary, Hawk Parent, LLC (“Hawk”) and its “Merger Sub,” Hawk Merger Sub LLC, completed its merger with and into HOA. The acquisition was pursuant to an agreement and plan of merger by and among Hawk, Merger Sub, HOA, and Camaro Representative LLC, as equityholders’ representative, dated as of June 28, 2019 (the “Merger Agreement”). In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk. Hawk Acquisitions LLC was formed by Nord Bay Capital (“Nord Bay”) and its advisor TriArtisan Capital Advisors LLC (“TriArtisan”) for the purposes of the merger. Hawk Acquisitions LLC houses the governance functions of Hawk, while the equity units in the transaction are issued at Hawk. Prior to the merger, the Company was primarily owned by H.I.G. Capital (“H.I.G.”) through its majority ownership of HOA. However, through the transaction, Hawk obtained 75% of the voting, Class C Units, resulting in a change in control through the transfer of the majority of voting rights.

Periods ended prior to June 28, 2019, refer to the Company prior to the merger and have been termed the predecessor entity (“Predecessor”). Financial results with periods ending on or after June 28, 2019, refer to the newly merged entity with Hawk and have been termed Successor (“Successor”). Please refer to Note 2 for additional information on the transaction.

On January 24, 2011, a wholly owned subsidiary of the Company merged with Hooters of America, LLC and subsidiaries (Hooters Acquisition). Concurrently with the Hooters Acquisition, another wholly owned subsidiary of the Company purchased assets from Texas Wings Incorporated, and from certain other sellers, that comprised substantially all of the assets used in connection with the business of locating, developing, constructing, and franchising Hooters restaurants in certain locations in Texas. These two acquisitions are collectively referred to as the Acquisitions.

On December 27, 2012, Derby Wings Holdings, LLC, which is an affiliate of the Parent, purchased from RMD Corp. all of the assets that were used in connection with the business of locating, developing, constructing, and franchising Hooters restaurants in certain locations in the states of Ohio, Indiana, Tennessee, and Kentucky. This acquisition is referred to as the RMD Acquisition.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

On August 12, 2014, the Company completed the Securitization Transaction (Note 11). In contemplation of the Securitization Transaction, the Company completed an entity restructuring, consisting of the formation of several new entities and the merging of certain existing entities affiliated with the Parent with and into the new entities owned by the Company. All of the assets and liabilities previously owned by Derby Wings Holdings, LLC were contributed to the new entities on the date of the Securitization Transaction. The transfer of net operating assets and liabilities to the Company was completed at historical-cost basis because the related entities are under common control.

At December 29, 2019, there were 411 Hooters restaurants, including 203 Company restaurants all of which were wholly owned and 208 franchise restaurants.

At December 30, 2018, there were 432 Hooters restaurants, including 209 Company restaurants all of which were wholly owned and 223 franchise restaurants.

**(b) Principles of Consolidation**

The accompanying consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries and other entities over which the Company exercises control and have been prepared on the accrual basis of accounting. All intercompany balances and transactions have been eliminated in consolidation.

**(c) Fiscal Year**

The Company's fiscal year is the 52- or 53-week period ending the last Sunday of the calendar year. The years ended December 29, 2019 and December 30, 2018 both contained 52 weeks.

**(d) Use of Estimates**

The preparation of consolidated financial statements in conformity with U.S. generally accepted accounting principles 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 consolidated financial statements and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include the useful lives of property and equipment; allowances for doubtful accounts receivable; the valuation of property and equipment, inventories, intangibles, and share-based compensation; and reserves for closed stores and other contingencies.

**(e) Concentration of Risks**

Although the Company attempts to maintain multiple vendors to the extent practicable, its foods and beverages are currently acquired from only a few sources, with one vendor providing approximately 34% and 35% of food and supplies in 2019 and 2018, respectively. Although the Company believes alternative vendors could be found in a timely manner, any disruption of these services could potentially have an adverse impact on operating results.

Financial instruments that could potentially subject the Company to credit risks consist principally of trade accounts receivable. Concentrations of credit risk with respect to these receivables are limited due to the composition of the customer base, which includes a large number of customers. One customer accounted for 13% and 12% of royalty revenue for the Predecessor and Successor periods in 2019, respectively, and 11% in the Predecessor year ended December 30, 2018.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(f) Cash and Cash Equivalents**

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company's cash balance is held with several different U.S. financial institutions, for which the related cash balances may exceed amounts federally insured during the year. The Company has not experienced any losses in such accounts, and management believes that the Company mitigates its risk by utilizing major financial institutions.

**(g) Restricted Cash**

Restricted cash includes deposits for principal and interest payments that are required by the Company's lenders. Restricted cash is included in cash and cash equivalents in the consolidated statements of cash flows.

	Successor December 29, 2019	Predecessor December 30, 2018
Cash and cash equivalents	\$9,191	\$13,301
Restricted cash	12,653	12,028
Total cash and cash equivalents and restricted cash shown in consolidated statements of cash flows	<u>\$21,844</u>	<u>\$25,329</u>

**(h) Receivables**

Receivables consist principally of amounts due for royalties and fees from franchise restaurants, and credit card receivables.

Trade accounts receivable are recorded at the invoiced amount and do not bear interest. Royalties bear interest at 18%. Amounts collected on trade accounts receivable are included in net cash provided by operating activities in the consolidated statements of cash flows. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions as well as the franchisees' financial condition, the amount of receivables in dispute, and the current receivables aging and payment patterns. Past-due balances over a specified amount are reviewed individually for collectability. All other remaining balances are reviewed on an aggregate basis. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. Bad debt expense was approximately \$497 and \$380 in the Predecessor and Successor periods in 2019, respectively. For the Predecessor year ended December 30, 2018, bad debt expense was approximately \$616.

**(i) Inventories**

Inventories, consisting of foods, beverages, wearables, and collectibles, are stated at the lower of cost or market on a first-in, first-out basis.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

### (j) *Revenue Recognition*

Prior to adopting Financial Accounting Standards Board (FASB) Accounting Standards Codification Topic 606 – *Revenue from Contracts with Customers* (“ASC 606”) on December 31, 2018, the Company recognized revenue when persuasive evidence of an arrangement existed, delivery had occurred or services had been rendered, when the contract or sales price was fixed or determinable, and collectability of the sales price was reasonably assured. Franchise fee revenues from individual franchise sales were recognized upon the opening of the franchised restaurant when all material obligations and initial services to be provided by the Company had been performed. Franchise fees received in advance of the store opening were deferred and recognized on the date the store opened.

The Company adopted ASC 606 as of December 31, 2018 for all contracts not completed as of the date of adoption with both a retained earnings and deferred revenue adjustment to its financial position, using the modified retrospective method. The Company recognizes revenue using the following five steps:

1. Identifying the contract(s) with a customer;
2. Identifying the performance obligations in the contract;
3. Determining the transaction price;
4. Allocating the transaction price to the performance obligations in the contract; and
5. Recognizing revenue when, or as, the Company satisfies a performance obligation.

The Company only applies the five-step model when it is probable that the Company will collect the consideration it is entitled to in exchange for goods or services it transfers to the customer. For contracts with more than one performance obligation, the Company allocates the contract's transaction price to each performance obligation using the relative standalone selling price of each distinct good or service outlined within the contract. The Company must utilize judgment to determine whether promised goods or services are capable of being distinct within the context of the contract. If these criteria are not met, the promised goods or services are combined with other goods or services and accounted for as a single performance obligation. Revenue is then recognized either at a point in time or over time depending on the Company's evaluation of when the customer obtains control of the promised goods or services. See Note 3 for further information regarding the adoption of ASC 606 and adjustments.

The Company derives revenue from the following revenue streams: Restaurant Sales, Franchise Fees, and Royalty Revenues.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### *Restaurant Sales Revenue*

The Company owns stores of its own brand, solely operates locations, and records revenue and expense related to the operations of these owned stores. Company-owned store revenues are recognized when payment is tendered at the point of sale as the performance obligation has been satisfied. Company-owned store revenues are reported excluding sales, use, or other transaction taxes that are collected from customers and remitted to taxing authorities.

Other revenues include amortization of gift card breakage and fees associated with third party gift card sales. The Company records a liability in the period in which a gift card is sold. As gift cards are redeemed at Company owned restaurants, restaurant sales and related administrative costs are recognized, and the liability is reduced. When gift cards are redeemed at a franchisee operated restaurant, the Company reimburses the franchisee for the card value net of any administrative costs and derecognizes the liability. When a gift card is not subject to escheatment and it is probable that a portion of a gift card will not be redeemed, this amount is considered for breakage. Under ASC 606, the Company recognizes gift card breakage income using the Remote Method. Under the remote method, breakage revenue is recognized once the probability of the redemption of a gift card becomes remote. Breakage is recognized as revenue consistent with historic redemption patterns of the associated gift cards.

#### *Franchise Fee Revenue*

The Company grants the right for franchisees to operate a franchise store and performs several pre-opening, opening, and post-opening activities related to the initial fee charges for services rendered to ensure Company policies and standards are followed. The pre-opening through post-opening activities are not distinguishable from the franchise right, which is considered symbolic intellectual property (IP) under ASC 606. Given the use of the symbolic IP over the life of the franchise term, revenue from these franchise fees are to be recognized over the term of the franchise agreement using the straight-line method. Franchise agreements generally have 20-year terms. Additionally, a separate charge is assessed by the Company related to the right for an individual to develop and operate a number of stores in a certain area, which is executed under an Area Development Agreement (ADA). Similar to the individual franchise fees, these revenues related to the development agreement are recognized over the term of the agreement once the related stores are opened. Lastly, the Company charges fees related to the renewal of an expiring franchise contract, the act of transferring the franchise to another individual, relocating or restructuring a franchise agreement, and the expiring of franchise agreements or ADAs. These fees for renewals, transfers, relocations, and restructures are recognized over the remaining term of the franchise agreement, while expiring contract fees are recognized at a point-in-time.



## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### *Royalty Revenue*

The Company's royalty revenues are primarily generated from the licensing of the Hooters name under franchise agreements. The Company charges franchisees a sales-based royalty which typically ranges from 2.0% to 6.0% of the franchised locations' monthly net sales. Royalty revenues are currently being recognized on an accrual basis as related franchisee revenues are reported to the Company. Franchised locations are also required to pay the Company national advertising fees for Hooters brand marketing activities sponsored by the Company. These fees range from 0.5% to 2.5% of the franchised locations' net revenue. National advertising fees are recognized on an accrual basis as related franchisee revenues are reported by the Company and are included in Royalty revenues in the accompanying consolidated statements of operations.

#### **(k) Advertising and Marketing Costs**

The Company administers a national advertising fund on behalf of its owned and franchised stores. Costs under this program were \$5,466 and \$4,921 in the Predecessor and Successor periods in 2019, respectively. In the Predecessor year ended December 30, 2018, costs under this program were \$8,864.

Other advertising and marketing costs are expensed as incurred and are classified as selling, general, and administrative expenses in the accompanying consolidated statements of operations. These costs were \$858 and \$507 in the Predecessor and Successor periods in 2019, respectively. In the Predecessor year ended December 30, 2018, these costs were \$1,365.

#### **(l) General and Administrative Expenses**

General and administrative expenses primarily comprise salaries and expenses associated with corporate and administrative functions that support the development and operations of the Company's restaurants, insurance premium expense, professional fees, and share-based compensation expense and are classified as selling, general, and administrative expenses in the accompanying consolidated statements of operations.

#### **(m) Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation, with the exception that property and equipment acquired in an acquisition are recorded at estimated fair value on the date of the acquisition. Expenditures for maintenance and repairs are expensed as incurred, while major additions and improvements are capitalized. Upon disposition, the cost and related accumulated depreciation are removed from the accounts, and the resulting gain or loss is reflected in the accompanying consolidated statements of operations.

