

## FRANCHISE DISCLOSURE DOCUMENT

**Break Coffee Co Franchising LLC**  
**A Delaware Limited Liability Company**  
155 2<sup>nd</sup> Street  
Jersey City, New Jersey 07302  
Telephone: 347-421-4196  
joshua.kovacs@breakcoffeeco.com  
[www.breakcoffeeco.com](http://www.breakcoffeeco.com)



You will operate a business that sell, services and stocks coffee machines, equipment, premium beans and supplies to offices and other commercial centers using the trademark “Break Coffee Co”.

The total investment necessary to begin the operation of Break Coffee Co. franchise ranges from \$102,525 - \$146,000. This includes \$84,500 - \$89,500 that must be paid to the franchisor or an 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 the 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 government agency has verified the information contained in this document.**

The terms of your contract will govern your franchise relationship. Don’t rely on the disclosure document alone to understand your contract. Read your entire contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or 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, DC, 20580. You can also visit the FTC’s home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance Date: April 2, 2025

## 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 E.
<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 C 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 Break Coffee business in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a Break Coffee franchisee?</b>	Item 20 or Exhibit E 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 your franchise business or may harm your franchise business.

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

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation and/or litigation only in New Jersey. Out-of-state mediation or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate or litigate with the franchisor in New Jersey than in your own state.
2. **Spouse Liability.** Your spouse must sign a document that makes your spouse liable for your financial obligations under the franchise agreement, even though your spouse has no ownership interest in the business. This guarantee will place both your and your spouse's personal and marital 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.

**BREAK COFFEE CO FRANCHISING LLC**  
**Franchise Disclosure Document**

**TABLE OF CONTENTS**

<b>ITEM 1: THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES .....</b>	<b>1</b>
<b>ITEM 2: BUSINESS EXPERIENCE .....</b>	<b>3</b>
<b>ITEM 3: LITIGATION .....</b>	<b>4</b>
<b>ITEM 4: BANKRUPTCY .....</b>	<b>4</b>
<b>ITEM 5: INITIAL FEES .....</b>	<b>4</b>
<b>ITEM 6: OTHER FEES.....</b>	<b>5</b>
<b>ITEM 7: ESTIMATED INITIAL INVESTMENT .....</b>	<b>10</b>
<b>ITEM 8: RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES.....</b>	<b>11</b>
<b>ITEM 9: FRANCHISEE’S OBLIGATIONS.....</b>	<b>12</b>
<b>ITEM 10: FINANCING .....</b>	<b>14</b>
<b>ITEM 11: FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING .....</b>	<b>14</b>
<b>ITEM 12: TERRITORY .....</b>	<b>19</b>
<b>ITEM 13: TRADEMARKS .....</b>	<b>22</b>
<b>ITEM 14: PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION.....</b>	<b>22</b>
<b>ITEM 15: OBLIGATIONS OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS.....</b>	<b>23</b>
<b>ITEM 16: RESTRICTION ON WHAT FRANCHISEE MAY SELL .....</b>	<b>24</b>
<b>ITEM 17: RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION .....</b>	<b>24</b>
<b>ITEM 18: PUBLIC FIGURES .....</b>	<b>27</b>
<b>ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS.....</b>	<b>28</b>
<b>ITEM 20: OUTLETS AND FRANCHISEE INFORMATION .....</b>	<b>28</b>
<b>ITEM 21: FINANCIAL STATEMENTS.....</b>	<b>31</b>
<b>ITEM 22: CONTRACTS .....</b>	<b>31</b>
<b>ITEM 23: RECEIPT.....</b>	<b>31</b>

**EXHIBITS**

- A - List of State Franchise Administrators and Agents for Service of Process
- B - Franchise Agreement
- C - Financial Statements
- D - Operations Manual Table of Contents
- E - List of Current Franchisees and Former Franchisees
- F - General Release
- G - State Addenda
- H - Franchisee Acknowledgement Statement
- I - Receipt

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

To simplify the language in this disclosure document, the terms “Franchisor”, or “we” or “us” means Break Coffee Co Franchising LLC, the Franchisor. The terms “we”, “us” and “Franchisor” do not include you, the “Franchisee”. We refer to the purchaser(s) of a Break Coffee Co. franchise, as “you” or “Franchisee”, whether an individual, a partnership, corporation, or limited liability company. If you are a corporation, partnership or other entity, our Franchise Agreement also will apply to your owners, officers and directors. If you are married and your spouse is not a partner in the franchise business, certain provisions of our Franchise Agreement will also apply to that spouse.

We were formed as a limited liability company in the State of Delaware on September 15, 2023. Our principal business address is 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302. We do business under our trade name “Break Coffee Co.”. We do not own or operate any businesses of the type you will be operating. Through an acquisition, we are the franchisor of the Xpresso Delight franchise system; however, we do not offer new Xpresso Delight franchises and do not offer franchises in any other line of business. We only offer franchises which operate under the “Break Coffee Co.” trademarks. We began offering franchises on April 2, 2025, the Issuance Date of this Disclosure Document.

The principal business addresses of our agents for service of process are shown on Exhibit A.

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

Our parent company and sole member is Westside Xpresso Delight LLC, a Delaware limited liability company with a principal place of business at 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302. Westside Xpresso Delight LLC is owned by both XD USA Holdings LLC, a Delaware limited liability company with a principal place of business at 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302, and Westside XD, LLC, a Delaware limited liability company with a principal place of business at 297 Mountain Avenue, Ridgewood, New Jersey, 07450.

Our predecessor is XD Franchising, LLC, a New Jersey limited liability company, with a principal business address of 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302. Our parent company Westside Xpresso Delight LLC, is also the parent company and sole member of our predecessor. Our predecessor offered Xpresso Delight franchises from March 2013 to February 2020. Our predecessor did not engage in any other business activities and has not offered franchises in any other line of business.

We have an affiliated company, Break Coffee Co. LLC, a Delaware limited liability company with a principal place of business at 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302. Break Coffee Co. LLC is the owner of the Break Coffee Co. trademarks and has exclusively licensed use of the Break Coffee Co. trademarks to us. Break Coffee Co. LLC does not engage in any other business activities and has not offered franchises in this or any other line of business previously.

We have a second affiliated company, XD Operations LLC, a New Jersey limited liability company with a principal place of business at 28 Liberty Street, 6<sup>th</sup> Floor, New York, New York, 10005. XD Operations LLC provides billing and collections services for our franchisees. XD Operations LLC does not engage in any other business activities and has not offered franchises in this or any other line of business previously.

We have a third affiliated company, Break Coffee Supply Co LLC, a Delaware limited liability company with a principal place of business at 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302. Break Coffee Supply Co LLC is the designated supplier of all coffee machines, filtered/sparkling water machines, coffee machine equipment and attachments, coffee beans, tea, tea making equipment, cold brew products, creamers, sweeteners, machine cleaning products, and paper products for our franchisees. Break Coffee Supply Co

LLC does not engage in any other business activities and has not offered franchises in this or any other line of business previously.

We have a fourth affiliated company, Xpresso Delight International Pty Limited, an Australian proprietary company with a principal place of business at 5023 Emerald Island Drive, Carrara, Queensland, Australia 4211. Xpresso Delight International Pty Limited has offered Xpresso Delight franchises in Australia since 2004 and in New Zealand since 2006. Xpresso Delight International Pty Limited has approximately 100 franchisees operating outside of the United States as of the Issuance Date of this Disclosure Document. Xpresso Delight International Pty Limited has not offered franchises in any other line of business.

### **The Franchise Offered:**

We grant franchises for the right to operate a business that sells, services and stocks coffee machines, equipment, premium beans and supplies to offices and other commercial centers. You will provide products and services to customers under the “Break Coffee Co.” trademark, using our distinctive operating procedures and standards in a non-exclusive territory (the “Franchised Business”). The distinguishing characteristics of the Franchised Business include, but are not limited to, our distinctive trade dress, inventory, procedures for management, training, advertising, and promotional programs, all of which may be changed, improved or further developed by us at any time (the “System”).

The Break Coffee Co. System is substantially similar to the Xpresso Delight franchise system, which our predecessor and our parent company operated from March 2013 to February 2020. Eight Xpresso Delight franchisees remain in operation, and all have re-branded and have exclusively use the Break Coffee Co. trademarks, as July 2023.

### **Market and Competition:**

The market for your Franchised Business consists of professional offices, commercial centers and other high-volume workplaces with 20+ employees, staff members and/or daily visitors to whom coffee beverages are made available.

The market for workplace coffee systems and service is well-developed and highly competitive. You will compete with national, regional and local providers that offer coffee beverage machines, coffee beans, supplies and services similar to those offered by your Franchised Business, and you will compete with local, regional and national coffee shops and cafés, in your territory. The market for our products and services is not seasonal.

### **Industry Specific Regulations:**

You and your employees must comply with all local, state and federal health and sanitation laws and laws, rules and regulations for proper storage and handling of food for human consumption.

You must comply with all local, state and federal laws and regulations that apply to the operation of your Franchised Business, including, among others, business operations, insurance, discrimination, and employment laws. Your advertising of the Franchised Business is regulated by the Federal Trade Commission. There may be federal, state and local laws which affect your Franchised Business in addition to those listed here.

You should investigate whether there are any state or local regulations or requirements that may apply in the geographic area in which you intend to conduct business. You should consider both their effect on your business and the cost of compliance. You are responsible for obtaining all licenses and permits which may be required for your business.

## **ITEM 2: BUSINESS EXPERIENCE**

### **Chief Executive Officer and Director: Joshua Kovacs**

Joshua is our Chief Executive Officer and has served on our Board of Directors since our inception. Joshua served as a Director of PetWell Franchisor, LLC, headquartered in Knoxville, Tennessee, from July 2020 to October 2023, and Director of Westside NJ PetWell, LLC, based in New York, New York, since June 2020. From June 2017 to February 2023, he served as the Chief Executive Officer of, Oakscale, LLC, a franchise development company located in New York, New York, and has served as its Chief Development Director since March 2023. Joshua is also has also been the Managing Member of Kovacs Holdings LLC since January 2024, and has also been the Managing Member of Kovacs Distribution, LLC, which has operated an Xpresso Delight franchise in Washington, DC, since February 2020.

### **Chief Operating Officer and Director: Paul Crabtree**

Paul is the co-founder of our predecessor's Xpresso Delight concept. He has been our Chief Operating Officer and on our Board of Directors since our inception. Prior to that, Paul was employed by our predecessor XD Franchising, LLC, as the Chief Executive Officer from March 2017 to March 2020. In May 2020, Paul co-founded and is a managing member of XD Operations, LLC, based in Jersey City, New Jersey, which provides centralized billing services to the System. Since January 2008, Paul has also been the Chief Executive Officer of our affiliate Xpresso Delight International Pty Limited, in Carrara, Queensland, Australia.

### **Director: Nigell Lee**

Nigell has served on our Board of Directors since our inception. Prior to that, Nigell was employed by our predecessor XD Franchising, LLC, as the Chief Operating Officer and President of Franchise Operations from March 2017 to March 2020, and as the Chief Executive Officer March 2013 to February 2017. In May 2020, Nigell co-founded and is a managing member of XD Operations, LLC, based in Jersey City, New Jersey, which provides centralized billing services to the System. Nigell was also a Managing Member of XD Unit Franchise, LLC, which operated our predecessor's Xpresso Delight outlets in New York, New York, from March 2013 to February 2020.

### **Director: Robert Huntington**

Rob has served on our Board of Directors since our inception. Rob has also been a Director of PetWell Franchisor, LLC, headquartered in Knoxville, Tennessee, since July 2020 and Director of Westside NJ PetWell, LLC, based in New York, New York, since June 2020. Since 2019, Rob has been the Chief Executive Officer of Westside Franchise Brands, located in New York, New York, and since October 2017, he has been a Franchise Consultant with The Franchise Consulting Company, also located in New York, New York.

### **Director: Steve Nave**

Steve has served on our Board of Directors since our inception. Since April 2019, Steve has been a General Partner of Kingsley-Malta Company, located in Eden Prairie, Minnesota, and since December 2019 he has been a Board Member and is a co-founder of J3st Gaming, located in Eden Prairie, Minnesota. Steve has also been on the Board of Directors and has served as Chairman of the Compensation Committee of Libbey Inc., based in Toledo, Ohio, since May 2017.

**Director of Franchising: Tyler Burdett**

Tyler has served as our Director of Franchising since January 2025. From October 2021 to January 2025, Tyler was employed by Oakscale Franchise Partners, in New York, New York, as a Sales Director. Tyler has also been the General Manager of Kovacs Distribution LLC, since March 2020 which operates an Xpresso Delight franchise in Washington, DC.

**ITEM 3: LITIGATION**

*XD Franchising LLC v. Stuart Mills*, Case No. 01-24-0006-6292) in the Commercial Arbitration Tribunal, American Arbitration Association, filed July 22, 2024. We filed an application for emergency measures seeking to enjoin a former franchisee Stuart Mills from operating a competing business in violation of the non-competition provisions of the franchise agreement. The arbitrator issued a preliminary injunction on August 19, 2024, enjoining Mills from operating such a competing business, soliciting our customers, and using our confidential information. On October 29, 2024, the parties reached a settlement wherein Mills agreed to pay us \$8,915.38 and sold us all assets of the competing business for \$100.

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

**ITEM 4: BANKRUPTCY**

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

**ITEM 5: INITIAL FEES**

You must pay an initial franchise fee (“Initial Franchise Fee”) when you sign the Franchise Agreement, which is included in this Disclosure Document in Exhibit B. The amount of the Initial Franchise Fee will depend on the number of territories you purchase and is calculated as follows:

<b>Territory Number</b>	<b>Cumulative Initial Franchise Fee</b>	<b>Individual Initial Franchise Fee</b>	<b>Cumulative Number of Businesses Maximum</b>
1	\$59,500	\$59,500	1,000
2	\$99,500	\$40,000	2,000
3	\$134,500	\$35,000	3,000
4	\$164,500	\$30,000	4,000
5	\$194,500	\$30,000	5,000

Each territory contains approximately 1,000 businesses with 20+ employees per the most recent U.S. census. If the cumulative number of businesses in your territory(ies) exceeds the cumulative number of businesses maximum stated in the table above, the Initial Franchise Fee will increase by \$59.50 per each additional business over the maximum.

The entire cumulative Initial Franchise Fee is fully earned by us and due in lump sum when you sign the Franchise Agreement.

You must purchase from us an initial inventory of 6 Break Coffee Beverage Machines for each territory. The cost of the initial inventory of Break Coffee Beverage Machines is \$25,000 to \$30,000 per territory. This charge is due and payable when you sign the Franchise Agreement and is non-refundable.

From time to time, we may offer special incentive programs as part of our franchise development activities. We reserve the right to offer, modify or withdraw any incentive program without notice to you. We currently offer a fifteen percent (15%) discount from the Initial Franchise Fee to veterans of the U.S. Armed Forces.

**ITEM 6: OTHER FEES**

Type of Fee	Amount	Due Date	Remarks
Royalty Fee	12% of Gross Sales or the minimum weekly Royalty Fee described in footnote 1, whichever is greater	As customer payments are received	We will deduct this fee from customer payments we collect through our centralized payment systems, prior to distributing the balance to you. See footnote 1.
Brand Fund Contribution	2% of Gross Sales or the minimum weekly Brand Fund Contribution described in footnote 2, whichever is greater	As customer payments are received	We will deduct this fee from customer payments we collect through our centralized payment systems, prior to distributing the balance to you. See footnote 2.
Technology and Support Fee	\$49, subject to increase not to exceed \$500	Monthly	We will deduct this fee from customer payments we collect through our centralized payment systems, prior to distributing the balance to you.
Accounting, Bookkeeping and/or Payroll Service Fee	Currently \$0, subject to increase not to exceed \$349	Monthly	This fee is payable if we require you to use our designated provider for accounting, bookkeeping and/or payroll services.
Sales and Marketing Fee for Placed Business	360% of the amount of the first full invoice to a new account, subject to increase to up to 500% of the amount of the first full invoice	As incurred	If we or another franchisee secures a new account in your territory, you may service this account and pay us or the other franchisee a Sales and Marketing Fee for Placed Business. If you decline to service the new account in your territory, we or another franchisee may do so. See footnote 3.
Credit Card Processing Fee Reimbursement	Up to 3.5% of the transaction price, subject to increase by card issuers	As incurred	You must reimburse to us for any credit card processing fees we pay on behalf of your customers.

Type of Fee	Amount	Due Date	Remarks
Late Charge	\$150 per occurrence	As incurred	If you fail to pay us the Royalty Fee, Technology and Support Fee, Brand Fund Fee or any other fee or sum due to us, or if you fail to submit your Gross Sales or other required report when due, we may charge you a late fee in addition to interest charges explained below.
Interest Charge	18% per annum from due date, or maximum allowed by law	As incurred	If you fail to pay us any amount when due, we may charge you interest on the unpaid balance until the payment is received.
Non-Sufficient Funds Fee	\$50 per occurrence	As incurred	If your check is returned or an electronic funds transfer from your bank account is denied for insufficient funds, for each occurrence we may charge you a Non-sufficient Funds Fee.
Successor Agreement Fee	50% of the then-current initial franchise fee	Before signing successor franchise agreement	Payable to us. See Item 17.
Transfer Fee	\$2,500, plus training costs and our legal fees not to exceed \$12,500. To add a principal or entity, the transfer fee is \$1,500	Upon your request for approval of the transfer	Payable to us. See Item 17
On-Site Supplemental Training	\$1,000 per day	As incurred	We may impose this fee, payable to us, if you request additional training at your premises, or if you are operating below our standards and we require you to have additional training. You must also pay all costs of our trainer, which include but are not limited to, airfare, transportation, hotel and meals.
Additional Training	Actual tuition or attendance fee	As incurred	See footnote 4.

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Interim Management Support Fee	The greater of \$250 per day or 30% of revenue earned, plus all travel expenses.	As incurred.	We may impose this fee (in addition to all regularly occurring fees such as the Continuing Royalty Fee and Brand Fund Contributions), payable to us, if we provide on-site management of your Franchised Business.
Examination of Books and Records	Cost of examination plus related expenses.	As incurred.	We have the right under the Franchise Agreement to examine your books, records and tax returns. If an examination reveals that you have understated any Gross Sales, you must pay us the owing Royalty Fees and Brand Fund Contribution, with interest, and if there is an understatement of 2% or more, you must pay to us the cost of the audit and all travel and related expenses.
Evaluation Fee	Actual cost of inspection and testing of a proposed item or vendor	As incurred.	Payable to us.
Quality Review Services	Actual costs	As incurred.	Payable to us or third-party providers. See footnote 5.
Confidential Operation Manual Replacement Fee	Currently \$500, subject to change	As incurred	Paid to us.
Liquidated Damages – Default and Termination of Franchise	Up to 36 months of Royalty Fees and Brand Fund Contributions	Upon termination of the Franchise Agreement due to your default, in a lump sum	If your Franchise Agreement is terminated due to your default, you must pay us the average monthly Royalty Fee and Brand Fund Contribution payable by you for the 12 months prior to your default multiplied by the lesser of 36 months or the number of months remaining in the term of your Franchise Agreement.
Liquidated Damages – Breach of Confidentiality or Non-Competition Covenant	\$100,000, plus our attorney’s fees	As incurred	Payable to us.

Type of Fee	Amount	Due Date	Remarks
Insurance Reimbursement	Amount paid by us for your insurance obligations, plus a 10% administrative fee and other actual expenses	As incurred.	You must reimburse us for any insurance costs and other fees we incur due to your failure to meet the insurance obligations required by the Franchise Agreement.
Indemnification	Amount of loss or damages plus costs	As incurred.	See footnote 6.
Reimbursement of Cost and Expenses for Non-compliance	Actual costs and expenses	As incurred.	See footnote 7.
Taxes	Amount of taxes	When incurred.	You must reimburse us for any taxes that we must pay to any taxing authority on account of either the operation of your Franchised Business or payments that you make to us, including, but not limited to any sales, excise, use, privilege or income taxes imposed by any authority.

All fees and expenses described in this Item 6 are nonrefundable and are uniformly imposed. Except as otherwise indicated in the preceding chart, we impose all fees and expenses listed and you must pay them to us.

<sup>1</sup> Your Royalty Fee, on a monthly basis, will equal the greater of (i) 12% of your Gross Sales or (ii) the following amount **per Territory** based on your Territory Count and operating month:

Month	If you have:				
	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	Your monthly Minimum Royalty Fee <b>per Territory</b> is:				
0 - 6	\$0	\$0	\$0	\$0	\$0
7 - 24	\$350	\$210	\$175	\$150	\$140
25 - 60	\$700	\$420	\$350	\$315	\$280
61+	\$1,050	\$630	\$525	\$473	\$420

We will reconcile the actual Royalty Fees you have paid to us in each 6-month period ending January 31 and July 31. If your total Royalty Fee payments for any 6-month period do not meet or exceed the cumulative monthly Minimum Royalty Fees required, you must pay us the difference.

“Gross Sales” includes all revenues and income from any source derived or received from, through, by or on account of the operation of the Franchised Business or made pursuant to the rights granted to you by the Franchise Agreement. Gross Sales excludes: (i) federal, state, or municipal sales, use, or service taxes collected from customers and paid to the appropriate taxing authority; (ii) proceeds from insurance, excluding business interruption insurance; and (iii) proceeds from any civil forfeiture, condemnation, or seizure by government entities. We will invoice your customers on your behalf for all services and supplies your customers purchase from you, and your customers will pay us directly.

<sup>2</sup> Your Brand Fund Contribution, on a monthly basis, will equal the greater of (i) 2% of your Gross Sales or (ii) the following amount **per Territory** based on your Territory Count and operating month:

	If you have:				
Month	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	Your monthly Minimum Brand Fund Contribution <b>per Territory</b> is:				
0 - 6	\$0	\$0	\$0	\$0	\$0
7 - 24	\$58	\$35	\$29	\$26	\$23
25 - 60	\$117	\$70	\$58	\$53	\$47
61+	\$175	\$105	\$88	\$79	\$70

We will reconcile the actual Brand Fund Contributions you have paid to us in each 6-month period ending January 31 and July 31. If your total Brand Fund Contributions for any 6-month period do not meet or exceed the cumulative monthly Minimum Brand Fund Contributions required, you must pay us the difference

<sup>3</sup> We may solicit, sell to, and negotiate rates with any business or other organization in your Territory. As a condition to accepting to service any new account we acquire, you must agree to our negotiated terms and sign a general release, which is attached as Exhibit F to this Disclosure Document, as well as pay the Sales and Marketing Fee for Placed Business.

<sup>4</sup> We may offer mandatory and/or optional additional training programs, including an annual business meeting or convention, from time to time. If we require it, you must participate in additional training for up to 3 days per year and an annual business meeting or convention for up to 3 days, at a location we designate. We reserve the right to impose a reasonable fee for all additional training programs, including the annual convention. You are responsible for any and all incidental expenses incurred by you and your personnel in connection with additional training or attendance at Franchisor’s national business meeting or annual convention, including, without limitation, costs of travel, lodging, meals and wages.

<sup>4</sup> In the event of your death or disability, your default of the Franchise Agreement, or other reasons, in our sole discretion, we may provide interim on-site management of your Franchised Business.

<sup>5</sup> We may establish quality assurance programs conducted by third-party providers, such as, by way of example only, mystery shop programs and periodic quality audits, to monitor the operations of your Franchised Business. If we require it, you must subscribe and pay the fees for any such program.

<sup>6</sup> You must indemnify and hold us, our affiliates, and all of our respective officers, directors, agents and employees harmless from and against any and all claims, losses, costs, expenses, liability and damages arising directly or indirectly from, as a result of, or in connection with your business operations under the Franchise Agreement, as well as the costs, including attorneys’ fees, of defending against them.

<sup>7</sup> If you breach the Franchise Agreement, you must reimburse us any costs we incur to cure your default. You must also pay us all damages, costs and expenses, including reasonable attorneys' fees, we incur to enforce the terms of the Franchise Agreement or to obtain any remedy, injunctive or other relief.

**ITEM 7: ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**  
(1 Territory)

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is Made
Initial Franchise Fee	\$59,500	Lump sum payment by wire or ACH	Upon signing the Franchise Agreement.	Us
Break Coffee Beverage Machines	\$25,000 - \$30,000	Lump sum payment by wire or ACH	Upon signing the Franchise Agreement.	Us
Initial Training Expenses	\$1,000- \$3,000	As required	Before Opening	Suppliers of transportation, lodging & meals
Professional Fees <sup>1</sup>	\$1,000 - \$3,000	As required	Before opening, as required	Supplier
Business Licenses and Permits <sup>2</sup>	\$25 - \$500	As required	Before opening, as required	Government agencies
Computer Systems <sup>3</sup>	\$0 - \$ 1,000	As required	Before opening	Suppliers
Vehicle <sup>4</sup>	\$0- \$ 1,500	As required	Before opening	Supplier
Initial Inventory to Begin Operating <sup>5</sup>	\$500 - \$1,000	As required	Before opening	Suppliers
Grand Opening Advertising	\$5,000	As required by supplier	As required by supplier	Suppliers
Insurance <sup>6</sup>	\$500 - \$1,500	As required	Before opening	Insurer
Additional Funds – 3 months <sup>7</sup>	\$10,000 - \$40,000	As incurred	Weekly payroll, other purchases according to agreed-upon terms	Employees, utilities, suppliers, etc.
<b>TOTALS: \$102,525 - \$146,000</b>				

<sup>1</sup> You may incur professional fees depending on the scope of work performed, which may include, legal and accounting fees to review franchise documents and costs of forming a separate legal entity. This list is not exhaustive. This amount will vary greatly depending on your specific needs and location. We strongly recommend that you seek the assistance of professional advisors when evaluating this franchise opportunity, this disclosure document and the Franchise Agreement.

<sup>2</sup> You are responsible for applying for, obtaining and maintaining all required permits and licenses necessary to operate your Franchised Business. This estimate includes the initial cost of licenses, certifications and/or permits that may be required by you to provide services offered by your Franchised Business. The costs of permits and licenses will vary by location.

<sup>3</sup> We require you to purchase computer systems, software and applications meeting our minimum specifications for use at your Franchised Business. You must also have internet and other telecommunications equipment and services in accordance with our standards to permit electronic transmission of sales information. The cost internet and other telecommunications equipment & services is included within this estimate. We reserve the right to change your requirements for computer hardware and software at any time.

<sup>4</sup> Depending on the size and location of your Territory, you may need a vehicle to service your customers.

<sup>5</sup> This estimate is for the cost of the initial inventory sufficient for approximately 3 months of operation. Your initial inventory will include coffee and machine cleaning products.

<sup>6</sup> You must purchase the amounts and types of insurance as required by our Confidential Operations Manual from time to time (see Item 8). Factors that affect your cost of insurance include the location of the Franchised Business, number of employees and other factors. The amounts you pay for insurance are typically non-refundable. You should inquire about the cancellation and refund policy of the insurance carrier or agent at or before the time of purchase.

<sup>7</sup> This is an estimate of other required expenses you will incur before operations begin and during the initial 3-month period of operation. This estimate reflects expenses for marketing, transportation, additional Break Coffee Beverage Machine purchases, and administrative expenses.

We relied upon the experience of our franchised Break Coffee Co. outlets to compile these estimates.

We do not offer financing for any part of the initial investment.

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

We have identified various suppliers, distributors and manufacturers of equipment, inventory, and services that your Franchised Business must use or provide which meets our standards and requirements. You must purchase all equipment, fixtures, inventory, supplies and services from our designated suppliers and contractors or in accordance with our specifications.

You are required to purchase all Break Coffee Beverage Machines, filtered/sparkling water machines, coffee machine equipment and attachments, coffee beans, tea, tea making equipment, cold brew products, creamers, sweeteners, machine cleaning products, and paper products from our affiliate Break Coffee Supply Co LLC. Break Coffee Supply Co LLC is the only approved supplier of these items.

XD Operations, LLC, is the sole designated supplier of centralized billing services for all Break Coffee Co. franchisees.