Depreciation on property and equipment is calculated on the straight-line method over the estimated useful lives of the assets assessed as of the date of acquisition. In the Successor period, the estimated useful life of buildings ranges from 1 to 14 years, while that of equipment ranges from 1 to 22 years. Prior to the date of change in control, in the Predecessor periods, the estimated useful life of buildings ranged from 15 to 39 years, while that of equipment ranged from 5 to 7 years. Leasehold improvements in Predecessor and Successor periods are amortized straight-line over the shorter of the lease term or the estimated useful life.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### *(n) Deferred Revenue*

Deferred revenue represents amounts received from franchisees for franchise rights, territory rights, unredeemed restaurant gift cards, and other unearned income. Amounts received from franchisees for franchise rights are deferred and amortized on a straight-line basis over the term of the respective franchise agreement. In regard to amounts received for territory rights from ADAs, these are deferred and begin amortizing over the term of the franchise agreement once the related store opens. For amounts received from restaurant gift cards, the Company defers the revenue until the gift card is redeemed or the probability of redemption is considered “remote” under the Remote Model of breakage. Other unearned income primarily represents proceeds from the disposals of property and equipment that have been leased back to the Company. The proceeds from the disposals are recorded as a reduction in rent expense on a straight-line basis over the related lease terms.

The amounts in the 2018 Predecessor period do not account for the adoption of ASC 606 and represent amounts received from franchisees for certain territory rights, amounts received for gift cards, and other unearned income. Amounts received from franchisees under these arrangements are deferred and recognized as franchise fee revenues as new restaurants are opened within the franchise territory. Other unearned income primarily represents proceeds from the disposals of property and equipment that have been leased back to the Company. The proceeds from the disposals are recorded as a reduction in rent expense on a straight-line basis over the related lease terms.

In the Successor period and 2019 Predecessor period, the deferred revenues arise from both the initial franchise fees received upon executing the Franchise Agreement and fees paid for territory rights per the ADA. The revenue from these franchise fees are to be recognized on a straight-line basis over the term of the franchise agreement once the related store is opened. Franchise agreements generally have 20-year terms.

#### *(o) Insurance Liabilities*

The Company maintains various insurance policies for workers’ compensation, general liability, medical benefits, and property damage claims. The terms of these policies limit the Company’s responsibility for losses up to certain deductibles for workers’ compensation, general liability, medical benefits, and property damage liability claims. The Company is required to estimate a liability that represents the ultimate exposure for aggregate losses. This liability is based on management’s estimates of the ultimate costs to be incurred to settle known claims and claims not reported as of the balance sheet date. The estimated liability is not discounted and is based on a number of assumptions and factors, including historical trends of claims, claims costs, and economic conditions. If actual trends differ from the estimates, the financial results could be impacted. Insurance liabilities exclude estimates of legal costs related to known claims, which are expensed as incurred.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(p) *Goodwill and Indefinite-Lived Assets***

Goodwill is generally acquired in conjunction with a business combination using the acquisition method of accounting. The acquisition method requires that the total purchase price of the acquired entity be allocated to the assets acquired and liabilities assumed based on their fair values at the acquisition date. Goodwill is an asset representing the future economic benefits arising from other assets acquired in a business combination that are not individually identified and separately recognized. Indefinite lived intangible assets are assets that are not amortized as there is no foreseeable limit to cash flows generated from them.

The Company reviews goodwill for impairment in accordance with FASB Accounting Standards Codification 350 – *Intangibles – Goodwill and Other* (“ASC 350”), at least annually. ASC 350 provides an entity the option to perform a qualitative assessment to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount prior to performing the two-step goodwill impairment test. If this is the case, the two-step goodwill impairment test is required. If it is more likely than not that the fair value of a reporting unit is greater than its carrying amount, the two-step goodwill impairment test is not required. If the two-step goodwill impairment test is required, first, the fair value of the reporting unit is compared with its carrying amount (including goodwill). If the fair value of the reporting unit is less than its carrying amount, an indication of goodwill impairment exists for the reporting unit and the entity must perform step two of the impairment test (measurement). Under step two, an impairment loss is recognized for any excess of the carrying amount of the reporting unit’s goodwill over the implied fair value of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the reporting unit in a manner similar to a purchase price allocation and the residual fair value after this allocation is the implied fair value of the reporting unit goodwill. Fair value of the reporting unit is determined using a discounted cash flow analysis. If the fair value of the reporting unit exceeds its carrying amount, step two does not need to be performed. The Company performed its annual impairment review of goodwill at December 29, 2019 at the reporting unit level and determined that it is not more likely than not that the fair value of the reporting unit was less than its carrying amount. Accordingly, no impairment loss was recorded in the Predecessor and Successor periods in 2019 or the Predecessor year ended December 30, 2018.

ASC 350 provides an entity the option to perform a qualitative assessment to determine whether it is more likely than not that the fair value of the asset is less than its carrying amount prior to performing the two-step impairment test. If this is the case, the two-step impairment test is required. If it is more likely than not that the fair value of the asset is greater than its carrying amount, the two-step impairment test is not required. The Company performed its annual impairment review using a qualitative assessment of indefinite-lived intangible assets at December 29, 2019 and determined that it is not more likely than not that the fair values were less than the carrying values. Accordingly, no impairment loss was recorded in the Predecessor and Successor periods in 2019 or the Predecessor year ended December 30, 2018.

Changes in fair value assumptions could cause the Company to realize a material impairment charge. The Company considered macroeconomic conditions, industry and market considerations, cost factors of commodities, financial performance, and other events that might impact the fair value of goodwill and indefinite-lived assets in its 2019 and 2018 assessments.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(q) Long-Lived Assets**

Long-lived assets, such as property and equipment and purchased intangible assets subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset or asset group be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by that asset or asset group to its carrying amount. If the carrying amount of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values, and third-party independent appraisals, as considered necessary.

**(r) Debt Issuance Costs**

Debt issuance costs are amortized using either the effective-interest method or straight-line method over the term of the related existing debt instruments. The amortization of debt issuance costs is included in interest expense, net in the accompanying consolidated statements of operations. Unamortized debt issuance costs are recorded as an offset to long-term debt in the consolidated balance sheets.

**(s) Deferred Lease Obligations**

The Company recognizes rent expense on a straight-line basis over the term of the lease, without consideration of renewal options, unless renewals are reasonably assured because failure to renew would result in an economic penalty.

Leases typically have an initial lease term of between 10 and 20 years and contain renewal options. Certain leases contain rent escalation clauses that require higher rental payments in later years. Leases may also contain rent holidays or free-rent periods during the lease term.

**(t) Income and Other Taxes**

The Company is a limited liability company under the provisions of the Internal Revenue Code, which is treated as a pass-through entity for federal and most state income tax purposes. The taxable income or loss of the Company is included in the tax returns of the members. The Company has not recorded an income tax provision for federal and state purposes, with the exception of those states that impose income taxes at the entity level. Accordingly, the Company has provided for state and foreign income taxes for those jurisdictions where appropriate.

The Company recognizes the effect of income tax positions only if those positions are more likely than not to be sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The Company records interest and penalties related to unrecognized tax benefits in income tax expense.

During 2019 and 2018, the Company accounted for foreign withholding tax exposure, interest, or penalties relating to prior or current year tax positions, as discussed in Note 12.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(u) *Reclassifications***

The Company reclassified certain items in the accompanying consolidated financial statements for the prior year to conform to the current-year presentation. These reclassifications had no effect on previously reported net loss or members' equity (deficit).

**(v) *Commitments and Contingencies***

Liabilities for loss contingencies arising from claims, assessments, litigation, fines and penalties, and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated. Legal costs incurred in connection with loss contingencies are expensed as incurred.

**(w) *Fair Value Measurements***

The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

Level 1 inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date;

Level 2 inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability;

Level 3 inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

Long-lived assets are measured at fair value on a non-recurring basis in certain circumstances, such as when there is evidence of impairment.

Certain share-based compensation liabilities are measured at fair value on a recurring basis (see Note 15).

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### (x) *Share Option Plan*

The Company recognizes all employee share-based compensation as a cost in the consolidated financial statements. Equity-classified awards are measured at the grant-date fair value of the award. The Company estimates grant-date fair value using the Black-Scholes-Merton option pricing model or a Monte Carlo Simulation model.

A modification of the terms or conditions of an equity-classified award is treated as an exchange of the original award for a new award. In calculating the incremental compensation cost associated with modifications of equity-classified awards, the fair value of the modified award is compared to the fair value of the original award measured immediately before its terms or conditions are modified. For a share option, the current estimated fair value of the original award is calculated using a valuation model that reflects the award's inputs such as current share or strike price at the date of the modification. For fully vested share options as of the date of the modification, the incremental compensation cost is recognized immediately. For unvested share options as of the date of the modification, the incremental compensation cost is recognized ratably over the remaining vesting term of the award.

Share-based compensation costs that have been included in selling, general, and administrative expenses amounted to \$1,028 and \$0 in the Predecessor and Successor periods, respectively, in 2019, and \$504 in the Predecessor year ended December 30, 2018. Included within these costs were the exercise of options issued to management in relation to the change of control. There was no income tax benefit recognized in the consolidated statements of operations for share-based compensation arrangements.

#### (y) *Adoption of New Accounting Standards*

In May 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-09, *Revenue from Contracts with Customers* ("Topic 606"), that affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets unless those contracts are within the scope of other standards. Topic 606 supersedes the revenue recognition requirements of the prior revenue recognition guidance used prior to December 31, 2018. The Company adopted Topic 606 on December 31, 2018 using the modified retrospective method for those contracts with customers which were not completed as of December 31, 2018. Results for reporting periods beginning after December 31, 2018 are presented under ASC Topic 606, while prior period amounts are not adjusted and continue to be reported in accordance with the historic accounting guidance under ASC Topic 605. In addition, as the Company was acquired by Hawk Parent, LLC as of June 28, 2019, opening balance sheet adjustments related to deferred revenue were recorded, resulting in only new, post-acquisition date franchises and unopened franchises making up the December 29, 2019 deferred revenue balance in accordance with ASC 805, *Business Combinations* and Topic 606. The adoption of this standard had a material impact on the Company's consolidated financial position, with no impact on the consolidated results of operations and cash flows (see Note 3).

In November 2016, the FASB issued ASU 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash (a consensus of the FASB Emerging Issues Task Force)*, which provides guidance on the presentation of restricted cash or restricted cash equivalents in the statement of cash flows. The Company has adopted ASC 230 for all periods presented.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### (z) *Recently Issued Accounting Standards Not Yet Adopted*

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* (ASU 2016-02). The amendments in ASU 2016-02 create FASB Accounting Standards Codification (ASC) Topic 842, *Leases*, and supersede the requirements in ASC Topic 840, *Leases*. ASU 2016-02 requires the recognition of lease assets and lease liabilities by lessees for those leases classified as operating leases under ASC Topic 840. Under the guidance of ASU 2016-02, a lessee should recognize in the balance sheet a liability to make lease payments (lease liability) and a right-of-use asset representing its right to use the underlying asset for the lease term. The accounting applied by a lessor under ASU 2016-02 is largely unchanged from that applied under ASC Topic 840. The ASU is effective for all business entities for fiscal years beginning after December 15, 2019. The Company will implement the provisions of ASU 2016-02 during fiscal year 2020. The Company is currently evaluating the impact of the adoption of this guidance on its consolidated financial statements and is expected to have a material impact.