Other than Break Coffee Supply Co LLC and XD Operations, LLC, none of our officers own any interest in any other approved or designated supplier for any product, good or service that you are required to purchase for the operation of your Franchised Business.

Before you open for business, you must purchase and maintain at your sole cost and expense the insurance coverage that we specify. This includes comprehensive general liability insurance in the amount of at least \$1,000,000; comprehensive automobile liability insurance of at least a combined single limit for bodily injury and property damage of \$1,000,000; and statutory worker's compensation insurance in the limits required by state law. Each policy must be written by a responsible carrier or carriers acceptable to us, and must name us and our respective officers, directors, partners, agents and employees as additional insured parties. Insurance costs and requirements may vary widely in different localities. We reserve the right to require additional types of insurance and coverage as provided in the Franchise Agreement.

We approve suppliers after careful review of the quality of the products they provide to us and you. Our criteria for approving items and suppliers are not available to you. If you would like us to consider another item or supplier, you must make such request in writing to us and have the supplier give us samples of its product or service and such other information that we may require. We reserve the right to charge you a fee equal to the actual costs of our inspection and testing. If the item and/or supplier meet our specifications, as we determine in our sole discretion, we will approve it as an additional item or supplier. We will make a good-faith effort to notify you whether we approve or disapprove of the proposed item or supplier within 90 days after we receive all required information to evaluate the product or service. If we do not approve any request within 90 days, it is deemed unapproved. We reserve the right to revoke approval of any item or supplier that does not continue to meet our then-current standards.

We maintain written lists of approved items of equipment, fixtures, inventory and services (by brand name and/or by standards and specifications) and a list of designated suppliers and contractors for those items. We update these lists periodically and issue the updated lists to all franchisees.

During the last fiscal year ending December 31, our affiliate XD Franchising, LLC, received \$149,331 from franchisees' required coffee purchases. We and our affiliates have not received any other revenue, rebates, discounts or other material consideration from any other suppliers based on your required purchases of products, supplies or equipment.

We estimate that your purchase or lease of products, supplies and services from approved suppliers (or those which meet our specifications) will represent approximately 50% of your costs to establish your Franchised Business and approximately 80% of your costs for ongoing operation.

Currently, there are no purchasing or distribution cooperatives. However, we can require that you make your purchases through a cooperative if one is formed.

From time to time, we may negotiate purchase arrangements, including price terms, with designated and approved suppliers on behalf of all franchisees. As of the date of this Disclosure Document, we have not created any purchasing arrangements with suppliers.

We provide no material benefits (such as the grant of additional franchises) based on your use of designated sources; however, failure to use approved items or designated suppliers and contractors may be a default under the Franchise Agreement. Additionally, when there is any default under the Franchise Agreement, we reserve the right, in addition to other remedies available under the Franchise Agreement, to direct suppliers to withhold furnishing products and services to you.

## **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.**

<b>Obligation</b>	<b>Section or Article in Franchise Agreement</b>	<b>Item in Franchise Disclosure Document</b>
a. Site Selection and Acquisition/Lease	8.1	11
b. Pre-Opening Purchase/Leases	8.2, 12.3.1, 12.3.2	7, 11
c. Site Development & other Pre-Opening Requirements	8.1, 8.2	11
d. Initial and Ongoing Training	Article 7	11
e. Opening	8.2	11
f. Fees	5.2.7, Article 6, 7.3, 11.4.3, 12.2.5, 12.3.6, 12.6, 12.7, 13.3.1, 16.4, 16.7, 18.1.8, 19.1.5	5, 6, 7
g. Compliance with Standards and Policies/Operating Manual	Article 9, 12.1, 19.1.1	8, 11
h. Trademarks and Proprietary Information	9.4, 12.1.9, 12.2.1, Article 14, 19.2, 19.3, 19.4	13, 14
i. Restrictions on Products/Services Offered	12.1.2, 12.6	8
j. Warranty and Customer Service Requirements	Not Applicable	Not Applicable
k. Territorial Development and Sales Quotas	13.2	12
l. Ongoing Product/Service Purchases	9.1, 12.1.2, 12.1.5, 12.3.7	8
m. Maintenance, Appearance and Remodeling Requirements	Article 9, 12.1.4	Item 11
n. Insurance	Article 15	7
o. Advertising	12.1.9, Article 13	6, 11
p. Indemnification	15.6, 16.3.6, 21.1	14

<b>Obligation</b>	<b>Section or Article in Franchise Agreement</b>	<b>Item in Franchise Disclosure Document</b>
q. Owner's Participation, Management, Staffing	11.1, 11.4, 12.1.6	11, 15
r. Records /Reports	12.2	6
s. Inspections and Audits	12.1.7, 12.2.5	6, 11
t. Transfer	Article 16	17
u. Renewal	Article 5	17
v. Post-Termination Obligations	Article 18	17
w. Non-Competition Covenants	19.5	17
x. Dispute Resolution	Article 20	17
y. Spouse Guaranty	11.3, Attachment 7	15

**ITEM 10: FINANCING**

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

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

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

**1. Pre-Opening Obligations**

Before you open your Franchised Business, we will:

- a. designate mutually-agreed upon boundaries of your territory. (Franchise Agreement, Article 2, Section 10.1). You may operate the Franchised Business from a home-based office. You assume all cost, liability, expense and responsibility for equipping and outfitting the home-based office as outlined in the Operations Manual. We do not own and/or lease a site to you, and we do not assist you with any site lease or purchase negotiation or any construction or remodeling of a site. (Franchise Agreement, Section 8.1)
- b. provide access to the Break Coffee Co. Operations Manual, and other manuals and training aids we designate for use in the operation of your Franchised Business, as they may be revised from time to time (Franchise Agreement, Section 10.1).
- c. upon your payment of the purchase price, deliver to you a minimum of 6 Coffee Beverage Machines (Franchise Agreement, Section 6.2, 10.2);

- d. deliver to you a Franchise Start-Up Kit, which includes spare hoses, initial cleaning supplies, laminated signage and procedures, training and operations manuals, business cards and T-shirts (Franchise Agreement, Section 10.2);
- e. provide a written list of other equipment, signage, supplies and products that will be required to open the Franchised Business. We do not provide, purchase, deliver, or install any of these other items for you (Franchise Agreement, Section 10.2).
- f. provide you with samples or digital artwork of advertising and promotional materials for your initial marketing activities (Franchise Agreement, Section 10.4)
- g. provide initial training. We will determine, in our sole discretion, whether you satisfactorily complete the initial training program. (Franchise Agreement, Sections 7.1, 7.2).
- h. provide you with standards for qualifications and training of your employees. We do not otherwise assist you with employee hiring and training (Franchise Agreement, Section 12.1.6).

## 2. **Time to Open**

We estimate the typical length of time between the signing of the Franchise Agreement and the time you open your Franchised Business is between 30 to 90 days. Factors that may affect this time period include your ability to acquire financing or permits, and completion of required training. If you have not opened your Franchised Business within 90 days after you sign the Franchise Agreement, you must obtain our consent to extend the time to open, which we may or may not grant, at our discretion. Failure to open your Franchised Business within the original time as extended, is a default of the Franchise Agreement. (Franchise Agreement, Sections 8.2).

## 3. **Obligations After Opening**

During the operation of your franchise, we will:

- a. offer from time to time, in our discretion, mandatory or optional additional training programs, including an annual business meeting or convention. If we require it, you must attend an annual business meeting or convention for up to days (3) days and mandatory additional training offered by us for up to three (3) days per year. Failure to attend mandatory additional training or an annual business meeting or conference is a default of the Franchise Agreement. We reserve the right to impose a reasonable fee for tuition and/or attendance for all additional training programs, including the annual business meeting or conference. You must also pay your transportation, lodging, meals and other expenses to attend any mandatory training program. If you fail to attend any mandatory training program, you are required to obtain the training at a location we designate, at your sole cost, which includes tuition at the then-current rate, plus all of your travel costs and our trainer's travel costs (Franchise Agreement, Section 7.3).
- b. upon your request, or as we determine to be appropriate, provide supplemental or remedial on-site training and assistance. For any on-site supplemental or remedial training, you must reimburse all costs for the services of our trainer, including but not limited to the trainer's then-current per diem fee and all travel-related expenses, such as transportation, meals and lodging. The current fee is \$1,000 per trainer per day of on-site training (Franchise Agreement, Section 7.4).

- c. upon your request, provide individualized assistance to you within reasonable limits by telephone, video conferencing, electronic mail or postage service, subject at all times to availability of our personnel and in reasonable limits (Franchise Agreement, Section 7.4).
- d. provide customer billing and collection services on your behalf (Franchise Agreement, Section 6.1.4)
- e. from time to time, as may become available, provide you with samples or digital artwork, advertising and promotional materials (Franchise Agreement, Section 10.4).
- f. conduct inspections of your Franchised Business, including our attendance at your service calls, at the frequency and duration that we deem advisable. Such inspections include evaluating your products and service to ensure that they meet our standards (Franchise Agreement, Section 12.1.7).
- g. provide you with any written specifications for required equipment, products and services and updated lists of any approved suppliers of these items (Franchise Agreement, Section 10.5).
- h. offer guidance from time to time regarding prices for products and services (Franchise Agreement, Section 12.5).
- i. approve or disapprove of all advertising, direct mail, and other promotional material and campaigns you propose in writing to us. We will respond within 10 business days, either accepting or rejecting the proposed material and/or campaign; however, if we do not respond within ten business days, the proposed material and/or campaign is deemed “disapproved”. (Franchise Agreement, Section 13.6).

#### 4. **Advertising**

##### **Local Advertising** (Franchise Agreement, Sections 13.2 and 13.5)

We require you to spend a minimum of Five Thousand Dollars (\$5,000) in grand opening advertising and promotional activities within the first ninety (90) days following the date you sign the Franchise Agreement. You will conduct a grand opening campaign in accordance with plans approved by us. Following your grand opening campaign, you are required to spend at least Five Hundred Dollars (\$500.00) per month on advertising for the Franchised Business in your territory unless and until you place and maintain 25 Break Coffee Beverage Machines in your Territory. We must approve all advertising materials.

You may develop advertising materials for your own use at your own cost, and you may use marketing materials that we may offer to you from time to time. You may not use any advertising or marketing materials, including press releases, unless they have been approved in advance in writing by us, which approval may be withheld in our discretion. We will respond to your request for approval within 10 business days; however, if we do not respond within 10 business days, the proposed advertising or marketing material is deemed “disapproved”.

We do not provide for placement of local advertising on your behalf, and we have no obligation to spend any amount on advertising in your area or territory. You are responsible for local advertising placement. If feasible, you may do cooperative advertising with other Break Coffee Co. franchisees in your area, with our prior written approval. You may not maintain any business profile on Facebook, Twitter, Instagram, LinkedIn, YouTube or any other social media and/or networking site without our prior written approval.

You are not required to participate in any local or regional advertising cooperative.

**Brand Fund** (Franchise Agreement, Section 13.3)

You are required to contribute to our systemwide Brand Fund the greater of (i) 2% of your Gross Sales or (ii) the following minimum contribution:

Month	If you have:				
	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	Your monthly Minimum Brand Fund Contribution <b>per Territory</b> is:				
0 - 6	\$0	\$0	\$0	\$0	\$0
7 - 24	\$58	\$35	\$29	\$26	\$23
25 - 60	\$117	\$70	\$58	\$53	\$47
61+	\$175	\$105	\$88	\$79	\$70

Each Break Coffee Co. outlet operated by our affiliates or us may, but is not obligated to, contribute to the Brand Fund on the same basis as System franchisees.

The Brand Fund is administered by our accounting and marketing personnel. We may use Brand Fund contributions to pay any and all costs for developing, producing and disseminating advertising, marketing, promotional and public relations materials, programs, campaigns, sales and marketing seminars and training programs of every kind and nature, through any media we determine; conducting marketing research and employing advertising agencies; developing, enhancing and maintaining our website, social media platforms, apps, and other technology for the benefit of the Brand image and/or Systemwide improvements; and staff salaries and other personnel and departmental costs for advertising that we internally administer or prepare.

The Brand Fund will not be used to defray any of our other general operating expenses. Brand Fund contributions will not be used to solicit new franchise sales; provided however, we have the right to use the Brand Fund for public relations, to explain the franchise system, and/or include “Franchises Available” or similar language and contact information in advertising produced with Brand Fund contributions.

The Brand Fund collects and expends contributions for the benefit of the System as a whole. We have the right to use the Brand Fund contributions to place advertising in national, regional or local media (including broadcast, print, or other media) and to conduct marketing campaigns through any channel, in our discretion, including but not limited to, internet and direct-mail campaigns. We have no obligation, however, to use the Brand Fund to place advertising or conduct marketing campaigns in any particular area, including the geographical area where your Franchised Business is located.

We have no obligation to make expenditures that are equivalent or proportionate to your Brand Fund contribution or to ensure that you benefit directly or pro rata from the production or placement of advertising from the Brand Fund.

The Brand Fund is not audited. An annual unaudited financial statement of the Brand Fund is available to any franchisee upon written request.

If we spend more or less than the total of all contributions to the Brand Fund in any fiscal year, we may carry forward any surplus or deficit to the next fiscal year. Although the Brand Fund is intended to be of perpetual duration, we may terminate it at any time and for any reason or no reason. We will not terminate the Brand Fund, however, until all monies in the Brand have been spent for advertising or promotional purposes or returned to contributors, without interest, on the basis of their respective contributions.

No Brand Fund contributions were required, made or expended in our most recently concluded fiscal year.

#### **Advertising Council** (Franchise Agreement, Section 9.4)

We do not have an advertising council composed of franchisees that advises us on advertising policies. The Franchise Agreement gives us the right, in our discretion, to create a franchisee advisory council to communicate ideas, including proposed advertising policies, in an advisory capacity only. If created, we will determine in advance how franchisees are selected to the council, which may include factors such as a franchisee's level of success, superior performance, and outlet profitability. We reserve the right to change or dissolve the council at any time.

#### 5. **Computer Systems** (Franchise Agreement, Section 12.3)

You are required to have a mobile phone and an internet-capable laptop computer or smart tablet that can operate the latest versions of software and applications platforms we require. You are required to use our customized, cloud-based customer management platform ("CMP"). Quickbooks is recommended for bookkeeping. The CMP is used for customer data collection and billing. You must purchase the required technology hardware and software, at your expense. If you do not have an existing mobile phone or computer or tablet to access and use the CMP, your cost to purchase this hardware is approximately \$1,000.

There are no contractual limitations on the frequency and cost of upgrades and/or updates to the above-described systems. We may in the future modify or establish other service performance or revenue reporting systems, as we deem appropriate, for the accurate and expeditious reporting of Beverage Machine activity, Gross Sales, and delivery of our products and services. You must fully cooperate in implementing any such modifications at your expense.

We have no obligation to maintain, repair, update or upgrade your computer hardware and software. At your cost, you must provide on-going maintenance and repairs to your technology hardware and software. You must upgrade your technology hardware and software as necessary to operate the most current version of our System requirements. We cannot estimate the cost of maintaining, updating and upgrading your technology hardware and software because it will depend on the make and model of your mobile phone, laptop computer and/or smart tablet, repair history, usage, local cost of maintenance services in your area and technological advances that we cannot predict.

We have remote and independent access to all information generated by and stored by you in the CMP, including your revenue information and customer data. There are no contractual limitations on our right to have full access to this information. At our option, we may retrieve, download, analyze and store such information and data at any time. Upon our request, you must sign any documents we require to allow us to independently and electronically access and retrieve the information stored in your technology systems. We own all client data stored in your technology systems.

#### 6. **Table of Contents of Operations Manual**

The Table of Contents of our operations manuals, current as of the date of this Disclosure Document is attached as Exhibit D. The operations manuals have a total of 269 pages.

#### 7. **Training** (Franchise Agreement, Article 7)

You (if the franchisee is an individual) or at least one owner (if the franchisee is a business entity) must complete our initial training program, to our satisfaction, no earlier than ten (10) days before opening your

Franchised Business. The initial training program is a 2-day course conducted in New York, New York, Jersey City, New Jersey, or at another location we specify.

### TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-the- Job Training	Location
Coffee Beans to Cup	1	0	Jersey City, NJ or New York, NY
Psychology of Success	1	0	Jersey City, NJ or New York, NY
Break Coffee Co. Brand	1	0	Jersey City, NJ or New York, NY
Sales and Marketing Processes	1	0	Jersey City, NJ or New York, NY
Client Lifetime Profit Calculator	1	0	Jersey City, NJ or New York, NY
Marketing Business Models	1	0	Jersey City, NJ or New York, NY
Conversation Mapping	1	0	Jersey City, NJ or New York, NY
Installations Demonstration	1	0	Jersey City, NJ or New York, NY
Lead Generation	1	0	Jersey City, NJ or New York, NY
Location Sourcing System	1	0	Jersey City, NJ or New York, NY
Monthly Marketing Plan System	1	0	Jersey City, NJ or New York, NY
Frequently Asked Questions	1	0	Jersey City, NJ or New York, NY
Address Prospect Objections	1	0	Jersey City, NJ or New York, NY
Sales Model Expectations	1	0	Jersey City, NJ or New York, NY
Customer Service	1	0	Jersey City, NJ or New York, NY
Marketing Playbook	1	0	Jersey City, NJ or New York, NY
<b>TOTALS</b>	<b>16</b>	<b>0</b>	

We periodically conduct our initial training program throughout the year, as needed. Training will be provided by or under the direction of Joshua Kovacs and Tyler Burdett. Joshua Kovacs is our Chief Executive Officer and has served on our Board of Directors since our inception. Joshua is also the managing member of our Washington, DC, franchised outlet, which he has owned since 2020. Tyler Burdett is the General Manager of our Washington, DC, franchised outlet, which he has owned since 2020.

Our training materials consist of our Operations Manuals.

If you do not complete our initial training program to our satisfaction, we have the right to terminate the Franchise Agreement.

If you request it, we will provide supplemental, on-the-job initial training to you in your Territory. You will be required to pay our trainer's per diem training fee, which is currently \$1,000/day, as well as our trainer's expenses for travel, meals and lodging.

We may offer mandatory and/or optional additional training programs, including an annual business meeting or convention, from time to time. If we require it, you must participate in additional training for up to 3 days per year and an annual business meeting or convention for up to 3 days, at a location we designate. We have the right to impose a reasonable fee for all additional training programs, including the annual convention. You are responsible for any and all incidental expenses incurred by you and your personnel in connection with additional training or attendance at Franchisor's national business meeting or annual convention, including, without limitation, costs of travel, lodging, meals and wages. If you fail to attend any mandatory training program, you are required to obtain the training at a location we designate, at your sole cost, which includes tuition at the then-current rate, plus all of your travel costs and our trainer's travel costs.

## **ITEM 12: TERRITORY**

The Franchise Agreement will grant you the right to operate your Franchised Business in a territory or territories ("Territory") that will be mutually-agreed upon by you and us and defined in Attachment 2 of the Franchise Agreement before you sign it. Your Territory is located in one or more towns or counties and will be identified by zip codes, name, jurisdiction boundaries, geographic demarcation lines or a marked map. Each single Territory will contain approximately 1,000 businesses that have 20+ employees, according to the most recent U.S. Census. Your Territory will be determined when you sign the Franchise Agreement and will not be modified or relocated, even if the number of businesses in your Territory increases or decreases. You are encouraged to conduct due diligence, in your discretion and to your satisfaction, regarding the customer potential, wage rates, travel distances, and other matters relative to the operation of the Franchised Business in the Territory, prior to signing the Franchise Agreement.

The Franchise Agreement permits you to operate from a home-based office. You may change the location of your office, without our consent, provided that your office remains in your Territory.

The Franchise Agreement grants you no options, rights of first refusal or similar rights to acquire additional franchises or contiguous territories. We may, but have no obligation to, consider granting to you the right to establish additional Franchised Businesses under other franchise agreements or acquire additional territories if you are in compliance with the Franchise Agreement and propose to open another Franchised Business or expand your territory in an area that we approve.

You will receive an exclusive territory, which means that we will not open another dedicated Break Coffee business or grant the right to anyone else to open a dedicated Break Coffee business within your Territory, provided that you are not in default of your Franchise Agreement.

Notwithstanding your Territory exclusivity, (i) the Franchise Agreement allows us to solicit, sell to, and negotiated rates with any business or other organization in the Territory, and (ii) another Break Coffee franchisee may be the referral source of a new business account in your Territory (each a “Placed Business Account”). We will offer you the right to service any Placed Business Account in your Territory, provided that you pay the Sales and Marketing Fee for Placed Business. Also, as further conditions to accepting any Placed Business Account that we negotiate, you must agree to our negotiated terms and sign a general release, which is attached as Exhibit F to this Disclosure Document. If you decline to service any Placed Business Account in your Territory offered to you, we or another franchisee may provide service to that Placed Business Account.

During each year of the Term, you must maintain a minimum amount of active accounts within each Territory count, as follows:

Month	If you have:				
	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	The Minimum Number of Active Accounts <b>per Territory</b> is:				
0 - 6	0	0	0	0	0
7 - 24	6	4	3	3	3
25 - 60	12	7	6	5	5
61+	18	11	9	8	7

An “Active Account” is a customer who has a Break Coffee Beverage Machine in use such that it generates a billing invoice.

If you do not meet these minimum requirements, we have the right to reduce the size of your Territory, terminate your Territory exclusivity, or terminate your Franchise Agreement.

There is no other market penetration, other contingency, or other circumstance that will affect your Territory rights during the term of your Franchise Agreement, unless you are in default of your obligations to us.

We reserve all rights not expressly granted in the Franchise Agreement. For example, we or our affiliates may own, operate or authorize others to own or operate Break Coffee Co. businesses outside of the Territory and may operate other kinds of businesses within the Territory. Although we do not currently do so and have no plans to do so, we and our affiliates may own, acquire, conduct, or authorize others to conduct, any form of business at any location selling any type of product or service not offered under the Marks, including a product or service similar to those you will sell at your Franchised Business. We also have the right to merge with, acquire, or be acquired by, an existing competitive or non-competitive franchise network, chain or other business; however, we will not convert any acquired business in your Territory to a franchise using our Principal Trademark during the Term of your Franchise Agreement. Although we grant you an exclusive territory, we nevertheless have the right to sell, either directly or through others, our products and services under the Marks in the Territory through alternative distribution channels, which are described below.

We and our affiliates reserve the right to sell products and services under the Marks or other trademarks within or outside the Territory through other channels of distribution, such as through retail stores, the internet, catalog sales, telemarketing, and direct marketing (“Alternative Distribution Channels”). You will receive no compensation for our sales through Alternative Distribution Channels in the Territory.

You may not solicit and/or service a customer who resides outside of your Territory without our consent, and you cannot use Alternative Distribution Channels to make sales outside of your Territory.

**ITEM 13: TRADEMARKS**

The Franchise Agreement will license to you the right to operate your Franchised Business under the following principal trademarks, which our affiliate has filed for registration with the U.S. Patent and Trademark Office (“Principal Marks”):

<b>Mark</b>	<b>Registration Date</b>	<b>Registration Number</b>	<b>Register</b>
BREAK COFFEE	March 4, 2025	7715906	Principal
BREAK COFFEE	March 4, 2025	7715907	Principal

You must notify us immediately when you learn about an infringement of or challenge to your use of any Principal Marks or other mark. We will take any action we think appropriate and, if you have given us timely notice and are in full compliance with the Franchise Agreement, we will indemnify you for all expenses and damages arising from any claim challenging your authorized use of any Principal Marks or other mark. We have the right to control any administrative proceedings or litigation involving any Principal Mark or other mark licensed by us to you. You must cooperate fully with us in defending and/or settling the litigation.

We have the right to substitute different marks if we can no longer use the current Principal Mark(s), or if we determine that substitution of different marks will be beneficial to the System. In such event, we may require you, at your expense, to modify or stop using any mark, including any Principal Mark, or to use one or more additional or substitute marks.

You must not directly or indirectly contest our affiliate’s right, or our right, to any Principal Mark or other marks.

There are no currently effective material determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeals Board, the Trademark Administration of any state, or any court relating to the marks. There is no pending infringement, opposition, or cancellation. There is no pending material federal or state court litigation involving the Principal Marks or other marks.

There are no currently effective agreements that significantly limit our rights to use or license the use of the Principal Mark or other Marks in a manner material to the franchise.

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

We hold no patents and have no pending patent applications that are material to the franchise. We have registered no copyright with the United States Copyright Office. However, we claim copyrights on certain forms, advertisements, promotional materials, the Operations Manual, and the contents of our website.

There are no current material determinations of, or proceedings pending in, the United States Patent and Trademark Office, the U.S. Copyright Office, or any court regarding any of our copyrights discussed above.

There are no agreements currently in effect that limit your right to use any of our copyrights. As of the date of this Disclosure Document, we are unaware of any infringing uses of or superior previous rights to any of our copyrights that could materially affect your use of them.

You must notify us immediately when you learn about an infringement of or challenge to your use of our copyrights. We will take any action we think appropriate and, if you have given us timely notice and are in full compliance with the Franchise Agreement, we will indemnify you for all expenses and damages arising from any claim challenging your authorized use of our copyrights. We have the right to control any administrative proceedings or litigation involving our copyrights licensed by us to you. You must cooperate fully with us in defending and/or settling the litigation.

During the term of the Franchise Agreement, you may have access to and become acquainted with our trade secrets, including, but not limited to, formulas, methods, processes, customer lists, vendor partnerships and/or relationships, sales and technical information, financial information, costs, product prices and names, software tools and applications, website and/or email design, products, services, equipment, technologies and procedures relating to the operation of the Franchised Business; the Manual; methods of advertising and promotion; any other information which Franchisor may or may not specifically designate as "confidential" or "proprietary"; and the components of the System, whether or not such information is protected or protectable by patent, copyright, trade secret or other proprietary rights (collectively called the "Confidential Information"). You agree that you will take all reasonable measures to maintain the confidentiality of all Confidential Information in your possession or control and that all Confidential Information and trade secrets will remain our exclusive property. You may never (during the initial term, any renewal term, or after the Franchise Agreement expires or is terminated) reveal any of our Confidential Information to another person or use it for any other person or business. You may not copy any of our Confidential Information or give it to a third party except as we authorize in writing to you prior to any dissemination. Your personnel who have access to our Confidential Information must sign our Confidentiality and Non-Compete Agreement (Franchise Agreement, Attachment 8).

You must promptly tell us when you learn about unauthorized use of any Confidential Information. We are not obligated to take any action but will respond to this information as we think appropriate. We will indemnify you for losses brought by a third party concerning your use, in strict compliance with the Franchise Agreement, of the Confidential Information.

We reserve the right to modify or discontinue using the subject matter covered by a patent or copyright. In such event, we may require you, at your expense, to modify or discontinue using the subject matter in the operation of your Franchised Business.

**ITEM 15: OBLIGATIONS OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

The Franchise Agreement requires that you personally supervise, devote full time, and manage the day-to-day operation of your Franchised Business. You may not appoint a non-owner manager of your Franchised Business, unless you receive our prior written approval. Upon approval, your manager must successfully complete our Initial Training Program and all other training courses we require. Your manager must devote full time to the job and cannot have an interest or business relationship with any of our competitors. Your manager is not required to have an equity interest in the franchisee entity but must otherwise meet our approval.

Your manager and all other personnel who will have access to our proprietary and Confidential Information and training must sign our Confidentiality and Non-Compete Agreement, which is attached to our Franchise Agreement as Attachment 9. All owners of the entity must personally sign the Franchise Agreement as a

Principal. If you are a married individual, your spouse must sign our Spouse Guaranty, which is attached to our Franchise Agreement as Attachment 7.

**ITEM 16: RESTRICTION ON WHAT FRANCHISEE MAY SELL**

You must offer and sell all products and services that are part of the System, and all services and products which we incorporate into the System in the future. You may only offer products and services that we have previously approved. You may only engage in providing products and services to end-consumers.