In January 2017, the FASB issued ASU 2017-04, *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. The ASU simplifies the measurement of goodwill impairment by eliminating the requirement that an entity compute the implied fair value of goodwill based on the fair values of its assets and liabilities to measure impairment. Instead, goodwill impairment will be measured as the difference between the fair value of the reporting unit and the carrying value of the reporting unit. The ASU also clarifies the treatment of the income tax effect of tax-deductible goodwill when measuring goodwill impairment loss. ASU 2017-04 will be effective for the Company beginning on January 1, 2022. The Company is currently evaluating the impact of the adoption of this guidance on its consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*, which modifies the disclosure requirements for fair value measurements by removing, modifying, or adding certain disclosures. ASU 2018-13 is effective for all entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. The Company is currently evaluating the impact of this new standard on its consolidated financial statements.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### (2) Business Combination

As described in Note 1(a), on June 28, 2019, Hawk completed its merger with and into HOA Holdings, LLC. In accordance with the terms of the Merger Agreement, Merger Sub merged with and into HOA, with HOA surviving as a wholly owned subsidiary of Hawk.

The final purchase price per the Merger Agreement was \$56,496, derived from the net of the estimated enterprise value of \$366,000 and target net indebtedness of \$298,000 (\$68,000) less adjustments for Net Working Capital, Net Debt and Unpaid Seller Transaction Expenses, as defined within the Merger Agreement. The accounting consideration transferred utilized in the purchase price allocation was \$63,019 (see below for final allocation), which consisted of \$18,000 in cash from the new ownership interest and \$45,019 of rollover equity units from the prior owners, as determined through the fair value analysis. In the fair value analysis of rollover equity, the Company employed the Option Pricing Method, while also utilizing the Black Scholes Option Pricing Model. The rollover equity was allocated between Class A and Class B Units (\$38,325) and in Class C Units (\$6,694). In the transaction, HOA incurred \$10,485 in seller expenses, which were assumed liabilities by the Successor, and classified as operating cash outflows when paid. In addition, there was \$2,000 contributed by Hawk to cover Hawk transaction related expenses which were excluded from the total consideration. Hawk acquisition related transaction expenses totaled \$1,693 resulting in \$307 of additional paid in capital as of December 29, 2019.

In conjunction with the HOA merger, HOA and its four audited subsidiaries (collectively “the Company”), HOA Restaurant Group, LLC (“HOARG”), HOA Holdco, LLC, HOA Franchising, LLC, and HOOTS Franchising, LLC, all have applied the acquisition method of accounting in accordance with ASC Topic 805, *Business Combinations*, which created a new basis of accounting as of that date. As mentioned in Note 1(a), the Predecessor period is for periods ended prior to June 28, 2019, while the Successor period is on or after June 28, 2019. As the Company includes four separate subsidiaries subject to stand-alone audits, the Company has elected the application of push-down accounting. As a result, the fair value adjustments and goodwill recognized from the merger are recorded in the financial statements of each of the respective subsidiaries.



## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

The final allocation of consideration to the net tangible and intangible assets of HOARG acquired is presented in the table below:

Fair value of consideration exchanged	\$	63,019
Recognized amounts of identifiable assets		
acquired and liabilities assumed:		
Cash and cash equivalents		27,934
Accounts receivable		6,331
Inventories		5,266
Prepaid expenses		1,109
Property and equipment		147,212
Intangible assets		186,700
Other assets, net		1,363
Accounts payable		(24,428)
Accrued expenses		(18,857)
Deferred revenue		(5,546)
Current portion of long-term debt		(4,862)
Long-term debt, less current portion		(309,702)
Deferred revenue, less current portion		(742)
Deferred lease obligations		(2,166)
Unfavorable leases, net		(2,836)
Direct-financing lease obligations		<u>(659)</u>
Total identifiable net assets		6,117
Goodwill		<u>56,902</u>
Total net assets acquired	\$	<u>63,019</u>

### (3) Revenue Recognition

As a result of the adoption of ASC Topic 606, the Company determined there would be an adjustment to retained earnings as of December 31, 2018 because of the change in revenue recognition of franchise fees, including area development fees, renewal fees, relocation fees, and restructuring fees from up-front recognition to revenue being recognized over the term of the related franchise agreement on a straight-line basis as well as an adjustment for gift card breakage recognition. Based on the change in timing of revenue recognition related to these franchise fees, the Company concluded there to be an approximate \$3,785 adjustment needed to increase the deferred revenue balance as well as a decrease in retained earnings for revenue previously recognized upfront that needed to be recognized over the life of the remaining franchise terms.

In addition, there would also be a retained earnings adjustment related to gift card breakage. As the Company had not estimated gift card breakage in past years, a catch-up adjustment was needed as of December 31, 2018 in accordance with ASC 606. Using the Remote Model of breakage recognition, the Company concluded there to be an approximate \$1,144 adjustment needed to increase retained earnings and decrease the gift card liability for the recognition of estimated breakage of gift cards.

As a result of both adjustments, as of December 31, 2018, there would be a net \$2,641 decrease to the retained earnings balance.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### Contract Liabilities

Contract liabilities consist of deferred revenue resulting from initial and renewal franchise fees paid by franchisees, as well as upfront fees paid by franchisees in ADAs, which are generally recognized on a straight-line basis over the term of the underlying agreement. The Company classifies these contract liabilities as either current or non-current liabilities based on the expected timing of recognition of related revenue. The Company does not have any contract assets related to franchise fees. The following table reflects the change in contract liabilities included in deferred revenue between the date of adoption (December 31, 2018), pre-acquisition date (June 27, 2019), opening balance sheet date (June 28, 2019) and December 29, 2019:

	<b>Contract Liabilities</b>
<b><u>Predecessor:</u></b>	
Balance at December 31, 2018	\$ 5,002
Revenue recognized during period between 1/1/2019 - 6/27/2019	(876)
Increase in deferred balance from newly opened stores or unopened stores	243
Balance at June 27, 2019	\$ 4,369
<b><u>Successor:</u></b>	
Balance at June 28, 2019 (opening balance sheet)	\$ 742
Revenue recognized during period between 6/28/2019 - 12/29/2019	(298)
Increase in deferred balance from newly opened stores or unopened stores	487
Balance at December 29, 2019	\$ 931

#### (4) Inventories

Inventories consist of the following:

	<b>Successor December 29, 2019</b>	<b>Predecessor December 30, 2018</b>
Food and beverages	\$ 4,074	\$ 3,909
Wearables and collectibles	1,466	1,348
	\$ 5,540	\$ 5,257

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(5) Property and Equipment, Net**

Property and equipment, net consist of the following:

	<b>Successor December 29, 2019</b>	<b>Predecessor December 30, 2018</b>
Furniture and equipment	\$ 94,926	\$ 85,468
Leasehold improvements	58,435	140,093
Land and buildings	1,941	12,298
	<u>155,302</u>	<u>237,859</u>
Less accumulated depreciation	<u>(19,579)</u>	<u>(120,820)</u>
	<u>\$ 135,723</u>	<u>\$ 117,039</u>

Depreciation expense for the Predecessor and Successor periods in 2019 was \$10,767 and \$19,624 respectively. Depreciation expense in the year ended December 30, 2018 was \$22,026.

**(6) Intangibles**

**(a) Franchise Rights, Net**

The Company franchises Hooters Restaurants to a number of franchisees. The initial value for the Predecessor of the franchise agreements was determined in 2011 based on the excess earnings method under the income approach and was being amortized over 17 years. Amortization related to these agreements was \$2,189 for the year ended December 30, 2018. As of the acquisition date, the franchise rights were revalued based upon their fair value, which was \$18,300 and are being amortized over 17 years. In the Successor period in 2019, the amortization expense was \$544. In the Predecessor period ended June 27, 2019, the amortization expense was \$1,076. Estimated amortization expense for each of the next five years is \$1,076 and \$12,373 thereafter.

Franchise rights, net consist of the following:

	<b>Successor December 29, 2019</b>	<b>Predecessor December 30, 2018</b>
Franchise rights	\$ 18,300	\$ 37,589
Less accumulated amortization	<u>(544)</u>	<u>(17,251)</u>
	<u>\$ 17,756</u>	<u>\$ 20,338</u>

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(b) Trademark**

The value of the trademark is based on the relief from royalty method under the income approach. The value for the Predecessor was determined to be \$134,800 in 2011. As of the acquisition date, the trademark was revalued based upon its fair value, again by using the relief from royalty method under the income approach. The value was determined to be \$167,100 on June 28, 2019. The trademark has an indefinite life and, therefore, is not amortized.

**(c) Unfavorable Leases**

The Company evaluated real estate leases in existence on the date that the leases were acquired and determined, based on the income capitalization approach, an excess was to be paid as compared to the market. Based upon this assessment, an initial liability of \$19,011 was established in 2011. The unfavorable lease liability was amortized on a straight-line basis over the term of the related lease agreements. Amortization related to the liability was \$335 and \$1,095 for the Predecessor period ended June 27, 2019 and year ended December 30, 2018, respectively, and is included in other operating costs in the accompanying consolidated statements of operations. As of the acquisition date, the Company revalued the unfavorable leases based on fair market value. Based upon the assessment, the initial liability as of the Successor Period was \$2,836. In the Successor period ended December 29, 2019, amortization related to the liability was \$187.

**(d) Internally-Developed Software**

The Company developed a point-of-sale system that enables HOA to integrate various aspects of its business, from order management to payment processing. As of the acquisition date, the Company valued the internally-developed software to be \$1,300 utilizing the replacement cost method. In the Successor period ended December 29, 2019, the accumulated amortization balance was \$329.

**(7) Other Assets**

Other assets consist of receivables and deposits for various business-related items such as utilities, rent, and liquor. As of December 29, 2019, and December 30, 2018, the Company recorded deposits of \$1,360 and \$2,029, respectively.

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

**(8) Accrued Expenses**

Accrued expenses consist of the following:

	<b>Successor December 29, 2019</b>	<b>Predecessor December 30, 2018</b>
Accrued payroll and related expense	\$ 6,328	\$ 8,201
Accrued insurance expense	4,516	4,298
Accrued property taxes	3,615	4,256
Accrued utilities	903	730
Accrued interest	1,800	1,903
Accrued other expenses	5,078	5,756
	\$ 22,240	\$ 25,144

**(9) Provision for Asset Impairments**

During the periods ended December 29, 2019, June 27, 2019 and December 30, 2018, the Company recorded provisions for long-lived asset impairments of \$0, \$0, and \$1,268, respectively. As the long-lived assets were revalued as of the acquisition date, there were no impairments during the Successor period of 2019. The impairments in 2018 relate to certain stores in which current economic conditions in the markets that these stores serve had declined significantly. Additionally, impairments are recorded as a result of changing demographics, new competition, and real estate development in the markets in which these stores are located, which negatively impact the future profitability of these locations. Impairment losses were measured based on the amount by which the carrying amount of these assets exceeded their estimated fair value. Fair value was generally determined based on discounted future cash flow models.

The Company has a liability for the discounted value of remaining lease obligations related to non-operating restaurant properties. Payments on these lease obligations totaled \$653, \$468, and \$1,057 for the periods ended December 29, 2019, June 27, 2019, and December 30, 2018, respectively. The remaining liability on these locations is \$2,161 and \$1,673 as of December 29, 2019 and December 30, 2018, respectively, and is included in deferred lease obligations in the accompanying consolidated balance sheets.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### (10) Commitments

##### (a) Lease Commitments

The Company leases a majority of its restaurant locations under operating lease arrangements. Lease terms generally range from 10 to 20 years and typically contain renewal options. Most of the leases provide that the Company pay taxes, maintenance, insurance, and certain operating expenses related to the leased premises. Certain leases contain contingent rental provisions based on sales volume.

The Company is party to certain leases that have been accounted for as direct financing leases due to their terms, whereby the lease obligation is recognized, and the related real property is capitalized in the accompanying consolidated balance sheets.