You may not use our Principal Marks or other trademarks for any other business, and you may not conduct any other business at or through your Franchised Business operations.

We may add to, delete from or modify the products and services that you can and must offer. You must abide by any additions, deletions and modifications. There are no other limits on our rights to make these changes.

You may only solicit sales from customers located within the Territory. Notwithstanding, you may solicit and/or service a customer located outside of the Territory, with our prior consent, which we may grant in our sole discretion and may revoke at any time.

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

**THE FRANCHISE RELATIONSHIP**

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

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Length of the franchise term	Art. 4	Term is 10 years
b.	Renewal or extension of the term	Sections 5.1 and 5.4	If you are in good standing as defined below, you can sign a successor franchise agreement for one additional 10-year term, unless we have determined, in our sole discretion, to withdraw from your Territory.
c.	Requirements for franchisee to renew or extend	Sections 5.1, 5.2 and 5.3	Be in full compliance, have at least 5 Break Coffee Beverage Machines in place at customers' premises; have no more than three events of default during current term; provide written notice to us 90-180 days before the end of the term; execute a new franchise agreement; pay us a renewal fee equal to 50% of the then-current initial franchise fee; repair, upgrade or replace the equipment and other Franchised Business assets to meet then-current specifications; execute a general release; comply with then-current qualifications and training requirements; including completion of additional training.  You may be asked to sign a new Franchise Agreement with materially different terms and conditions than your original Franchise Agreement.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
d.	Termination by franchisee	Not applicable	You may seek termination upon any grounds available by state law.
e.	Termination by franchisor without cause	Section 16.7	The Franchise Agreement will terminate upon your death or permanent disability and the Franchise must be transferred within 6 months to a replacement franchisee that we approve.
f.	Termination by franchisor with cause	Article 17	We may terminate only if you default. The Franchise Agreement describes defaults throughout. Please read it carefully.
g.	“Cause” defined – curable defaults	Section 17.3	You have 5 days to cure non-payments and any other defaults (except for non-curable defaults listed in the Franchise Agreement and described in h. immediately below).
h.	“Cause” defined - non-curable defaults	Sections 17.1 and 17.2	<p>The Franchise Agreement will terminate automatically, without notice for the following defaults: insolvency; bankruptcy; written admission of inability to pay debts; receivership; levy; composition with creditors; unsatisfied final judgment for more than 30 days; or foreclosure proceeding that is not dismissed within 30 days.</p> <p>We may terminate the Franchise Agreement upon notice to you if you: do not obtain required licenses and permits and/or open the Franchised Business within required time frames; falsify any report to us; fail to operate for a period of 3 consecutive days or more; fail to comply with applicable laws; understate Gross Sales 2 or more times; fail to comply with insurance and indemnification requirements; attempt a transfer in violation of the Franchise Agreement; fail, or your legal representative fails to transfer as required upon your death or permanent disability; misrepresent or omit a material fact in applying for the Franchise; are convicted or plead no contest to a felony or crime that could damage the goodwill associated with the Marks or do anything to harm the reputation of the Marks or the System; receive an adverse judgment in any proceeding involving allegations of fraud, racketeering or improper trade practices or similar claim that could damage the goodwill or reputation of the Marks or the System; conceal revenues or maintain false books; create a threat or danger to public health or safety; refuse an inspection or audit by us; use the Marks, copyrighted material or Confidential Information in an unauthorized manner; make an unauthorized disclosure of Confidential Information; fail to comply with non-competition covenants; default in the performance of your obligations 3 or more times during the term or receive 2 or more default notices in any 12-month period; have insufficient funds to honor a check or EFT 2 or more times within any 12-month</p>

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
			period; default under any other agreement with us, our affiliate or a supplier; offer unauthorized products or services; fail to meet Minimum Performance Standards for 3 consecutive months or on 3 occasions during the Term; or terminate the Franchise Agreement without cause.
i.	Franchisee’s obligations on termination/ non-renewal	Article 18	Upon termination, you must: cease operations; cease to identify yourself as a Break Coffee Co. franchisee; cease to use our trademarks or other intellectual property; cancel any assumed name registration that contains any Mark; pay us and our affiliates all sums owing; pay us any damages, costs or expenses we incur in obtaining any remedy for any violation of the Franchise Agreement by you, including, but not limited to attorney’s fees; deliver to us all Confidential Information, the operations manual and all records and files related to your Franchised Business; comply with the non-disclosure and non-competition covenants; pay liquidated damages; sell to us, at our option, all furnishing, fixtures, equipment, inventory and supplies of your Franchised Business; and assign, at our option, your telephone numbers, directory and internet listings, and social media accounts.
j.	Assignment of contract by franchisor	Section 16.1.1	No restrictions on our right to assign.
k.	“Transfer” by franchisee defined	Section 16.3	Any assignment, sale, transfer, gift, devise or encumbrance of any interest in the Franchise Agreement, the Franchised Business, any assets of the Franchised Business, or in the Franchisee (if the Franchisee is a business entity).
l.	Franchisor approval of transfer by franchisee	Section 16.3	No transfer is allowed without our consent, which we will not unreasonably withhold.
m.	Conditions for franchisor approval of a transfer	Section 16.3 and 16.4	Conditions include: our decision not to exercise our right of first refusal; transferee meets our then-current standards for qualifying franchisees; transferee signs our then-current form of Franchise Agreement, which may have materially different terms from your Franchise Agreement; transferee successfully complete our initial training program; you have paid us and third-party creditors all amounts owed; you and the transferee sign a Release; you will subordinate any claims you have against the transferee to us; you will indemnify us for misrepresentations in the transfer process, excluding the representations we make in our Disclosure Document; our approval of the material terms and conditions of the transfer; and payment of a transfer fee equal to \$2,500, plus the transferee’s training costs and our legal fees, not to exceed \$12,500.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
n.	Franchisor's right of first refusal to acquire franchisee's business	Section 16.6	You must promptly notify us of any written offer to purchase your Franchise. We have 30 days to exercise our first right to buy it on the same terms and conditions, provided that (a) we may substitute cash for any other consideration (b) we may pay the entire purchase price at closing, (c) our credit is deemed as good as the proposed purchaser, (d) we have up to 90 days to close and (e) you will give us all customary seller's representations and warranties.
o.	Franchisor's option to purchase franchisee's business	Section 18.2	Upon termination of the Franchise Agreement, we have the option to purchase your equipment, computer system, signage, advertising materials, supplies, and inventory at your cost or fair market value, whichever is less.
p.	Death or disability of franchisee	Sections 16.3, 16.4 and 16.7	The Franchise Agreement will terminate upon your death or permanent disability, and the Franchise must be transferred within six months to a replacement franchisee that we approve.
q.	Non-competition covenants during the term of the franchise	Section 19.5.1	You may not: divert, or attempt to divert, customers of any Break Coffee Co. business (including yours) to any competitor, participate in any capacity, including, but not limited to as an owner, investor, officer, director, employee or agent, in any competing business; do any act that could damage the goodwill of the Marks or System, or disrupt or jeopardize our business or that of our franchisees.
r.	Non-competition covenants after the franchise is terminated or expires	Section 19.5.2	For 24 months after the termination of the Franchise Agreement, you may not: divert, or attempt to divert, customers of any Break Coffee Co. business (including yours) to any competitor, participate in any capacity, including, but not limited to as an owner, investor, officer, director, employee or agent, in any competing business within 15 miles of your Territory or the territory of any other Break Coffee Co. outlet; do any act that could damage the goodwill of the Marks or System, or disrupt or jeopardize our business or that of our franchisees.
s.	Modification of the agreement	Sections 9.4, 14.6 and 19.1.4	No oral modifications. We may change the operations manual and System standards at any time. You may be required to implement these changes at your own costs. We have the right to modify our Marks at any time upon written notice to you.
t.	Integration/merger clause	Section 21.4	Only the terms of the Franchise Agreement and other related written agreements, such as any attachments to the Franchise Agreement or addenda, are binding (subject to applicable state law). Notwithstanding the foregoing, nothing in this or any related agreement is intended to disclaim the express representations made in the Franchise Disclosure Document, its exhibits and amendments.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
u.	Dispute resolution by arbitration or mediation	Sections 20.1 and 20.2	At our option, claims that are not resolved internally may be submitted to non-binding mediation and arbitration in the state where our headquarters is located, subject to state law.
v.	Choice of forum	Section 20.3	Litigation takes place in New Jersey (subject to applicable state law).
w.	Choice of law	Section 20.3	New Jersey law applies (subject to applicable state law).

See the state addenda to this Franchise Disclosure Document and the Franchise Agreement for special state disclosures.

**ITEM 18: PUBLIC FIGURES**

We do not currently 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.

This item contains a historic financial performance representation of our franchised Break Coffee outlets as of December 31, 2024, our fiscal year end. As of December 31, 2024, we had a total of 8 franchised outlets, all of which operated for the full fiscal year.

**Table 1<sup>1</sup>**  
**Income and Expense – All Franchised Businesses**  
**January 1 – December 31, 2024**

	<b>Average</b>	<b>% of Gross Revenue</b>	<b>Median</b>	<b>% of Gross Revenue</b>	<b>Minimum of Range</b>	<b>% of Gross Revenue</b>	<b>Maximum of Range</b>	<b>% of Gross Revenue</b>
<b>REVENUE</b>								
<b>Gross Revenue<sup>2</sup></b>	\$ 151,804	100.0	\$ 141,628	100.0	\$ 10,695	100.00	\$ 289,045	100.00
Sales Tax	\$ 9,749	6.42	\$ 8,529	6.02	\$ 825	7.72	\$ 18,972	6.56
Royalty	\$ 18,921	12.46	\$ 18,076	12.76	\$ 1,993	18.63	\$ 32,267	11.16
COGS	\$ 21,709	14.30	\$ 17,542	12.39	\$ 1,643	15.36	\$ 52,824	18.28
<b>Gross Margin</b>	\$ 101,425	66.81	\$ 98,050	69.23	\$ 6,234	58.29	\$ 193,058	66.79
<b>EXPENSES<sup>3</sup></b>								
Labor	\$ 14,791	9.74	\$ 15,542	10.97	\$ --	--	\$ 25,400	8.79

Machine Cleaning Supplies	\$ 2,239	1.47	\$ 1,100	0.78	\$ --	--	\$ 5,775	2.00
Marketing	\$ 4,652	3.06	\$ 2,586	1.83	\$ --	--	\$ 13,822	4.78
Transportation	\$ 2,417	1.59	\$ 2,235	1.58	\$ --	--	\$ 5,775	2.00
Admin Expenses	\$ 4,160	2.74	\$ 3,367	2.38	\$ --	--	\$ 15,365	5.32
Office / Storage	\$ 30	0.02	\$ --	0.00	\$ --	--	\$ 237	0.08
Machine Repair & Maintenance	\$ 5,650	3.72	\$ 4,384	3.10	\$ --	--	\$ 14,002	4.84
Meals / Entertainment	\$ 795	0.52	\$ 49	0.03	\$ --	--	\$ 2,859	0.99
<b>Total Expenses</b>	\$ 34,620	22.81	\$ 39,310	27.76	\$ --	--	\$ 54,973	19.02
<b>OPERATING INCOME</b>	\$ 66,805	44.01	\$ 55,916	39.48	\$ 6,234	58.29	\$ 138,085	47.77

**Table 2<sup>1</sup>**  
**Income and Expense – By Franchisee**  
**January 1 – December 31, 2024**

	Outlet 1	Outlet 2	Outlet 3	Outlet 4	Outlet 5	Outlet 6	Outlet 7	Outlet 8
<b>REVENUE</b>								
<b>Gross Revenue<sup>2</sup></b>	\$ 114,131	\$ 158,238	\$ 243,759	\$ 235,503	\$ 38,045	\$ 125,018	\$ 10,695	\$ 289,045
Sales Tax	\$ 7,267	\$ 7,635	\$ 16,563	\$ 15,235	\$ 2,069	\$ 9,423	\$ 825	\$ 18,972
Royalty	\$ 16,387	\$ 19,292	\$ 29,435	\$ 29,464	\$ 5,670	\$ 16,860	\$ 1,993	\$ 32,267
COGS	\$ 12,000	\$ 23,084	\$ 52,824	\$ 25,254	\$ 3,261	\$ 10,863	\$ 1,643	\$ 44,747
<b>Gross Margin</b>	\$ 78,477	\$ 108,228	\$ 144,938	\$ 165,550	\$ 27,045	\$ 87,872	\$ 6,234	\$ 193,058
<b>EXPENSES<sup>3</sup></b>								
Labor	\$ 21,600	\$ 24,267	\$ 22,998	\$ 8,856	\$ 5,731	\$ 25,400	\$ --	\$ 9,485
Machine Cleaning Supplies	\$ 1,200	\$ 900	\$ 3,952	\$ 4,932	\$ 150	\$ 1,000	\$ --	\$ 5,775
Marketing	\$ 6,000	\$ 12,063	\$ 156	\$ 3,972	\$ 1,200	\$ --	\$ --	\$ 3,822
Transportation	\$ 2,400	\$ 2,071	\$ 1,581	\$ 2,030	\$ 2,881	\$ 2,600	\$ --	\$ 5,775
Admin Expenses	\$ 3,600	\$ 3,346	\$ 3,388	\$ 15,365	\$ 500	\$ 1,000	\$ --	\$ 6,079
Office / Storage	\$ --	\$ --	\$ --	\$ 237	\$ --	\$ --	\$ --	\$ --
Machine Repair & Maintenance	\$ 2,400	\$ 4,718	\$ 10,563	\$ 3,564	\$ 4,050	\$ 5,903	\$ --	\$ 14,002
Meals / Entertainment	\$ 2,400	\$ --	\$ 2,859	\$ 62	\$ --	\$ 1,000	\$ --	\$ 35
<b>Total Expenses</b>	\$ 39,600	\$ 47,364	\$ 45,487	\$ 39,020	\$ 13,613	\$ 36,903	\$ --	\$ 54,973
<b>OPERATING INCOME</b>	\$ 38,877	\$ 60,864	\$ 99,451	\$ 126,531	\$ 13,433	\$ 50,969	\$ 6,234	\$ 138,085
Depreciation/Amortization	\$ --	\$ 28,765	\$ 28,489	\$ 59,975	\$ --	\$ --	\$ --	\$ 58,138
Interest	\$ 12,000	\$ 6	\$ --	\$ 6,289	\$ --	\$ --	\$ --	\$ --

Machines–Start of Year	14	25	67	31	16	23	4	32
Machines–End of Year	23	30	75	52	16	14	4	59

<sup>1</sup> The information contained in this Chart has not been audited.

<sup>2</sup> Gross revenue is defined as total billings to customers for the sale of products and services.

<sup>3</sup> Expense data is submitted to us by the franchisees and we have not independently verified this information.

Written substantiation of the data used in preparing these figures will be made available to you upon reasonable request. The information presented above has not been audited.

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

Other than the preceding financial performance representation, 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 either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor’s management by contacting Joshua Kovacs, 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302 and 347-421-4196, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20: OUTLETS AND FRANCHISEE INFORMATION**

Table No. 1  
System-wide Outlet Summary  
For Years 2022 to 2024

Column 1 Outlet Type	Column 2 Year	Column 3 Outlets at the Start of the Year	Column 4 Outlets at the End of the Year	Column 5 Net Change
Franchised	2022	9	9	0
	2023	9	9	0
	2024	9	8	-1
Company – Owned*	2022	1	1	0
	2023	1	1	0
	2024	1	1	0
<b>Total Outlets</b>	2022	<b>10</b>	<b>10</b>	<b>0</b>
	2023	<b>10</b>	<b>10</b>	<b>0</b>
	2024	<b>10</b>	<b>9</b>	<b>-1</b>

Table No. 2  
Transfers of Outlets From Franchisees to New Owners (Other than the Franchisor)  
For Years 2022 to 2024

Column 1 State	Column 2 Year	Column 3 Number of Transfers
None	2022	0
	2023	0
	2024	0
<b>Total</b>	2022	<b>0</b>
	2023	<b>0</b>
	2024	<b>0</b>

Table No. 3  
Status of Franchised Outlets  
For Years 2022 to 2024

Column 1 State	Column 2 Year	Column 3 Outlets at Start of Year	Column 4 Outlets Opened	Column 5 Terminations	Column 6 Non- renewals	Column 7 Reacquired by Franchisor	Column 8 Ceased Operations - Other Reasons	Column 9 Outlets at End of the Year
Washington DC	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Florida	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Illinois	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
New Jersey	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
New York	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
	2024	4	0	1	0	0	0	3
North Carolina	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
<b>Total</b>	2022	9	0	0	0	0	0	9
	2023	9	0	0	0	0	0	9
	2024	9	0	1	0	0	0	8

Table No. 4  
Status of Company Owned Outlets  
For Years 2022 to 2024

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired from Franchisees	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisees	Col. 8 Outlets at End of the Year
New York	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
	2024	1	0	0	0	0	1
<b>Total</b>	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
	2024	1	0	0	0	0	1

Table No. 5  
Projected Openings as of December 31, 2024

Column 1 State	Column 2 Franchise Agreements Signed But Outlet Not Opened	Column 3 Projected New Franchised Outlets in the Next Fiscal Year	Column 4 Projected New Company Owned Outlets in the Next Fiscal Year
Florida	0	1	0
New York	0	1	0
Pennsylvania	0	1	0
Texas	0	1	0
<b>Total</b>	<b>0</b>	<b>4</b>	<b>0</b>

Exhibit E lists the location of each Break Coffee Co. franchised outlet in our System and each franchisee during our last fiscal year who has had an outlet terminated, canceled, not renewed, or has otherwise voluntarily or involuntarily ceased to do business under the franchise agreement or has not communicated with us within 10 weeks of the date of this Disclosure Document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the Break Coffee franchise system or the Xpresso Delight franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

There are no trademark-specific franchisee organizations associated with the franchise system being offered in this Franchise Disclosure Document.

**ITEM 21: FINANCIAL STATEMENTS**

We have not been in business for three years or more and cannot include all financial statements required for Item 21. Our audited financial statements, which are comprised of our balance sheet as of January 17, 2025, and our statements of operations, members' equity, and cash flows for the period January 1, 2025 to January 17, 2025, are included in Exhibit C.

Our fiscal year end is December 31.

**ITEM 22:     CONTRACTS**

A copy of all proposed agreements regarding the franchise offering are included in this Disclosure Document, as follows:

- Exhibit B -- The Franchise Agreement and all attachments to it.
- Exhibit H -- Franchisee Acknowledgement Statement, as permitted by state law.

**ITEM 23:     RECEIPT**

A receipt in duplicate is attached to this Disclosure Document as Exhibit I. You should sign both copies of the receipt. Keep one copy for your own records and return the other signed copy to Joshua Kovacs, 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302.

**EXHIBIT A**

**LIST OF STATE FRANCHISE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

This list includes the names, addresses and telephone numbers of state agencies having responsibility for franchising disclosure/registration laws, and serving as our agents for service of process (to the extent that we are registered in their states). This list also includes the names, addresses and telephone numbers of other agencies, companies or entities serving as our agents for service of process.

<b>State</b>	<b>State Agency</b>	<b>Agent for Service of Process</b>
CALIFORNIA	Department of Financial Protection and Innovation 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013 (213) 576-7505 Toll-free (866-275-2677)	Commissioner of the Department of Financial Protection and Innovation
HAWAII	Business Registration Division Department of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722	Commissioner of Securities of the State of Hawaii
ILLINOIS	Office of Attorney General Franchise Division 500 South Second Street Springfield, IL 62706 (217) 782-4465	Illinois Attorney General
INDIANA	Indiana Secretary of State Securities Division 302 West Washington St., Room E-111 Indianapolis, IN 46204 (317) 232-6681	Indiana Secretary of State 201 State House Indianapolis, IN 46204
MARYLAND	Office of the Attorney General Division of Securities 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360	Maryland Securities Commissioner 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360
MICHIGAN	Michigan Department of Attorney General Consumer Protection Division Antitrust and Franchise Unit 670 Law Building Lansing, MI 48913 (517) 373-7117	Michigan Department of Commerce, Corporations and Securities Bureau
MINNESOTA	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 280 St. Paul, MN 55101-2198 (651) 539-1500	Minnesota Commissioner of Commerce

State	State Agency	Agent for Service of Process
NEW YORK	New York State Department of Law Investor Protection Bureau 28 Liberty Street, 21 <sup>st</sup> Floor New York, NY 10005 (212) 416-8222 Phone	Attention: New York Secretary of State New York Department of State One Commerce Plaza 99 Washington Avenue, 6 <sup>th</sup> Floor Albany, NY 11231-0001 (518) 473-2492
NORTH DAKOTA	North Dakota Securities Department 600 East Boulevard, State Capitol, 14 <sup>th</sup> Floor, Dept. 414, Bismarck, ND 58505-0510 (701) 328-4712	North Dakota Securities Commissioner
RHODE ISLAND	Department of Business Regulation Division of Securities 1511 Pontiac Avenue, Building 69-1 Cranston, RI 02920 (401) 462-9585	Director of Rhode Island Department of Business Regulation
SOUTH DAKOTA	Division of Insurance Securities Regulation 124 South Euclid, Suite 104 Pierre, SD 57501 (605) 773-3563	Director of South Dakota Division of Insurance – Securities Regulation
VIRGINIA	State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219 (804) 371-9051	Clerk of State Corporation Commission 1300 East Main Street, 1 <sup>st</sup> Floor Richmond, VA 23219 (804) 371-9733
WASHINGTON	Department of Financial Institutions Securities Division P.O. Box 41200 Olympia, WA 98504-1200 (360) 902-8760	Director of Washington Financial Institutions Securities Division 150 Israel Road, SW Tumwater, WA 98501
WISCONSIN	Wisconsin Securities Commissioner Securities and Franchise Registration 345 W. Washington Avenue Madison, WI 53703 (608) 266-8559	Commissioner of Securities of Wisconsin

**EXHIBIT B**  
**FRANCHISE AGREEMENT**

**BREAK COFFEE CO FRANCHISING LLC**

**BREAK COFFEE  
FRANCHISE AGREEMENT**

**DATA SHEET**

Franchisee:  
(Individual(s) and  
Entity, if applicable)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Spouse Guarantor(s):

\_\_\_\_\_

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

Territory Count: \_\_\_\_\_

Territory/Territories Description: See Attachment 2 \_\_\_\_\_

Initial Franchise Fee: \_\_\_\_\_

**The terms of this Data Sheet are incorporated into the attached Franchise Agreement.**

BREAK COFFEE CO FRANCHISING LLC  
FRANCHISE AGREEMENT

**TABLE OF CONTENTS**

<b>1.</b>	<b>RECITATIONS.....</b>	<b>3</b>
<b>2.</b>	<b>GRANT OF FRANCHISE.....</b>	<b>3</b>
<b>3.</b>	<b>SOLICITATION AND SALES RESTRICTIONS.....</b>	<b>3</b>
<b>4.</b>	<b>TERM.....</b>	<b>5</b>
<b>5.</b>	<b>SUCCESSOR OPTION.....</b>	<b>5</b>
<b>6.</b>	<b>PAYMENTS TO FRANCHISOR.....</b>	<b>6</b>
<b>7</b>	<b>TRAINING.....</b>	<b>10</b>
<b>8.</b>	<b>OPENING REQUIREMENTS.....</b>	<b>9</b>
<b>9.</b>	<b>SYSTEM IMPROVEMENTS.....</b>	<b>10</b>
<b>10</b>	<b>FRANCHISOR’S OBLIGATIONS.....</b>	<b>11</b>
<b>11</b>	<b>FRANCHISEE’S REPRESENTATIONS, WARRANTIES AND COVENANTS.....</b>	<b>11</b>
<b>12</b>	<b>FRANCHISEE’S OPERATIONS.....</b>	<b>14</b>
<b>13.</b>	<b>ADVERTISING, PROMOTIONS AND RELATED FEES.....</b>	<b>17</b>
<b>14.</b>	<b>INTELLECTUAL PROPERTY.....</b>	<b>20</b>
<b>15</b>	<b>INSURANCE AND INDEMNIFICATION.....</b>	<b>22</b>
<b>16</b>	<b>TRANSFERS.....</b>	<b>29</b>
<b>17</b>	<b>DEFAULTS.....</b>	<b>26</b>
<b>18</b>	<b>POST-TERMINATION.....</b>	<b>29</b>
<b>19</b>	<b>NON-DISCLOSURE AND NON-COMPETITION COVENANTS.....</b>	<b>39</b>
<b>20.</b>	<b>DISPUTE RESOLUTION.....</b>	<b>35</b>
<b>21</b>	<b>GENERAL.....</b>	<b>37</b>

List of Attachments

- ATTACHMENT 1: TRADEMARKS
- ATTACHMENT 2: TERRITORY DESCRIPTION AND FRANCHISED BUSINESS LOCATION
- ATTACHMENT 3: AUTHORIZATION AGREEMENT AUTOMATIC DEPOSITS (ACH WITHDRAWALS)
- ATTACHMENT 4: STATEMENT OF OWNERSHIP INTERESTS IN FRANCHISEE/ENTITY
- ATTACHMENT 5: SPOUSE GUARANTY
- ATTACHMENT 6: INTERNET ADVERTISING, SOCIAL MEDIA, SOFTWARE, AND TELEPHONE ACCOUNT AGREEMENT
- ATTACHMENT 7: CONFIDENTIALITY AND NON-COMPETE AGREEMENT

THIS FRANCHISE AGREEMENT (this "Agreement") is being entered into on \_\_\_\_\_, (the "Effective Date") by and between Break Coffee Co Franchising LLC, a Delaware limited liability company with its principal place of business at 155 2<sup>nd</sup> Street, Jersey City, New Jersey, 07302 (herein "Franchisor") and \_\_\_\_\_, a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ and \_\_\_\_\_'s principals \_\_\_\_\_, an individual residing at \_\_\_\_\_ and \_\_\_\_\_, an individual residing at \_\_\_\_\_ ("Principal(s)"). \_\_\_\_\_ and Principal(s) shall be individually and collectively referred to, and each is, the "Franchisee".

## RECITATIONS

Through the expenditure of considerable time, effort and money, Franchisor has developed and established a business that sells, services and stocks coffee machines, equipment, premium beans and supplies to offices and other commercial centers, using Franchisor's proprietary products and Franchisor's confidential operations manual ("Manual") of business practices and policies, and Franchisor's operations methods, sales techniques, inventory, procedures for management control and training, assistance, advertising, and promotional programs, all of which may be changed, improved or further developed by Franchisor at any time (taken together herein the "System").

The System is identified by certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including but not limited to the marks Break Coffee Co. service mark, as set forth in Attachment 1, and such other trade names, service marks, and trademarks as are now designated and may hereafter be designated or substituted by Franchisor for use in connection with the System (the "Marks").

Franchisor continues to develop, use, and control the use of such Marks in order to identify for the public the source of services and products marketed under the Marks and the System and to represent the System's high standards of quality, appearance, and service.

Franchisee understands and acknowledges the importance of Franchisor's high and uniform standards of quality and service and the necessity of operating the business franchised hereunder in conformity with Franchisor's standards and specifications.

NOW, THEREFORE, the parties, in consideration of the promises, undertakings and commitments of each party to the other set forth herein, and intending to be legally bound hereby, mutually agree as follows:

**1. RECITATIONS.** The Recitations set out above form part of this Agreement.

**2. GRANT OF FRANCHISE.** Franchisor hereby grants to Franchisee and Franchisee accepts, upon the terms and conditions contained in this Agreement, the license to operate a Break Coffee franchise (the "Franchise" or "Franchised Business"), using only the Marks licensed hereunder, in strict conformity with the System, which may be changed, improved, and further developed by Franchisor from time to time. This grant applies only within the territory(ies) that is designated in Attachment 2 attached hereto and incorporated herein (the "Territory").