Future minimum lease payments under the direct financing leases and all non-cancelable operating leases (with initial or remaining lease terms in excess of one year) as of December 29, 2019 are follows:

	<b>Direct financing leases</b>	<b>Operating leases</b>
2020	\$ 224	\$ 37,632
2021	233	37,156
2022	234	35,825
2023	131	34,293
2024	98	32,778
Thereafter	490	232,622
Total minimum lease payments	\$ 1,410	\$ 410,306
Less amounts representing interest (at rates ranging from 7% to 7.98%)	(383)	
Present value of minimum direct-financing lease payments	1,027	
Less current installments of obligations under direct-financing leases	(146)	
Obligations under direct-financing leases, excluding current installments	\$ 881	

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

At December 29, 2019 and December 30, 2018, the gross amount of property and equipment and related accumulated depreciation recorded under direct financing leases were as follows:

	<b>Successor December 29, 2019</b>	<b>Predecessor December 30, 2018</b>
Leasehold improvements	\$ —	\$ 1,386
Equipment	586	—
Buildings	477	4,469
	<u>1,063</u>	<u>5,855</u>
Less accumulated depreciation	(41)	(4,177)
	<u>\$ 1,022</u>	<u>\$ 1,678</u>

Rent expense related to all operating leases is included in other restaurant operating costs in the accompanying consolidated statements of operations and consists of the following for the periods ended December 29, 2019, June 27, 2019 and December 30, 2018:

	<b>Successor Period from June 28, 2019 to December 29, 2019</b>	<b>Predecessor Period from December 31, 2018 to June 27, 2019</b>	<b>Predecessor Period from January 1, 2018 to December 30, 2018</b>
Minimum rent	\$ 18,883	\$ 18,589	\$ 36,441
Contingent rent	720	796	1,501
	<u>\$ 19,603</u>	<u>\$ 19,385</u>	<u>\$ 37,942</u>

**(b) Purchase Commitments**

The Company has a long-term supply agreement with a major beverage vendor that requires the Company to purchase a minimum number of gallons of product over a future period. The term of the contract expires once the Company's minimum purchase commitment is met. The Company has purchased approximately 64% and 57% of the minimum volume required under the agreement as of December 29, 2019 and December 30, 2018, respectively.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

### (11) Long-Term Debt

The Company's debt consists of the following:

	<u>Maturities</u>	<u>Legal</u>	<u>Successor December 29, 2019</u>	<u>Predecessor December 30, 2018</u>
Variable Funding Notes	2021	2021	\$25,000	\$ 25,000
Series 2014-1 Class A-2 Senior Secured Notes	2021	2044	246,125	251,625
Series 2015-1 Class A-2 Senior Secured Notes	2021	2044	23,000	23,500
Series 2015-1 Class B Senior Subordinated Secured Notes	2021	2044	20,000	20,000
Total debt			314,125	320,125
Less debt issuance costs and discount on notes			(1,991)	(10,834)
Less current portion, net of discount on notes			(4,862)	(2,010)
			<u>\$307,272</u>	<u>\$ 307,281</u>

On August 12, 2014, as part of a refinancing transaction (the Securitization Transaction), the Company obtained new long-term debt and used the proceeds from this transaction to pay off the outstanding principal plus any accrued and unpaid interest on its existing debt.

On August 12, 2014, the Company completed the Securitization Transaction. In contemplation of the Securitization Transaction, the Company completed an entity restructuring, consisting of the formation of several new entities and the merging of certain of our existing entities with and into the new entities. The Company also formed several additional new entities, the Co-Issuers (as defined), as part of the restructuring. In conjunction with the Securitization Transaction, the Company with the Co-Issuers issued an aggregate principal amount of \$275,000 Series 2014-1 4.846% Class A-2 Senior Secured Notes with an anticipated repayment date in August 2021 and a legal final maturity date in August 2044 and \$25,000 Series 2014-1 Variable Funding Class A-1 Senior Secured Notes due August 2019 (the Variable Funding Notes). This debt was purchased by a new group in July 2018 and the due date extended to August 2021.

On October 5, 2015, the Company completed an additional securitization transaction in which the Company with the Co-Issuers issued an additional aggregate principal amount of \$25,000 Series 2015-1 5.500% Class A-2 Senior Secured Notes with an anticipated repayment date in August 2021 and a legal final maturity date in August 2044 and \$20,000 Series 2015-1 9.00% Class B Senior Subordinated Secured Notes with an anticipated repayment date in August 2021 and a legal final maturity date in August 2044.

The Variable Funding Notes together with the Class A-2 Series 2015-1 Senior Secured Notes and the Class B Notes (hereinafter referred to as the Senior Notes), were issued pursuant to the indenture governing the Senior Notes (the Indenture). The Indenture allows the Co-Issuers to issue additional series of notes in the future, subject to certain conditions.



## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

The Variable Funding Notes provide for senior secured revolving facility in an aggregate amount of up to \$25,000. The Variable Funding Notes were set to mature in August 2019 under the original lender, and contained options for renewal. The Variable Funding Notes were refinanced with a new lender in July 2018, and the maturity date was extended to August 2021. The Variable Funding Notes bear interest at (i) the Base Rate (as defined) or (ii) the Eurodollar Rate (as defined) applicable to such Eurodollar interest accrual period for such advance, in each case except as otherwise provided in the definition of Eurodollar interest accrual period. The Variable Funding Notes require the Company to pay a commitment fee of 4.00% per annum and a commitment fee of 1.00% for unused commitments. Interest and other fees on the Variable Funding Notes are due quarterly in arrears on the 20th day of each February, May, August, and November. The Company had remaining availability of \$0 under the Variable Funding Notes as of December 29, 2019 and December 30, 2018.

The Series 2014-1 Class A-2 Secured Senior Notes bear interest at a rate of 4.846% per annum, payable quarterly in arrears. The Indenture governing the Senior Notes also includes scheduled quarterly principal payments of \$1,375 on the Class A-2 Notes, which is calculated based on a 2.00% scheduled annual amortization. The principal and interest payments for the Class A-2 Notes are due on the 20th day of each February, May, August, and November. As of December 29, 2019 and December 30, 2018, the outstanding principal amount of the Class A-2 Notes was \$246,125 and \$251,625, respectively.

The Series 2015-1 Class A-2 Secured Senior Notes bear interest at a rate of 5.50% per annum, payable quarterly in arrears. The Indenture governing the Senior Notes also includes scheduled quarterly principal payments of \$125 beginning in February 2016. The interest payments for the Series 2015-1 Class A-2 Notes are due on the 20th day of each February, May, August, and November. As of December 29, 2019, and December 30, 2018, the outstanding principal amount of the Series 2015-1 Class A-2 Notes was \$23,000 and \$23,500, respectively.

The Series 2015-1 Class B Senior Subordinated Secured Notes bear interest at a rate of 9.00% per annum, payable quarterly in arrears. The interest payments for the Series 2015-1 Class B Senior Secured Notes are due on the 20th day of each February, May, August, and November. As of December 29, 2019, and December 30, 2018, the outstanding principal amount of the Series 2015-1 Class B Notes was \$20,000 and \$20,000, respectively, and will be fully repaid in a lump-sum on the anticipated repayment date.

The Series 2015-1 Class A-2 Secured Senior Notes and Series 2015-1 Class B Senior Subordinated Secured Notes were issued at discounts of approximately \$2,084 and \$2,700 respectively.

The Senior Notes are secured by substantially all assets of the Co-Issuers and their subsidiaries but are not guaranteed by or secured with the assets of the Parent or its other subsidiaries. The Indenture requires that the Company report and remit weekly cash flows of the Company's securitized entities to the trustee of the Senior Notes. The weekly cash flows are subject to priorities of payment that provide for the payment of funds to specific reserve accounts for debt service and other specified purposes set forth in the Indenture. The amount of weekly cash flow, if any, that exceeds the amounts required by the priorities of payment is generally remitted to the Parent.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

The Senior Notes are subject to a series of covenants and restrictions customary for transactions of this type, which are found in the Indenture. If certain covenants or restrictions are not met, the Senior Notes are subject to accelerated repayment events and events of default. As of December 29, 2019, and December 30, 2018, the Company was in compliance with all financial debt covenants and restrictions.

The Indenture limits the ability of the Company to, among other things;

- (a) Pay dividends, redeem subordinated indebtedness, or make other restricted payments;
- (b) Incur or guarantee additional indebtedness that is not governed by the Indenture or issue preferred stock;
- (c) Create or incur liens;
- (d) Incur dividend or other payment restrictions affecting restricted subsidiaries;
- (e) Consummate a merger, consolidation, or sale of all or substantially all of its assets;
- (f) Enter into transactions with affiliates;
- (g) Transfer or sell assets;
- (h) Engage in business other than its current business and reasonably related extensions thereof;
- (i) Designate subsidiaries as unrestricted subsidiaries;
- (j) Issue capital of certain subsidiaries.

Interest expense, excluding related amortization of debt issuance costs related to the Senior Notes and interest on direct financing leases computed using the effective-interest method, for the Predecessor period of 2019, Successor period of 2019, and year ended December 30, 2018, consists of the following:

	Successor	Predecessor	
	Period from June 28, 2019 to December 29, 2019	Period from December 31, 2018 to June 27, 2019	Predecessor Period from January 1, 2018 to December 30, 2018
Variable Funding Notes	\$ 778	\$ 805	\$ 1,328
Series 2014-1 Class A-2 Senior Secured Notes	6,066	5,965	12,296
Series 2015-1 Class A-2 Senior Secured Notes	643	632	1,303
Series 2015-1 Senior Class B Subordinated Secured Notes	910	885	1,795
Commitment fees	—	—	34
	<u>\$ 8,397</u>	<u>\$ 8,287</u>	<u>\$ 16,756</u>

Amortization of debt issuance costs and discount on bonds related to the Senior Notes totaled \$2,062 and \$570 in Predecessor and Successor periods in 2019, respectively. Amortization of debt issuance costs and discount on bonds related to the Senior Notes totaled \$4,072 for the Predecessor year ended December 30, 2018.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### (12) Income Taxes

The Company's provision for income taxes includes:

	Successor	Predecessor	Predecessor
	Period from June 28, 2019 to December 29, 2019	Period from December 31, 2018 to June 27, 2019	Period from January 1, 2018 to December 30, 2018
Foreign taxes withheld (benefit)	\$ 661	\$ (874)	\$ 1,568
State income taxes	435	241	977
	<u>\$ 1,096</u>	<u>\$ (633)</u>	<u>\$ 2,545</u>

#### (13) Litigation

The Company is named as a defendant from time to time in litigation matters arising in the ordinary course of business, including dram shop claims, employment related claims, and claims from customers or employees alleging illness, injury, or other food quality, health, or operational wrongdoing. Such matters are subject to many uncertainties, and the related outcomes are remote or reasonably possible, but not estimable with reasonable assurance. Consequently, the Company has not recorded a liability with respect to these matters as of December 29, 2019 and December 30, 2018. Certain litigation and claims also exist where the liability is probable and estimable. In accordance with FASB ASC Subtopic 450-20 *Loss Contingencies*, these losses have been accrued and total \$680 and \$650 as of December 29, 2019 and December 30, 2018, respectively.

If the Company is found liable under any of the litigation, the Company may be liable for amounts up to its self-insurance retention limit of \$0.1 million per occurrence. In the opinion of management and based on legal counsel's advice, the ultimate resolution of these matters will not have a material adverse effect on the Company's consolidated financial position, results of operations, or liquidity.

#### (14) Related-Party Transactions

The Company leases 20 properties from various companies in which one of the investors in the Company is a majority owner of the property. The leases have varying expiration dates beginning in 2020 through 2034. Rent expense paid to these entities totaled \$2,414 and \$2,387 in the Predecessor and Successor periods, respectively, in 2019, and totaled \$4,922 in the Predecessor year ended December 30, 2018. These expenses are included in other restaurant operating costs in the accompanying consolidated statements of operations. Future minimum lease payments on these leases totaled approximately \$42,351 and \$47,088 as of December 29, 2019 and December 30, 2018, respectively, and are included in the future minimum lease payments schedule in Note 10(a).