### 3. SOLICITATION AND SALES RESTRICTIONS

**3.1 Territory.** This Agreement grants Franchisee the right to operate the Franchised Business within the Territory only. Franchisee acknowledges that (i) the Territory was mutually agreed upon by Franchisor and Franchisee, (ii) prior to the Effective Date hereof, Franchisee conducted Franchisee's own due diligence

with regard to potential customers and other matters relative to the operation of the Franchised Business in the Territory, and (iii) Franchisor's agreement to the Territory is permission only, does not constitute a representation, promise, warranty, or guarantee, express or implied, by Franchisor that the Franchised Business operated therein will be profitable or otherwise successful, and cannot, and does not, create any liability for Franchisor.

3.2 Protection Rights. Subject to Sections 3.4, 3.5, and 3.6 below, Franchisor agrees that during the Term of this Agreement, Franchisor will not, and Franchisor will not permit any other franchisees in the System, to operate a Break Coffee Co. business in the Territory using the same Marks as licensed to Franchisee in this Agreement so long as Franchisee is not in default under this Agreement or this Agreement has not been terminated. Except as otherwise specified in this Agreement, Franchisor reserves the right to open, operate or franchise Break Coffee Co. franchises around, bordering and adjacent to the Territory and to use alternative methods of distribution, as more fully specified herein, within the Territory.

3.3 Outside Area Sales. Franchisee must target Franchisee's advertising within the Territory and may only solicit sales from customers located within the Territory. Franchisee may not engage in the offer or sale of any Break Coffee Co. product or service outside of the Territory, unless Franchisee obtains Franchisor's prior written consent, which may be given in Franchisor's sole discretion and revoked at any time.

3.4 Reservation of Rights. Franchisee understands and agrees that all rights to any businesses are fully reserved to Franchisor. By way of example only, Franchisor reserves the rights to offer (i) other services and products not offered under the Marks, (ii) other food and beverage products or services under the Marks or other trademarks; and (iii) products or services through other channels of distribution including, but not limited to, the internet, telemarketing or direct marketing ("Alternate Channels of Distribution"). Franchisee will receive no compensation for Franchisor's sales through Alternate Distribution Channels, and Franchisee agrees that such implementation of Franchisor's rights pursuant to this Section 3.4 is deemed not to impair or injure Franchisee's rights pursuant to Article 2 hereof.

3.5 Accounts Placed in the Territory. Notwithstanding anything to the contrary in Section 3.2 hereof, Franchisor has the right to solicit, sell to, and negotiate rates with businesses or other organizations in the Territory, and another System franchisee may be the referral source of a new account placed in the Territory (each a "Placed Business Account"). Franchisee, at Franchisee's option, may service any Placed Business Account in the Territory, provided that Franchisee pay the then-current sales and marketing fee for Placed Business Accounts to compensate Franchisor or other System franchisee for account placement efforts (the "Sales and Marketing Fee for Placed Business"). Additionally, as a condition to servicing a Placed Business Account by Franchisor in the Territory, Franchisee must agree to Franchisor's negotiated terms and execute a general release. If Franchisee declines to service any Placed Business Account, Franchisor may service such Placed Business Accounts either directly or may permit another System franchisee to provide such service.

3.6 Minimum Performance Standards. Franchisee acknowledges the importance of actively developing the Territory to achieve maximum revenues, and, to that end, Franchisee agrees to use best efforts to market Franchisee's Franchised Business to meet the Minimum Performance Standards set forth on Attachment 3 hereof. Franchisee's failure to meet the Minimum Performance Standards is a material default of this Agreement, and upon such default, Franchisor is entitled to do one or more of the following: (i) require Franchisee to take remedial measures, which may include additional training and/or marketing efforts, at Franchisee's sole expense; (ii) reduce the size of the Territory, (iii) permit other franchisees to solicit and/or service customers in the Territory or (iv) terminate this Agreement.

**4. TERM.** Unless terminated earlier in accordance with the terms set forth in this Agreement, this Agreement and the Franchise granted hereunder shall commence upon the Effective Date set forth above, and terminate on the date that is ten (10) years following the Opening Date, as defined in Section 8 hereof (the “Term”).

**5. SUCCESSOR OPTION.** Subject to the terms and conditions of this Agreement, Franchisee shall have the right, following the expiration of the Term hereof, to enter into a new franchise agreement and other agreements then customarily employed by Franchisor and in the form then generally being offered to prospective franchisees in the state in which the Territory is located (the “Successor Franchise Agreement”) for one (1) additional ten (10) year term. The term of such Successor Franchise Agreement shall commence upon the date of expiration of the immediately preceding term. Franchisee shall be charged a successor agreement fee equal to fifty percent (50%) of Franchisor’s then current Initial Franchise Fee (the “Successor Agreement Fee”).

5.1 Form and Manner of Successor Agreement. If Franchisee desires to exercise Franchisee’s option to enter into a Successor Franchise Agreement, it shall be done in the following manner:

5.1.1 Not less than ninety (90) days, and no more than one hundred eighty (180) days, prior to the expiration of the Term of this Agreement, Franchisee shall request from Franchisor in writing, a copy of Franchisor’s then-current Disclosure Document (including Franchisor’s then-current franchise agreement).

5.1.2 Franchisee must execute and return to Franchisor all required documents, including any and all ancillary documents, within thirty (30) days after receipt by Franchisee of a copy of Franchisor’s then-current Disclosure Document.

5.1.3 The Successor Franchise Agreement shall supersede this Agreement in all respects, and Franchisee understands and acknowledges that the terms of such new agreement may differ from the terms of this Agreement, including, without limitation, higher or lower royalty and other fees.

5.1.4 If Franchisee fails to perform any of the acts, or deliver any of the notices required pursuant to this Article 5 in a timely fashion, such failure shall be deemed an election by Franchisee not to exercise Franchisee’s option to enter into the Successor Franchise Agreement, and such failure shall cause Franchisee’s right and option to automatically lapse and expire, without further notice by Franchisor.

5.1.5 Franchisee acknowledges that the initial Term of this Agreement provides Franchisee more than a sufficient opportunity to recoup Franchisee’s investment in the Franchise, as well as a reasonable return on such investment.

5.2 Conditions of Successor Agreement. Franchisee’s right to enter into a Successor Franchise Agreement is conditioned upon the following:

5.2.1 Franchisee shall have, both at the time the Successor Franchise Agreement is requested and at the time it is signed, at least five (5) Break Coffee Beverage Machines placed at customer premises in the Territory;

5.2.2 Franchisee shall be in full compliance with this Agreement and shall have materially performed Franchisee’s obligations under this Agreement, the Manual and under all other agreements that may be in effect between Franchisee and Franchisor, including but not limited to all monetary obligations;

5.2.3 Franchisee shall not have committed three (3) or more events constituting default during the Term of this Agreement, whether or not such defaults were cured;

5.2.4 Franchisee will have completed any required additional training to Franchisor's reasonable satisfaction.

5.2.5 Franchisee performs such repairs, upgrades and replacements as Franchisor may require to cause the Franchised Business office premises, equipment, computer systems and other assets to conform to the then-current specifications for franchised businesses on the Successor Agreement date.

5.2.6 Franchisee shall execute a general release of all claims Franchisee may have against Break Coffee Co Franchising LLC, its parent, subsidiaries and affiliates, its officers, directors, shareholders, agents, and employees, whether in their corporate and/or individual capacities, in the form attached hereto as Attachment 4. This release will include all claims arising under any federal, state, or local law, rule, or ordinance.

5.2.7 Franchisee shall pay the required Successor Agreement Fee and sign the Successor Franchise Agreement.

5.3 Notice Required by Law. If applicable law requires Franchisor to give notice to Franchisee prior to the expiration of the Term, this Agreement shall remain in effect on a month-to-month basis until Franchisor has given the notice required by such applicable law. If Franchisor is not offering new Break Coffee Co. franchises, is in the process of revising, amending or renewing Franchisor's form of franchise agreement or disclosure document, or Franchisor is not lawfully able to offer Franchisee the then current form of Successor Franchise Agreement at the time Franchisee advises Franchisor pursuant to Section 5.1 hereof that Franchisee desires to enter into a new agreement, Franchisor may, in Franchisor's sole discretion, (i) offer to renew this Agreement upon the same terms set forth herein for the appropriate successor term or (ii) offer to extend the Term hereof on a month-to-month basis following the expiration of the Term for as long as Franchisor deems necessary or appropriate so that Franchisor may lawfully offer the then current form of Successor Franchise Agreement. Any timeframes specified in this Section 5.3 shall be inclusive of any state mandated notice periods.

5.4 Additional Reservation of Rights. Notwithstanding anything herein to the contrary, Franchisor reserves the right not to enter into a Successor Franchise Agreement for this Franchise as a result of a decision to withdraw from the Territory in which Franchisee's Franchised Business is located.

## 6. PAYMENTS TO FRANCHISOR

6.1 Initial Franchise and Royalty Fees. As part of the consideration for the right to operate the Franchise granted herein, Franchisee shall pay to Franchisor the following fees:

6.1.1 Initial Franchise Fee. Franchisee acknowledges and agrees that the grant of this Franchise and the rights and obligations of the parties under this Agreement constitute the sole and only consideration for the initial franchise fee of set forth on the Data Sheet of this Agreement (the "Initial Franchise Fee"). **The Initial Franchise Fee is fully earned at the time this Franchise Agreement is signed and is not refundable under any circumstances.** Franchisee shall pay the full amount of the Initial Franchise Fee to Franchisor upon Franchisee's execution of this Agreement.

6.1.2 Royalty Fee. Franchisee agrees to pay Franchisor, throughout the Term, a royalty fee equal to twelve percent (12%) of Gross Sales, as hereinafter defined, realized from the Franchised Business and from any other revenues received using Franchisor's methods, operations and/or trade secrets (the "Royalty

Fee”), subject to a monthly minimum royalty amount set forth on Attachment 4 hereof (“Minimum Royalty”). The term “Gross Sales” includes all revenues and income from any source derived or received from, through, by or on account of the operation of the Franchised Business or made pursuant to the rights granted hereunder, including but not limited, any and all other revenues received using Franchisor’s methods, operations and/or trade secrets whether received in cash, in services, in kind, from barter and/or exchange, on credit or otherwise, and proceeds of business interruption insurance. Gross Sales excludes: (i) federal, state, or municipal sales, use, or service taxes collected from customers and paid to the appropriate taxing authority; (ii) proceeds from insurance, excluding business interruption insurance; and (iii) proceeds from any civil forfeiture, condemnation, or seizure by government entities.

6.1.3 Sales Reports. Franchisee shall, on or before the fifth (5<sup>th</sup>) business day of each calendar month, furnish Franchisor with (and/or Franchisor shall otherwise access to) a report showing Franchisee’s Gross Sales, plus all taxes paid, by or through the Franchised Business and/or made pursuant to the rights granted hereunder during the immediately prior calendar month (the “Sales Report”). The Sales Report shall be in such form and shall contain such information as Franchisor may from time to time prescribe. At Franchisor’s discretion, (i) Franchisee shall submit, or (ii) Franchisor may remotely access, the Gross Revenue Report by an electronic transfer of data via the computer information systems (“Computer System”) that Franchisor may require Franchisee use in the operation of the Franchised Business.

6.1.4 Method of Payment. Franchisee acknowledges Franchisor shall bill Franchisee’s customers, at such frequency that Franchisor reasonably determines, for all Break Coffee Co. goods and services provided to or received by such customers. Customer payments (“Customer Payments”) shall be made through Franchisor’s centralized payment processing systems. Franchisor shall distribute to Franchisee the amount of Customer Payments received by Franchisor and/or Franchisor’s affiliate from Franchisee’s customers, **less**: (i) the Royalty Fee, the Brand Fund Contribution, the Technology and Support Fee (defined in Section 6.2 below), and/or any sums paid to the Franchisor or affiliates for any products, services, supplies and expenses for the Franchised Business, and/or any other sums due and payable to Franchisor pursuant to this Agreement (collectively, the “Distributed Balance”).

In addition, Franchisee shall, together with the submission of the Sales Report, pay Franchisor the Royalty Fee, and Brand Fund Contribution due with regard to all other Gross Sales realized by Franchisee and paid by means other than the centralized payment processing systems maintained by Franchisor or Franchisor’s affiliate. At Franchisor’s option, Franchisor may collect these additional Royalty Fees and Brand Fund Contributions through deduction from the Distributed Balance. At Franchisor’s request, Franchisee must execute documents that allow Franchisor to automatically take any sums due Franchisor, from business bank accounts via electronic funds transfers. Franchisee’s failure to allow electronic funds transfers on an ongoing basis is a material breach of this Agreement. Franchisor reserves the right to modify the method of Customer Payments and/or method and frequency of collection of the Royalty Fees, Brand Fund Contribution, Technology and Support Fee, reimbursement of fees paid by Franchisor or Franchisor’s affiliate on Franchisee’s behalf, or other sums payable pursuant to this Agreement upon forty-five (45) days’ prior notice to Franchisee.

6.1.5 Minimum Royalty Calculation. Franchisee shall attain or exceed the monthly Minimum Royalty set forth on Attachment 4 throughout the Term. Franchisor shall determine whether Franchisee has attained the Minimum Royalty through reconciliation on a six (6) – month basis and, as applicable, will collect the difference between the actual Royalty Fees paid and the cumulative monthly Minimum Royalty required through invoice to Franchisee, deduction from the Distributed Balance, electronic funds transfer, or ACH.

6.2 Break Coffee Beverage Machines. Franchisee shall purchase from Franchisor or Franchisor’s affiliate, a minimum of six (6) Break Coffee Beverage Machines prior to opening the Franchised Business.

Franchisee shall pay to Franchisor the full purchase price of the Break Coffee Beverage Machines upon execution of this Agreement. Amounts paid for the Break Coffee Beverage Machines are non-refundable.

6.3 Technology and Support Fee. Franchisee shall pay Franchisor a technology and support fee, in an amount that Franchisor reasonably determines, for the development, adoption and/or use of new or improved technology systems for the benefit of the System and Franchised Business, including but not limited to, assigned phone numbers and email addresses required for use in the Franchised Business, a franchise portal, benchmarking platform or other operations or communications systems (“Technology and Support Fee”). In Franchisor’s sole discretion, Franchisor may (i) increase the amount of the Technology and Support Fee or (ii) replace systems with different technology, developed by Franchisor or a third-party, and Franchisee shall pay the then-current fees for the replacement systems and for continuous access thereto.