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

One of the investors, Chanticleer Holdings, LLC, is also a franchisee with locations in the state of Washington (USA), South Africa and United Kingdom. Royalties and National Marketing fees from these locations totaled \$382 and \$253 in the Predecessor and Successor periods, respectively, in 2019, and \$739 for the Predecessor year ended December 30, 2018.

The Company pays management fees to certain investors in the Company. The amount paid during the Predecessor and Successor periods in 2019 was \$807 and \$1,304, respectively, and \$1,350 for the year ended December 30, 2018.

For the Predecessor period ended June 27, 2019, of the \$807 amount paid, \$615 relates to management fees, \$143 relates to transaction costs, and \$49 relates to compensation expense, which are included in selling, general, and administrative expenses in the accompanying consolidated statements of operations.

For the Successor period in the year ended December 29, 2019, of the \$1,304 amount paid, \$1,016 relates to management fees and \$288 relates to board compensation, which are included in selling, general, and administrative expenses in the accompanying consolidated statements of operations.

#### (15) Members' Equity

##### (a) *Membership Interests*

###### Successor

As part of the HOA merger described in Note 2, the Company issued Class A Units, Class B Units and Class C Units. The details of each class of Units issued in connection with HOA merger is as follows:

- (a) *Class A Units:* On June 28, 2019 the Company issued 42,278 Class A Units. Each Class A Unit represents an interest in Hawk and shall be entitled to distributions and other rights. The Class A Units are redeemable at the holders' option upon a change of control or after nine years. The Class A Units are also redeemable at the Company's option at any time. The redemption value of Class A Units is calculated based on the \$1,000 preference amount as defined in the Hawk Parent Amended and Restated Limited Liability Company Operating Agreement ("LLC Agreement") which is increased by 12% annual interest compounded quarterly. As the events triggering redemption are not considered probable or are at the option of the Company, Class A Units are not accreted to their redemption value each reporting period. Class A Units do not have voting rights. To the extent the Company's Board of Managers elect to make a distribution to unitholders, such distributions will first be received by Class A members in an amount equal to the preference amount described above.
- (b) *Class B Units:* On June 28, 2019 the Company issued 4,711 Class B Units. Each Class B Unit represents an interest in Hawk and shall be entitled to distributions and other rights. Class B Units are non-redeemable and do not have voting rights. To the extent the Board of Managers of the Company elect to make a distribution to unitholders, such distributions will be received by Class B Units in an amount equal to the Preferred Participation Percentage as defined in the LLC Agreement.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

- (c) *Class C Units*: On June 28, 2019, the Company issued 26,694 Class C Units. Each Class C Unit represents an interest in Hawk and shall be entitled to distributions and other rights. Class C Units have voting rights. In addition, pursuant to the LLC Agreement, the Company may issue options on the Class C Units in connection with the Management Option Plan (Option Plan). Such options will not constitute a limited liability company interest in the Company and the holders of such options shall not be members. Refer to the Share-based Compensation below for more detail.
- (d) *Class D Units*: Pursuant to the LLC Agreement, the Company may issue Class D Units pursuant to the Management Incentive Plan (Incentive Plan). Class D Units are non-voting Units which are considered profits interests. Refer to the Share-based Compensation below for more detail. To the extent the Board of Managers of the Company elects to make a distribution to unitholders, such distributions will be received by Class C and Class D members after required distributions are made to Class A and Class B unitholders.

#### **Predecessor**

The interests of the members in the Parent are represented by units of different classes.

- (a) *Class A Units*. Each Class A Unit represents an interest in the Parent and shall be entitled to distributions and other rights. Management of the Parent has the authority to issue options on the Class A Units and adopt option plans in connection with any such options. Such options will not constitute a limited liability company interest in the Company and the holders of such options shall not be members.
  - (b) *Class M Units*. Each Class M Unit shall represent an interest in the Parent, shall be designated as a Class M Unit of the Parent, may be issued pursuant to the Management Incentive Plan or otherwise, as approved by the board of managers, shall have a Conversion Price, as defined, determined in accordance with the terms of the Management Incentive Plan or grant document, as applicable, shall be subject to any vesting or forfeiture restrictions as the Board of Managers may determine, and shall be entitled to distributions. A vested Class M Unit may be converted into a Class A Unit at any time.
- (b) *Share-Based Compensation*

#### **Successor**

The Company has adopted an Option Plan pursuant to which the Company may grant options to purchase Class C Units and establish and implement a management option plan under which options to purchase Class C Units may be issued. A participant's option to purchase Class C Units will vest on the terms and conditions set forth in such Participant's Option Grant Notice. No grants were awarded during the Successor period ended December 29, 2019.

The Company has also adopted an Incentive Plan. The maximum number of Class D Units available for grant under the Incentive Plan will be 3,489 minus the number of Class C Units delivered in satisfaction of awards under the Option Plan of the Company. A participant's Class D Units will vest on the terms and conditions set forth in such Participant's Award Agreement. No units were granted during the Successor period ended December 29, 2019.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

#### **Predecessor**

The Company has adopted an Option Plan (Predecessor Option Plan) pursuant to which the Company's Members may grant awards to officers and key employees. The Company has only granted awards that can be settled in units and not for cash. The Predecessor Option Plan authorizes grants to purchase up to 11,459,178 units of authorized but unissued Class A Units. Awards can be granted with an exercise price equal to or greater than the unit's fair value at the date of grant. The Board may determine the time or times at which an award will vest or become exercisable and the terms on which an award will remain exercisable; however, all awards granted in 2017 have ten-year terms and vest and become fully exercisable after five years of service from the date of grant. No grants were awarded during the Predecessor period ended June 27, 2019 and year ended December 29, 2018.

The Company has adopted the HOA Holdings, LLC 2011 Management Incentive Plan the (Predecessor Incentive Plan). The maximum number of Class M non-vested units available for grant under the Predecessor Incentive Plan will be 11,459,178 minus the number of Class A units delivered in satisfaction of awards under the Option Plan of the Company. A participant's Class M non-vested units will vest on the terms and conditions set forth in such Participant's Award Agreement. No Class M units were granted during the Predecessor period ended June 27, 2019 and year ended December 29, 2018.

Additional units available for the Company to grant under both the Option Plan and the Incentive Plan totaled 1,630,941 and 1,350,941 for the Predecessor period ended June 27, 2019 and year ended December 30, 2018, respectively. The Company's policy is to recognize the compensation cost for all awards with only a service condition that have a graded vesting schedule on a straight-line basis over the requisite service period for the entire award. Compensation expense for both unit options and non-vested unit awards included in the consolidated statements of operations was \$1,028 and \$504, for the Predecessor period ended June 27, 2019 and year ended December 30, 2018, respectively. The compensation expense in the 2019 Predecessor period includes the acceleration of \$894 for all remaining compensation expenses upon the change of control on June 28, 2019.

The grant-date fair value of each Class A Unit option award is estimated on the date of grant using the Black-Scholes-Merton option pricing model for options granted through 2016 and using a Monte Carlo simulation for options granted in 2017. No options were granted in 2018 and 2019.

**HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

Class A Unit option activity during the periods indicated is as follows:

	<u>Number of units</u>		<u>Weighted average exercise price</u>	<u>Weighted average remaining contractual term (years)</u>
Balance at December 30, 2018	6,097,523	\$	0.68	6.70
Forfeited	<u>(280,000)</u>		0.57	3.44
Balance at June 27, 2019	<u>5,817,523</u>		0.54	6.22
Exercisable at June 27, 2019	3,172,710		0.52	4.73
Balance at December 31, 2017	6,367,523	\$	0.68	7.80
Forfeited	<u>(270,000)</u>		0.57	n/a
Balance at December 30, 2018	<u>6,097,523</u>		0.68	6.70
Exercisable at December 30, 2018	3,104,363		0.47	5.30

The weighted average grant-date fair value of unit options granted during 2017 was \$.41. As of December 29, 2019, and December 30, 2018, there was \$0 and \$1,028, respectively, of total unrecognized compensation cost related to unvested unit options under the Option Plan. The remaining cost was recognized as of June 27, 2019 upon the change of control.

As of June 27, 2019 and December 30, 2018, there were no non-vested Class M Unit awards and there was no unrecognized compensation cost related to unvested units granted under the Incentive Plan. The total fair value of shares vested during the periods ended June 27, 2019 and December 30, 2018 was \$0. The total number of vested shares of Class M Units was 4,010,712 at June 27, 2019 and December 30, 2018.

The Company currently uses authorized and unissued units to satisfy unit award exercises.

During 2016, the Company granted cash bonus units (CBU's) to certain employees. The units vest over a five-year period and contain both service and market conditions. Since CBU's require a cash settlement, the units are considered share-based compensation in accordance with U.S. GAAP and are classified as liabilities.

## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

### Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

The Company estimates the fair value of the CBU's using a Monte Carlo Simulation approach. Key input assumptions used to estimate the fair value of the units include the value of the Company's equity, expected term until the exercise of the award, the expected volatility of the equity value, and interest rate. The Company does not expect to pay dividends in the future; therefore, the Company did not include an estimate of dividends. The Company's expected term until the exercise of the award represents the period of time the CBU's are expected to remain outstanding. Since the Company is not publicly traded, expected volatility is estimated based on the average historical volatility of similar entities with publicly-traded shares. The interest rate is based on the risk-free rate for the expected term.

	<b>Predecessor December 30, 2018</b>
Valuation assumptions:	
Expected dividend yield	—
Expected volatility	85.00%
Expected term (years)	1.0
Interest rate	2.54%

No units were granted in 2019 or 2018. The compensation cost associated with the CBU's has been included in selling, general and administrative expenses and amounted to \$133 and \$411 in Predecessor 2019 and 2018, respectively. There was no expense recorded in the Successor 2019 period. The liability of \$0 and \$2,548 for June 27, 2019 and December 30, 2018, respectively, is included as other long-term liabilities in the consolidated balance sheets. All outstanding CBUs were settled upon the change of control on June 28, 2019. The fair value balance upon settlement was \$714.

#### **(16) Defined-Contribution Plans**

The Company has a defined-contribution 401(k) plan whereby eligible employees may contribute pretax wages in accordance with the provisions of the plan. The Company has provided a discretionary match of 25% of the employee's elective deferral, up to a maximum contribution amount of 6% of their compensation for the most recent year. The prior year calculation was based on 33% of the employee's elective deferral, up to a maximum contribution amount of 5% of their compensation. Matching contributions of \$169 and \$146 were made during the Predecessor period ended June 27, 2019 and year ended December 30, 2018, respectively. The Company's management team and certain other individuals are eligible to participate in the Company's Highly Compensated Employee Plan, which allows these employees to contribute a portion of their compensation into their deferred compensation account. The Company has provided a discretionary match of 25% of the employee's elective deferral, up to a maximum contribution amount of 6% of their compensation. There were no Company contributions to this plan during 2019 or 2018.



## HOA RESTAURANT GROUP, LLC AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(Dollar amounts in thousands)

### (17) Subsequent Event - Going Concern

On March 11, 2020, the World Health Organization declared the outbreak of the coronavirus (COVID-19) a pandemic. The COVID-19 outbreak in the United States as well as globally has resulted in reduced customer traffic, temporary reduction of operating hours, and temporary restaurant closures where government mandated, which has resulted in a steep decline in sales. The COVID-19 virus has created substantial uncertainty around revenue forecasts, impacts on supply chain, workforce availability, commodity pricing, debt service, and credit ratings. On March 27, 2020, the CARES Act, which was designed to provide economic relief for the damage caused by COVID-19, was signed into law.

As of the date of the report, the Company has received \$27,004 in Small Business Administration (“SBA”) loan proceeds under the Paycheck Protection Program (Sections 1102 and 1106 of the CARES Act). The interest rate is fixed at 1% per year, beginning on the date of the note. To the extent the SBA loans are not forgiven under the Paycheck Protection Program, the Company must make equal monthly payments of principal and interest, beginning six months from the date of the notes until maturity, which is two years from the date of the notes.

While the federal assistance provided by the SBA loan proceeds will provide relief, there is still substantial doubt about the Company’s ability to meet all of its current and future obligations including maintaining compliance with debt covenants, raising substantial doubt about the Company’s ability to continue to operate one year from the date of issuance of the Company’s consolidated financial statements.

Management’s plans to mitigate the uncertainties include the following:

- Utilizing the SBA loans referred to above to provide liquidity
- Working with lenders to consider covenant relief in the event of default
- Evaluating options for refinancing long-term debt
- Substantially lowering the cost structure of the Company through reduced payroll and other costs
- Continuing the solid growth of the Food to Go business
- Streamlining store and field operations to meet demand
- Opening in-house dining in the geographic areas less directly impacted by COVID-19

While management has plans to manage through the business downturn, due to the unprecedented nature of the crisis, and the uncertainty as to the length of time and severity of the impact on the Company’s business, there is uncertainty as to whether the Company will be able to meet its debt covenants for a period of one year from the date of the report. This uncertainty raises substantial doubt about the Company’s ability to continue as going concern as failure to meet debt covenants under the debt agreement would constitute an event of default and the Company’s ability to cure such an event is unknown.

The Company has evaluated subsequent events from the balance sheet date through April 29, 2020, the date at which the consolidated financial statements were available to be issued.

**EXHIBIT V**

**HOA Restaurant Group, LLC**

**GUARANTEE OF PERFORMANCE**


**GUARANTEE OF PERFORMANCE  
(In Favor of Hoots Franchising, LLC)**

For value received, HOA Restaurant Group, LLC, A Delaware Limited Liability Company (“the Guarantor”), located at 600 5<sup>TH</sup> Avenue, 24<sup>th</sup> Floor, New York, NY 10020, absolutely and unconditionally guarantees the performance by Hoots Franchising, LLC, (“Hoots” or “Franchisor”), a Georgia Limited Liability Company, located at 1815 The Exchange SE, Atlanta, GA 30339, of all of Hoots’ duties and obligations, which include Hoots’ required support and services to franchisees under the franchise and development agreements within the Hoots franchise system. This guarantee continues until all such obligations of Hoots are satisfied. Notice of Acceptance is waived. The Guarantor does not waive receipt of Notice of Default on the part of Hoots. This guarantee is binding on Guarantor and its successors and assigns.

The Guarantor signs this Guarantee at Clearwater, Florida on the 26th day of May, 2020.

**GUARANTOR:**

**HOA RESTAURANT GROUP, LLC**

  
By: \_\_\_\_\_  
Name: Scott P. Weber  
Title: Chief Legal Officer

**EXHIBIT W**  
**HOOTS FRANCHISING, LLC**  
**STATEMENT OF PROSPECTIVE FRANCHISEES**

**STATEMENT OF PROSPECTIVE FRANCHISEES**

You are preparing to enter into a franchise agreement with Hoots Franchising, LLC (“Hoots”) for the operation of a franchised HOOTS® restaurant. The purpose of this Statement is to ensure that: (i) no statements or promises were made to you that Hoots has not authorized; (ii) no statements were made to you that may be untrue, inaccurate, or misleading; (iii) you have been properly represented in this transaction; and (iv) you understand that the claims you may make related to the purchase and operation of your franchise are limited.

**You must sign and date this Statement the same day you sign the Franchise Agreement and pay your initial franchise fee.**

**A. Contacts**

You have met or spoken with certain Hoots employees, and with other persons speaking on Hoots’ behalf, with respect to the purchase of a Hoots franchise. The persons you have met or spoken with are as follows:

_____	_____
_____	_____
_____	_____
_____	_____

If you need additional space, please use the “Explanations” page at the end of this Statement.

You certify, by your signature on Page 4 of this Statement, that except as listed above (and on the “Explanations” page, as applicable), you have not met or spoken with any Hoots employees or other persons speaking on Hoots’ behalf with respect to the purchase of a Hoots franchise.

**B. Representations**

You must review each of the following representations carefully and provide an honest response to each. **If you answer “No” to any of the representations, you must explain your answer on the “Explanations” page at the end of this Statement.**

Yes \_\_\_ No \_\_\_ 1. I received a copy of Hoots’ Franchise Disclosure Document and each exhibit and schedule to it.

Yes \_\_\_ No \_\_\_ 2. I personally reviewed Hoots’ Franchise Disclosure Document and each exhibit and schedule to it.

Yes \_\_\_ No \_\_\_ 3. I gave Hoots a Receipt showing that I received the Franchise Disclosure Document and the date I received it.

Yes \_\_\_ No \_\_\_ 4. I received the Franchise Disclosure Document at least 14 days before I signed any agreement with Hoots or gave Hoots any consideration related to the purchase of a Hoots franchise.

Yes \_\_\_\_ No \_\_\_\_ 5. I received complete copies of Hoots' Franchise Agreement and all other agreements Hoots required me to sign, with all blanks filled in, at least 7 business days before I signed them.

Yes \_\_\_\_ No \_\_\_\_ 6. I reviewed the Franchise Disclosure Document and all exhibits and schedules to it with my attorney, accountant, and other professional and business advisors.

Yes \_\_\_\_ No \_\_\_\_ 7. I am a skilled and experienced business professional with the level of education, knowledge, and understanding sufficient to permit me to evaluate accurately the risks of purchasing a Hoots franchise and of opening and operating a hoots® wings restaurant.

Yes \_\_\_\_ No \_\_\_\_ 8. I have evaluated accurately the risks of purchasing a Hoots franchise and of opening and operating a hoots® wings restaurant.

Yes \_\_\_\_ No \_\_\_\_ 9. I understand that the success or failure of my Hoots franchise and restaurant will depend in large part on: (i) my skills, abilities, and efforts; (ii) the skills, abilities, and efforts of people I employ; and (iii) many factors beyond my control, like the U.S. culture, the stability of federal, state, and local governments, government policies, weather, competition, interest rates, the economy, inflation, labor and supply costs, lease terms, and the marketplace.

Yes \_\_\_\_ No \_\_\_\_ 10. I understand that Hoots has the right to establish, and to grant other franchisees the right to establish, hoots® wings restaurants or any other businesses using the Hoots trademarks, service marks, or other commercial symbols; the Hoots System; or any variation of the Hoots trademarks, service marks, or other commercial symbols and the Hoots System, in any location other than within my Protected Market Area as detailed in my Franchise Agreement, and other than within my Development Area (if I enter into a Multi-Unit Addendum or Area Development Agreement with Hoots), on any terms and conditions Hoots deems appropriate.

Yes \_\_\_\_ No \_\_\_\_ 11. I understand that Hoots has the right to sell products identified by the Hoots trademarks, service marks, or other commercial symbols, or any other trademarks, service marks, or commercial symbols, in any location Hoots deems appropriate, through any distribution channels that Hoots deems appropriate, including grocery stores, convenience stores, the Internet, and restaurants other than hoots® wings restaurants, except that Hoots may not do so using the Proprietary Marks through restaurants similar to my restaurant within my Protected Market Area as detailed in my Franchise Agreement, and within my Development Area (if I enter into a Multi-Unit Addendum or Area Development Agreement with Hoots).

Yes \_\_\_\_ No \_\_\_\_ 12. I understand that the Franchise Agreement contains the entire agreement between Hoots and my company concerning the Hoots franchise, and that any prior oral or written statements that are not set out in the Franchise Agreement are not binding or enforceable.

**C. Acknowledgments**

1. I hereby certify that no Hoots employee, and no other person speaking on Hoots' behalf, has made any representation, commitment, claim, or statement to me that is different from, or that is contrary to, any of the representations, commitments, claims, or statements contained in Hoots' Franchise Agreement and Franchise Disclosure Document.

Initials: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

2. I hereby certify that no Hoots employee, and no other person speaking on Hoots' behalf, has: (i) made any oral, written, visual, or other representation, commitment, claim, or statement, that stated or suggested any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise; or (ii) made any oral, written, visual, or other representation, commitment, claim, or statement from which any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise might be ascertained, related to a Hoots franchise, that is different from, contrary to, or not contained in, Hoots' Franchise Agreement and Franchise Disclosure Document.

Initials: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

3. I acknowledge and agree that Hoots does not make or endorse, nor does it allow any Hoots employee or other person speaking on Hoots' behalf to make or endorse, any oral, written, visual, or other representation, commitment, claim, or statement that states or suggests any level or range of actual or potential sales, costs, income, expenses, profits, cash flow, or otherwise with respect to a Hoots franchise, except as expressly set forth in Hoots' Franchise Disclosure Document.

Initials: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

4. I acknowledge and agree that: (i) Hoots does not permit any agreements or commitments, and does not approve any changes in the Franchise Agreement, except by means of a written Amendment signed by the parties to the Franchise Agreement; and (ii) if any representations or commitments, or any promises of changes in the Franchise Agreement or otherwise, have been made to me that are not in an Amendment signed by the parties to the Franchise Agreement, such representations, commitments, and promises are not binding or enforceable.

Initials: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

**D. Dates**

I hereby certify that the following dates are true and correct:

1. The date on which I received Hoots' Franchise Disclosure Document about the purchase of a Hoots franchise was: Initials: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The earliest date on which I delivered cash, check, or other consideration to Hoots' in connection with the purchase of a Hoots franchise was: Initials: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I UNDERSTAND THAT MY ANSWERS ARE IMPORTANT TO HOOTS AND THAT HOOTS WILL RELY ON THEM. BY SIGNING THIS STATEMENT, I AM REPRESENTING AND AGREEING THAT I HAVE CONSIDERED EACH REPRESENTATION, ACKNOWLEDGMENT, AND DATE

CAREFULLY AND HAVE RESPONDED TRUTHFULLY TO EACH AND EVERY ITEM IN THIS STATEMENT.

I understand and agree to all of the foregoing and certify that all of the responses in this Statement are true, correct, and complete.

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

\_\_\_\_\_  
Prospective Franchisee

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

\_\_\_\_\_  
Prospective Franchisee

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

\_\_\_\_\_  
Prospective Franchisee

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

\_\_\_\_\_  
Prospective Franchisee





**EXHIBIT X**

**HOOTS FRANCHISING, LLC**

**SERVICES AGREEMENT**

*Intentionally Omitted.*

**EXHIBIT Y**

**HOOTS FRANCHISING, LLC**

**LIST OF STATE AGENCIES/AGENTS FOR SERVICE OF PROCESS**

OUR REGISTERED AGENT IN THE STATE OF GEORGIA IS:

CT CORPORATION SYSTEM  
280 S. CULVER ST.  
LAWRENCEVILLE, GA 30046

STATE AND EFFECTIVE DATE	AGENCY	PROCESS, IF DIFFERENT
California	Department of Financial Protection and Innovation 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013 Sacramento 2101 Arena Blvd. Sacramento, CA 95834 San Diego 1350 Front Street San Diego, CA 92101 San Francisco One Sansome Street, Suite 600 San Francisco, CA 94104 1-866-275-2677 or (213) 576-7500	Incorp Services, Inc. (C2294569) 5716 Corsa Avenue, Suite 110 Westlake Village, CA 91362-7354
Hawaii	Securities Examiner 1010 Richards Street Honolulu, HI 96813	
Illinois	Franchise Division Office of Attorney General 500 South Second Street Springfield, IL 62706	
Indiana	Franchise Section Indiana Securities Division Secretary of State, Room E-111 302 W. Washington Street Indianapolis, Indiana 46204	Administrative Office of the Secretary of State 201 State House Indianapolis, Indiana 46204
Maryland	Office of Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2021	Maryland Securities Commissioner 200 St. Paul Place Baltimore Maryland 21202-2021
Michigan	Consumer Protection Division Franchise Section Michigan Department of Attorney General 670 G. Mennen Williams Building 525 West. Ottawa Lansing, Michigan 48933	

STATE AND EFFECTIVE DATE	AGENCY	PROCESS, IF DIFFERENT
Minnesota	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 280 St. Paul, Minnesota 55101 (651) 539-1500	
New York	NYS Department of Law Investor Protection Bureau 28 Liberty Street, 21 <sup>st</sup> Floor New York, New York 10005	New York Department of State One Commercial Plaza 99 Washington Avenue, 6 <sup>th</sup> Floor Albany, New York 12231
North Dakota	North Dakota Securities Department 600 East Boulevard Avenue State Capitol, Fifth FL, Dept. 414 Bismarck, North Dakota 58505-0510 (701) 328-4712	
Oregon	Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, Oregon 97310	
Rhode Island	Division of Securities 1511 Pontiac Avenue John O. Pastore Complex-Building 69-1 Cranston, RI 02920 (401) 462-9585	
South Dakota	Department of Labor and Regulation Division of Securities 445 E. Capitol Avenue Pierre, SD 57501 (605) 773-4823	
Virginia	Ronald W. Thomas, Administrator State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9th Floor Richmond, VA 23219	Clerk State Corporation Commission 1300 East Main Street Richmond, VA 23219
Washington	State of Washington Securities Administrator 150 Israel Rd., S.W. Tumwater, WA 98501	
Wisconsin	Securities and Franchise Registration Division of Securities, 4 <sup>th</sup> Floor 345 W. Washington Avenue Madison, Wisconsin 53703	

**EXHIBIT Z**  
**HOOTS FRANCHISING, LLC**  
**STATE SPECIFIC ADDENDA**

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
CALIFORNIA DISCLOSURE DOCUMENT**

The following paragraphs are added to the Disclosure Document:

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at [www.dbo.ca.gov](http://www.dbo.ca.gov).

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

THE ANTITRUST LAW SECTION OF THE OFFICE OF THE CALIFORNIA ATTORNEY GENERAL VIEWS MINIMUM OR MAXIMUM PRICE AGREEMENTS AS PER SE VIOLATIONS OF THE CARTWRIGHT ACT.

The following paragraphs are added at the end of Item 17 of the Disclosure Document pursuant to regulations promulgated under the California Franchise Investment Law:

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

Termination Upon Bankruptcy. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et. seq.).

Post-Termination Non-competition Covenants. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the respective agreement. These provisions may not be enforceable under California law.

Applicable Law. The Franchise Agreement requires application of the laws of the State of Tennessee. These provisions may not be enforceable under California law.

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

You must sign a general release if you renew or transfer your franchise. California Corporations Code §31512 voids a waiver of your rights under the

Franchise Investment Law (California Corporations Code §§31000 through 31516). Business and Professions Code §20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§20000 through 20043).

None of the franchisor, any person or franchise broker in Item 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et. seq., suspending or expelling such persons from membership in such association or exchange.

The highest interest rate allowed by law in California is 10% annually.



**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
ILLINOIS DISCLOSURE DOCUMENT**

1. Illinois law governs the Franchise Agreement(s). Under Illinois law, a franchise agreement may not provide for a choice of law of any state other than Illinois. Accordingly, Items 17(v) and (w) are amended to state "none"
2. Payment of Initial Franchise/Development Fees will be deferred until Franchisor has met its initial obligations to franchisee, and franchisee has commenced doing business. This financial assurance requirement was imposed by the Office of the Illinois Attorney General due to Franchisor's financial condition.
3. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.
4. Your rights upon termination and non-renewal are set forth in Sections 19 and 20 of the Illinois franchise Disclosure Act.
5. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act **or any other law of Illinois** is void.
6. The franchise agreement will become effective on its acceptance and signing by us in the State of Georgia.

HOOTS FRANCHISING, LLC:

FRANCHISEE:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**STATE ADDENDUM TO THE HOOTS FRANCHISING, LLC  
DISCLOSURE DOCUMENT  
FOR THE STATE OF INDIANA**

1. The following statement is added to Item 3 of the Disclosure Document:  
  
There are presently no arbitration proceedings to which the Franchisor is a party.
  
2. Item 17 of the Disclosure Document is amended to reflect the requirement under Indiana Code 23-2-2.7-1(9), which states that any post term non-compete covenant must not extend beyond the franchisee's exclusive territory.
  
3. Item 17 is amended to state that this is subject to Indiana Code 23-2-2.7-1 (10).

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Addendum dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
MARYLAND DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND AREA  
DEVELOPMENT AGREEMENT**

1. Item 5 is amended by adding the following language:

Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all development fees and initial payments by area developers shall be deferred until the first franchise under the Area Development Agreement opens.

2. Item 17 is amended by adding the following language:

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

3. In lieu of an impound of franchise fees, the Franchisor will not require or accept the payment of any initial franchise fees until the franchisee (a) has received all initial training that it is entitled to under the franchise agreement or offering circular, and (b) is open for business. Under the Area Development Agreement, the collection of the Development Fee will be prorated and collected after each unit opens for business.

4. The Franchise Agreement and Area Development Agreement are revised to include the following statements:

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

The franchise agreement (and/or Area Development Agreement) provides that disputes are resolved through arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

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

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

**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.**

1. Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:
  - (a) A prohibition on the right of a franchisee to join an association of franchisees.
  - (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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:
  - (a) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
  - (b) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (c) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - (d) 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.

7. 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).

8. 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.

If the franchisor's most recent financial statements are unaudited and show a net worth of less than \$100,000.00, the franchisee may request the franchisor to arrange for the escrow of initial investment and other funds paid by the franchisee until the obligations, if any, of the franchisor to provide real estate, improvements, equipment, inventory, training or other items included in the franchise offering are fulfilled. At the option of the franchisor, a surety bond may be provided in place of escrow.

THE 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 should be directed to:

State of Michigan  
Department of Attorney General  
CONSUMER PROTECTION DIVISION  
Attention: Franchise  
670 G. Mennen Williams Building  
Lansing, Michigan 48933  
Telephone Number: (517) 373-7117

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
MINNESOTA FRANCHISE AGREEMENT AND DISCLOSURE DOCUMENT**

The following amends and supersedes any conflicting terms of the Hoots Franchising, LLC Minnesota Franchise Disclosure Document as well as the Hoots Franchising, LLC Franchise Agreement (“Franchise Agreement”).

1. Item 5 is amended by adding the following language:

All initial fees and payments shall be deferred until such time as the franchisor completes its initial obligations under the Franchise Agreement.

2. Item 17, summary column for (f) is amended to add the following:

With respect to franchises governed by Minnesota law, we will comply with Minn. Stat. Sec. 80C.14, subds. 3, 4 and 5 which require, except in certain specified cases, that you be given 90 days’ notice of termination (with 60 days to cure), and 180 days’ notice for non-renewal of the franchise agreement; and that consent to the transfer of the franchise will not be unreasonably withheld.

3. Item 17, summary column for (m) is amended to add the following:

Any release signed as a condition of transfer will not apply to any claims you may have under the Minnesota Franchise Act.

4. Item 17, summary columns for (v) and (w) are amended to add the following:

Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in this Disclosure Document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

5. The following language is added to the Minnesota disclosure document:

Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400(J) prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of jury trial, or requiring that you consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce 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.

6. 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 under Minnesota Statutes 80C.01 through 80C.22. The Franchise Agreement contains provisions requiring a general release as a condition of renewal or transfer of a franchise. Such release will exclude claims arising under Minnesota Statutes 80C.01 through 80C.22. In addition, no representation or acknowledgement by you in the Franchise Agreement is intended to or shall

act as a release, assignment, novation or waiver that would relieve any person from liability under Minnesota Statutes 80C.01 through 80C.22.

7. You cannot consent to us obtaining injunctive relief. We may seek injunctive relief. See Minnesota Rule 2860.4400J. Also, a court will determine if a bond is required.
8. Any limitations of claims sections must comply with Minnesota Statutes, Section 80.17, Subdivision 5.
9. The Franchise Agreement and Item 13 of the Disclosure Document are amended to provide the following:

We will protect your right to use our trademark, service marks, trade names, logotypes or other commercial symbols and indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding your authorized use of the same.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
NEW YORK DISCLOSURE DOCUMENT**

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, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

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

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

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

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

3. The following is added to the end of 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 language replaces the “Summary” section 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.

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
NORTH DAKOTA DISCLOSURE DOCUMENT**

1. The Summary column of Item 17 paragraph (c) of the Disclosure Document is modified to read as follows:

“Give us at least 90 days’ notice of your intention to renew, sign our current form of franchise agreement and ancillary agreements, sign a release (except for matters coming under the North Dakota Franchise Investment Law (the “**ND Law**”).”

2. The Summary column of Item 17 paragraph (r) of the Disclosure Document is modified by adding the following at the end of the sentence:

“Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota.”

3. The Summary column of Item 17 paragraph (v) of the Disclosure Document is amended to read as follows:

Except for matters coming under the ND Law, litigation must be in Georgia

4. The Summary column of Item 17 paragraph (w) of the Disclosure Document is amended to read as follows:

Except for matters coming under the ND Law, the law of Georgia (subject to state law).\*

5. The Franchisee is not required to waive jury trial for any matters coming under ND Law.

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
RHODE ISLAND DISCLOSURE DOCUMENT**

Item 17, summary columns for (v) and (w) are amended to add the following:

Any provision in the franchise agreement restricting jurisdiction or venue to a forum outside Rhode Island or requiring the application of the laws of a state other than Rhode Island is void as to a claim otherwise enforceable under the Rhode Island Franchise Investment Act.

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
SOUTH DAKOTA DISCLOSURE DOCUMENT**

At the request of the Securities Regulation Office, the Franchisor will defer all initial franchise fees pursuant to SDCL 37-5B-5 until such time as the franchise is operational.

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
VIRGINIA DISCLOSURE DOCUMENT**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure document for Hoots Franchising, LLC for use in the Commonwealth of Virginia shall be amended as follows:

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 franchise 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.

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
FRANCHISE AGREEMENT, AREA DEVELOPMENT AGREEMENT AND  
WASHINGTON DISCLOSURE DOCUMENT**

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

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

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

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

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

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

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

In lieu of an impound of franchise fees, the Franchisor will not require or accept the payment of any initial franchise fees until the franchisee (a) has received all initial training that it is entitled to under the franchise agreement or offering circular, and (b) is open for business. Under the Area Development Agreement, the collection of the Development Fee will be prorated and collected after each unit opens for business.

**We may use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. If we use the services of a franchise broker, we pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of the franchise.**

The undersigned does hereby acknowledge receipt of this addendum.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDA TO HOOTS FRANCHISING, LLC  
FRANCHISE AGREEMENT**

**COLORADO ADDENDUM TO FRANCHISE AGREEMENT  
COMPETITIVE RESTRICTION BUY-OUT ADDENDUM**

**THIS ADDENDUM** (this “**Addendum**”) is effective as of \_\_\_\_\_ (the “**Effective Date**”) (regardless of the actual date of signature), and amends the Franchise Agreement (the “**Agreement**”) dated \_\_\_\_\_ between **HOOTS FRANCHISING, LLC** (“**we,**” “**us,**” or “**our**”) and \_\_\_\_\_ (“**you,**” or “**your**”).

**1. Precedence and Defined Terms.** This Addendum is an integral part of, and is incorporated into, the Agreement to the extent the state of Colorado requires a liquidated damages provision in order for non-competition provisions to be enforceable. Nevertheless, this Addendum supersedes any inconsistent or conflicting provisions of the Agreement. Terms not otherwise defined in this Addendum have the meanings as defined in the Agreement. The accommodations under this Addendum are being granted to you at your request and for your benefit.

**2. Competitive Restrictions.** Section 16.3.3 of the Agreement contains competitive restrictions upon the termination or expiration of the Agreement (the “**Competitive Restriction**”).

**3. Competitive Restriction Buy-Out Option.** In exchange for a lump sum payment of \$1,000,000 within fifteen days of the termination or expiration of the Agreement (“**Buy Out Price**”), you can buy out the Competitive Restriction. Upon receipt of the Buy Out Price, you will be released from and no longer be bound by the Competitive Restriction. However, you will remain bound by all other post-termination and post-expiration obligations and restrictions contained in the Agreement (including, without limitation, all confidentiality provisions). You agree that the Buy Out Price is, and will be, a reasonable price of your ability to buy out the Competitive Restriction.

**“US”**

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

**“YOU”**

\_\_\_\_\_



**GEORGIA COMPETITIVE RESTRICTIONS**

If your Franchise Agreement is governed by Georgia law, or if Georgia Law applies to the competitive restrictions in it, Section 16.3.3 is modified to read as follows:

16.3.3 Competitive Restrictions: Upon termination or expiration of this Agreement for any reason whatsoever (and you have not acquired a Successor Franchise), you and your owners agree that for a period of two (2) years commencing on the effective date of termination or expiration neither you nor any of your owners will have any direct or indirect interest as a disclosed or beneficial owner, investor, partner, director, officer, employee, consultant, member, Manager, representative or agent or in any other capacity in any Competitive Business operating at or within 25 miles of the Site, within the Protected Market Area. If any person restricted by this Section refuses voluntarily to comply with the foregoing obligations, the two (2) year period will commence with the entry of an order of a court if necessary, enforcing this provision. You and your owners expressly acknowledge that you possess skills and abilities of a general nature and have other opportunities for exploiting such skills. Consequently, enforcement of the covenants made in this Section will not deprive you of your personal goodwill or ability to earn a living.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO FRANCHISE AGREEMENT  
FOR USE IN ILLINOIS**

This Rider is entered into this \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), between **HOOTS FRANCHISING, LLC**, a Tennessee limited liability company (“**we**,” “**us**,” “**our**” or “**Franchisor**”), with its principal business address at 1815 The Exchange, Atlanta, Georgia 30339, 770-951-2040, and \_\_\_\_\_, a \_\_\_\_\_ whose principal business address is \_\_\_\_\_ (referred to in this Rider as “**you**,” “**your**” or “**Franchisee**”) and amends the Franchise Agreement between the parties dated as of the Effective Date, (the “**Agreement**”).

1. **Precedence and Defined Terms.** This Rider is an integral part of, and is incorporated into, the Agreement. Nevertheless, this Rider supersedes any inconsistent or conflicting provisions of the Agreement. Terms not otherwise defined in this Rider have the meanings as defined in the Agreement.

2. **Termination.** Your rights upon Termination and Non-Renewal are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act.

3. **Governing Law.** Section 25.2 of the Agreement is amended in its entirety to read as follows:

**EXCEPT TO THE EXTENT THIS AGREEMENT OR ANY PARTICULAR DISPUTE IS GOVERNED BY THE U.S. TRADEMARK ACT OF 1946 (LANHAM ACT, 15 U.S.C. §1051 AND THE SECTIONS FOLLOWING IT) OR OTHER FEDERAL LAW OR THE ILLINOIS LAW, THIS AGREEMENT AND THE FRANCHISE ARE GOVERNED BY TENNESSEE LAW.** References to any law or regulation also refer to any successor laws or regulations and any impending regulations for any statute, as in effect at the relevant time. References to a governmental agency also refer to any successor regulatory body that succeeds to the function of such agency.

Illinois law governs the Franchise Agreement(s).

4. **Jurisdiction.** In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

5. Any releases that the Franchisor requests the Franchisee to sign must conform with Section 41 of the Act.

6. Section 25 of the Franchise Agreement is amended to comply with Section 27 of the Act to require any and all claims and actions arising out of or relating to these Agreements, the relationship of Franchisor and Franchisee or Franchisee’s operation of the Franchise brought by Franchisee against Franchisor to be commenced within three (3) years from the occurrence of the facts giving rise to such claim or action, within one (1) year after the Franchisee becomes aware of the facts or circumstances indicating Franchisee may have a claim for relief, or

ninety (90) days after delivery to Franchisee of a written notice disclosing the violation, or such claim or action will be barred.

7. Item 5 of the Disclosure Document is modified to include:

Franchisor will defer initial franchise fees until Franchisor has satisfied its pre-opening obligations to Franchisee and Franchisee has commenced doing business (Section 200.508 of the Rules). The Illinois Attorney General’s office has imposed this deferral requirement due to Franchisor’s financial condition.

In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act **or any other law of Illinois** is void.

Intending to be bound, you and we sign and deliver this Rider in 2 counterparts effective on the Agreement Date, regardless of the actual date of signature.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ADDENDUM TO THE HOOTS FRANCHISING, LLC  
SOUTH DAKOTA FRANCHISE AGREEMENT**

At the request of the Securities Regulation Office, the Franchisor will defer all initial franchise fees pursuant to SDCL 37-5B-5 until such time as the franchise is operational.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**TEXAS ADDENDUM TO FRANCHISE AGREEMENT  
COMPETITIVE RESTRICTION BUY-OUT ADDENDUM**

**THIS ADDENDUM** (this “**Addendum**”) is effective as of \_\_\_\_\_ (the “**Effective Date**”) (regardless of the actual date of signature), and amends the Franchise Agreement (the “**Agreement**”) dated \_\_\_\_\_ between **HOOTS FRANCHISING, LLC** (“**we,**” “**us,**” or “**our**”) and \_\_\_\_\_ (“**you,**” or “**your**”).

**1. Precedence and Defined Terms.** This Addendum is an integral part of, and is incorporated into, the Agreement to the extent the state of Texas requires a liquidated damages provision in order for non-competition provisions to be enforceable. Nevertheless, this Addendum supersedes any inconsistent or conflicting provisions of the Agreement. Terms not otherwise defined in this Addendum have the meanings as defined in the Agreement. The accommodations under this Addendum are being granted to you at your request and for your benefit.

**2. Competitive Restrictions.** Section 16.3.3 of the Agreement contains competitive restrictions upon the termination or expiration of the Agreement (the “**Competitive Restriction**”).

**3. Competitive Restriction Buy-Out Option.** In exchange for a lump sum payment of \$1,000,000 within fifteen days of the termination or expiration of the Agreement (“**Buy Out Price**”), you can buy out the Competitive Restriction. Upon receipt of the Buy Out Price, you will be released from and no longer be bound by the Competitive Restriction. However, you will remain bound by all other post-terminations and post-expiration obligations and restrictions contained in the Agreement (that includes, without limitations all confidentiality provisions). You agree that the Buy Out Price is, and will be, a reasonable price of your ability to buy out the Competitive Restriction.

**US: HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**STATE ADDENDUM TO THE HOOTS FRANCHISING, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF INDIANA**

1. Under Indiana Code 23-2-2.7-1(10), jurisdiction and venue must be in Indiana if the franchisee so requests. This amends Section 25 of the Franchise Agreement.
2. Under Indiana Code 23-2-2.7-1(10), franchisee may not agree to waive any claims or rights.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Addendum dated this \_\_\_\_\_ day of \_\_\_\_\_.

**HOOTS FRANCHISING, LLC**

**YOU**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## EXHIBIT AA

### HOOTS FRANCHISING, LLC

#### STATE EFFECTIVE DATES

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the states, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
California	
Hawaii	
Illinois	
Indiana	
Maryland	
Michigan	
Minnesota	
New York	
North Dakota	
Rhode Island	
South Dakota	
Virginia	
Washington	
Wisconsin	

Other states may require registration, filing or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

**EXHIBIT AB**  
**HOOTS FRANCHISING, LLC**  
**RECEIPTS**



## 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 Hoots Franchising, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Hoots Franchising, 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 law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the applicable state agency listed on Exhibit Y to this disclosure document.

Hoots Franchising, LLC's sales agent for this offering is Mark Whittle, 1815 The Exchange, Atlanta, Georgia 30339, 770-951-2040; and Loren Bontrager 1815 The Exchange, Atlanta, Georgia 30339, 770-951-2040,

Issuance date: August 2, 2021

I received a disclosure document dated August 2, 2021 (with the effective dates in franchise registration states as noted on the third page of this Franchise Disclosure Document) that included the following Exhibits:

- |                                                                                          |                                                          |
|------------------------------------------------------------------------------------------|----------------------------------------------------------|
| A. Application for Prospective Franchisees                                               | O POS Service Agreement                                  |
| B. Form of Franchise Agreement                                                           | P Form of Pepsi Agreement                                |
| C. Form of Multi-Unit Development Addendum                                               | Q. Bylaws of Collaborative Purchasing Organization (CPO) |
| D Form of Area Development Agreement                                                     | R. CPO Membership Agreement                              |
| E. Form of Principal Owners Guarantee                                                    | S. Tables of Contents of Manuals                         |
| F. Form of Principal Owners Statement                                                    | T. List of Franchisees/Licensees                         |
| G. Form of Collateral Assignment of Lease                                                | U. Financial Statements                                  |
| H. Form of Individual Non-Competition and Non-Disclosure Agreement (Franchise Agreement) | V. Guarantee of Performance                              |
| I. Form of Individual Non-Competition and Non-Disclosure Agreement (Multi-Unit Addendum) | W. Statement of Prospective Franchisees                  |
| J. Form of Release                                                                       | X. Forms of Services Agreements                          |
| K. Form of Construction Project Management Agreement                                     | Y. List of State Agencies/Agents for Service of Process  |
| L. Form of Software and Apps Agreement                                                   | Z. State Specific Addenda                                |
| M. Form of Third-Party Delivery Agreement                                                | AA. State Effective Dates Page                           |
| N Hooters Franchisee 1 to 1 Addendum                                                     | AB. Receipts                                             |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Prospective Franchisee

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Prospective Franchisee

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

Our Copy: Please sign, date, and return to us.

## 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 Hoots Franchising, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Hoots Franchising, 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 law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the applicable state agency listed on Exhibit Y to this disclosure document.

Hoots Franchising, LLC's sales agent for this offering is Mark Whittle, 1815 The Exchange, Atlanta, Georgia 30339, 770-951-2040; and Loren Bontrager 1815 The Exchange, Atlanta, Georgia 30339, 770-951-2040,

Issuance date: August 2, 2021

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- |                                                                                          |                                                          |
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| D Form of Area Development Agreement                                                     | R. CPO Membership Agreement                              |
| E. Form of Principal Owners Guarantee                                                    | S. Tables of Contents of Manuals                         |
| F. Form of Principal Owners Statement                                                    | T. List of Franchisees/Licensees                         |
| G. Form of Collateral Assignment of Lease                                                | U. Financial Statements                                  |
| H. Form of Individual Non-Competition and Non-Disclosure Agreement (Franchise Agreement) | V. Guarantee of Performance                              |
| I. Form of Individual Non-Competition and Non-Disclosure Agreement (Multi-Unit Addendum) | W. Statement of Prospective Franchisees                  |
| J. Form of Release                                                                       | X. Forms of Services Agreements                          |
| K. Form of Construction Project Management Agreement                                     | Y. List of State Agencies/Agents for Service of Process  |
| L. Form of Software and Apps Agreement                                                   | Z. State Specific Addenda                                |
| M. Form of Third-Party Delivery Agreement                                                | AA. State Effective Dates Page                           |
| N Hooters Franchisee 1 to 1 Addendum                                                     | AB. Receipts                                             |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Prospective Franchisee

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Prospective Franchisee

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

Your Copy: Please keep for your records.