6.4 Late Fee. If any fee or report, including but not limited to, the Gross Sales Report or other financial report, is not received by Franchisor as and when required by this Agreement, Franchisee shall pay to Franchisor, in addition to any overdue amount, a late fee of One Hundred Fifty Dollars (\$150.00) for each week or fraction thereof that payment or report is not received. This late fee is reasonably related to Franchisor’s costs resulting from the delay in payment and/or receipt of any report, is not a penalty, and is in addition to any other remedy available to Franchisor under this Agreement for Franchisee’s failure to pay fees or submit reports in accordance with the terms of this Agreement.

6.5 Interest. Any and all amounts that shall become due and owing from Franchisee to Franchisor under the terms hereof shall bear interest from the date due until paid at the rate of eighteen percent (18%) per annum or at the highest rate permitted by law, whichever is lower.

6.6 Non-Sufficient Funds Fee. In the event any of Franchisee’s checks are returned, or an electronic funds transfer from Franchisee’s bank account is denied, for insufficient funds, Franchisee shall pay Franchisor, in addition to the amount due, a non-sufficient funds fee of Fifty Dollars (\$50.00) per occurrence. This non-sufficient funds fee is reasonably related to Franchisor’s costs resulting from the delayed and declined payment, is not a penalty, and is in addition to any other remedy available to Franchisor under this Agreement.

6.7 Taxes. If any withholding, sales, excise, use, privilege or other tax (excepting Franchisor’s income tax obligation) (“Tax Charge”) is imposed or levied by any government or governmental agency on Franchisor or Franchisee for any fee due and payable under this Agreement, including but not limited to, the Royalty Fee, any Additional Royalty, Technology and Support Fee, and/or Brand Fund Contribution (for the purpose of this Section 6.6, such fees shall be referred to as a “Taxable Payment”), then Franchisee shall pay Franchisor a sum equal to the amount of the Tax Charge, together with the Taxable Payment, such that the net sum received by Franchisor equals the amount of the Taxable Payment without deduction, withholding, payment or application of the Tax Charge.

## 7 TRAINING

7.1 Initial Training Program. Franchisee (specifically including all Franchisee’s principals) shall attend and complete to Franchisor’s sole and absolute satisfaction, Franchisor’s initial training program (“Initial Training Program”) no earlier than ten (10) days prior to the Opening Date, as defined in Article 8. The Initial Training Program consists of a course conducted in-person at a training site designated by Franchisor. Franchisee must at all times during the term of this Agreement have principals who have successfully completed the Initial Training Program to Franchisor’s sole and complete satisfaction. No charge shall be made for up to two (2) individuals to take the Initial Training Program prior to opening the Franchised Business (“Initial Trainees”). Notwithstanding the foregoing, Franchisee shall be required to pay all of the expenses of the Initial Trainees, including, without limitation, costs of travel, lodging, meals and wages.

7.2 Satisfactory Completion. Franchisor shall determine, in Franchisor's sole discretion, whether the Initial Trainees have satisfactorily completed the Initial Training Program. If the Initial Training Program is not satisfactorily completed by the Initial Trainees, or if Franchisor, in Franchisor's reasonable business judgment based upon the performance of the Initial Trainees, determines that the Initial Training Program cannot be satisfactorily completed by Franchisee or Franchisee's Principal(s), Franchisor may terminate this Agreement.

7.3 Additional Training. Franchisor may offer mandatory and/or optional additional training programs from time to time. If required by Franchisor, Franchisee, or Franchisee's principals shall participate in the following additional training:

(i) on-going training for up to three (3) days per year, at a location designated by Franchisor.

(ii) a national business meeting, annual convention, or conference for up to three (3) days per year, at a location designated by Franchisor.

Franchisor reserves the right to impose a reasonable fee for all additional training programs. Franchisee shall be responsible for any and all incidental expenses incurred by Franchisee or Franchisee's personnel in connection with additional training or attendance at Franchisor's national business meeting or annual convention, including, without limitation, costs of travel, lodging, meals and wages. Franchisee's failure to attend and/or complete mandatory additional training or failure to attend Franchisor's national business meeting or annual convention is a default of this Agreement. Franchisee or Franchisee's principal(s) shall be required to obtain any missed mandatory additional training at a location Franchisor designates. Franchisee shall pay all costs and expenses for such additional training, including but not limited to, tuition at the then-current rate and any and all transportation, meals and lodging of Franchisee, Franchisee's principal and Franchisor's training personnel. Franchisee shall pay to Franchisor any incurred expenses by Franchisor's training personnel within ten (10) days of Franchisor's billing thereof to Franchisee.

7.4 On-Site Supplemental Training. Upon Franchisee's reasonable request or as Franchisor shall deem appropriate, Franchisor shall, during the term hereof, subject to the availability of personnel, provide Franchisee with additional trained representatives who shall provide on-site supplemental or remedial training and assistance to Franchisee's personnel at the Franchised Business location. For any additional on-site training and assistance, Franchisee shall pay the per diem fee then being charged to franchisees under the System for the services of such trained representatives, plus their costs of travel, lodging, and meals.

7.5 Counseling and Assistance. In addition to visits by Franchisor's field representatives, as Franchisor deems appropriate, Franchisor shall, within reasonable limits and subject to the availability of Franchisor's personnel, upon Franchisee's request and at no charge, furnish consultation and assistance to Franchisee, either by telephone, video conference, electronic mail or postal service, as determined by Franchisor, in Franchisor's sole discretion, with respect to the operation of the Franchised Business, including consultation and advice regarding marketing, operational issues, instructional materials, bookkeeping and System improvements.

## **8. OPENING REQUIREMENTS**

8.1 Site Requirements. Franchisee is hereby permitted to operate the Franchised Business from a home-based office and may operate the Franchised Business from any site in the Territory without first obtaining Franchisor's consent. Franchisee assumes all cost, liability, expense and responsibility for equipping and outfitting the home-based office or other site as outlined in the Operations Manual.

8.2 Time to Open. Franchisee acknowledges that time is of the essence in this Agreement. Upon Franchisee's compliance with the conditions stated below, Franchisee shall open the Franchised Business, which shall be defined herein as the "Opening Date". Prior to the Opening Date, Franchisee shall (i) satisfactorily complete Franchisor's Initial Training Program, as further set forth in Article 7, (ii) outfit a home-based or other office site, (iii) obtain all required licenses and insurance to operate the Franchised Business, (iv) obtain all equipment Franchisor requires, including but not limited to, the Computer System, and other software and applications, (v) purchase at least six (6) Break Coffee Beverage Machines; and (vi) provide Franchisor with documentation for bank account(s) for use in the Franchised Business. If Franchisee fails to comply with any of such obligations, Franchisor shall have the right to prohibit Franchisee from opening for business. Franchisee's failure to open the Franchised Business and commence business (i) in accordance with the foregoing and (ii) within ninety (90) days following the date of this Agreement, unless otherwise extended by Franchisor, shall be deemed a material event of default under this Agreement.

## 9. SYSTEM IMPROVEMENTS.

9.1 Equipment and Technology Updates. Franchisee shall maintain and make any and all repairs and upgrades to equipment, including but not limited to, the Computer System, payment processing systems, and other computer hardware, software, and applications, and any technology used in conjunction therewith, as Franchisor requires in its sole and absolute discretion.

### 9.2 Trade Dress Modifications.

9.2.1 Franchisee is aware that to maintain and improve the image and reputation of the System, Franchisor, in its sole and absolute discretion, may change and modify identifying elements of the System, including but not limited to, the adoption and use of new or modified color schemes, tag lines, logos or marks (collectively, "Trade Dress Modifications").

9.2.2 Franchisee shall, at Franchisee's sole expense, modify identifying elements of the Franchised Business, as required by Franchisor, but not more frequently than every five (5) years, to conform to Trade Dress Modifications. Notwithstanding the foregoing restriction on the frequency of Trade Dress Modifications, Franchisee, upon notice by Franchisor and in accordance with Section 14.6 hereof, shall immediately discontinue the use of any Mark that is no longer desirable or available to Franchisor and substitute a different Mark or Marks as Franchisor directs.

9.2.3 Franchisee will accept, use and display any such Trade Dress Modifications as if they were a part of this Franchise Agreement at the time of execution hereof.

9.3 No Liability/Waiver of Claims. Franchisor shall not be liable to Franchisee for any expenses, losses or damages sustained by Franchisee as a result of any of the modifications, including Trade Dress Modifications, required by this Article 9. Franchisee hereby covenants not to commence or join in any litigation or other proceeding against Franchisor or any third party, complaining of any such or seeking expenses, losses or damages caused thereby. Further, Franchisee expressly waives any claims, demands or damages arising from or related to the modifications contemplated by this Article 9, including, without limitation, any claim of breach of contract, breach of fiduciary duty, fraud, and/or breach of the implied covenant of good faith and fair dealing.

9.4 Franchisee Advisory Council. Franchisor reserves the right to create (and if created, the right to change or dissolve) a franchisee advisory council as a formal means for System franchisees to communicate ideas. In the event a franchisee advisory council is created, Franchisor may invite Franchisee to participate in council-

related activities and meetings, which invitation may be based on a franchisee's level of success, superior performance and profitability.

## **10 FRANCHISOR'S OBLIGATIONS**

Franchisor and/or its designated representative will provide the services described below:

10.1 Manual. Provide Franchisee access to the Confidential Operations Manual and such other manuals and written materials as Franchisor may hereafter develop for use by franchisees, as the same may be revised by Franchisor from time to time. Such documents may be provided electronically or via the Internet, at Franchisor's sole and absolute discretion.

10.2 Pre-Opening Requirements. Provide a written list of equipment, signage, supplies and products that will be required and/or recommended to open the Franchised Business for business. Franchisor shall provide to Franchisee with (i) six (6) Break Coffee Beverage Machines, upon Franchisee's payments therefor, and (ii) a Franchisee Start-Up Kit containing an initial supply of spare hoses, cleaning supplies and marketing materials, signage and procedure cards, and training and operations manuals.

10.3 Customer Payments. Invoice Franchisee's customers for Systems goods and services provided or received, and distribute payments to Franchisee following deductions in accordance with Section 6.1.4 hereof.

10.4 Advertising Materials. Provide samples or digital artwork of certain advertising and promotional materials and information that Franchisor may develop from time to time for use by Franchisee in marketing and conducting local advertising for the Franchised Business.

10.5 List of Supplies/Suppliers. Make available from time to time, and amend as deemed appropriate by Franchisor, a list of required and/or recommended products and services for System franchisees and a list of approved and/or recommended suppliers of such items. Franchisee acknowledges that Franchisor or Franchisor's affiliate(s) may be the sole approved supplier(s) of certain products and services that Franchisee is required to purchase to operate the Franchised Business.

10.6 Training. The training programs specified in Article 7 herein.

10.7 On-Going Assistance. Post-opening assistance in accordance with the provisions of Article 7.

10.8 Brand Fund. Administration of a Brand Fund in accordance with Section 13.3.

## **11 FRANCHISEE'S REPRESENTATIONS, WARRANTIES AND COVENANTS**

11.1 Best Efforts. Franchisee, including each of Franchisee's Principal(s) covenants and agrees that he or she shall make all commercially reasonable efforts to operate the Franchised Business so as to achieve optimum sales.

11.2 Corporate Representations. If Franchisee is a corporation, partnership, limited liability company, or other legal entity, Franchisee and each Principal represent, warrant and covenant that:

11.2.1 Franchisee is duly organized and validly existing under the state law of its formation;

11.2.2 Franchisee is duly qualified and is authorized to do business in the jurisdiction of the Territory;

11.2.3 Franchisee's organizational documents shall at all times provide that the activities of Franchisee are confined exclusively to the operation of the Franchise granted herein, unless otherwise consented to in writing by Franchisor, which consent may be withheld by Franchisor in Franchisor's sole discretion;

11.2.4 The execution of this Agreement and the consummation of the transactions contemplated hereby are within Franchisee's power and have been duly authorized by Franchisee;

11.2.5 Any financial statements and tax returns provided to Franchisor shall be certified as true, complete and correct and shall have been prepared in conformity with generally accepted accounting principles applicable to the respective periods involved and, except as expressly described in the applicable notes, applied on a consistent basis. No material liabilities, adverse claims, commitments or obligations of any nature exist as of the date of the statements or returns, whether accrued, unliquidated, absolute, contingent or otherwise, that are not reflected as liabilities.

11.3 Spouse Guaranty. If any Franchisee Principal is a married individual and the Principal's spouse has not executed this Agreement, such Principal shall cause his or her spouse to personally execute and bind himself or herself to the terms of a Guaranty, in the form attached as Attachment 7 hereof.

#### 11.4 Personal Management.

11.4.1 Franchisee and/or a Principal shall personally supervise the operation of the Franchised Business and may not appoint a manager of the Franchised Business, unless Franchisee receives Franchisor's prior written consent. Franchisee accepts full responsibility for, and shall be fully liable to, Franchisor for the acts and omissions of any and all agents, employees or third persons working for or with Franchisee. Franchisee shall ensure that its agents, employees and all third-party business affiliates observe and adhere to all applicable terms, conditions and restrictions contained in this Agreement and in the Manual; including but not limited to quality and service standards, confidentiality, works made for hire, non-compete and the agreement to return all Franchisor proprietary and confidential information. Any breach of a term or condition contained in this Agreement by an agent, employee or third party working for Franchisee shall be deemed to be the same as a direct breach by Franchisee and its Principals; and Franchisor shall have all the same rights and remedies as if the breach occurred through the direct acts or omissions of the Franchisee and/or its named Principals. Franchisee's agents, employees and third-party business affiliates shall further meet all Franchisor's standards and criteria for such individual(s), as set forth in the Manual.

11.4.2 Franchisee shall promptly notify Franchisor when any employee, agent or third-party affiliate previously granted access to Franchisor's proprietary or confidential information ceases to be employed or affiliated with Franchisee, so that any and all access rights to Franchisor proprietary or confidential information may be terminated and all such materials returned to Franchisor. Any failure by Franchisee to comply with the requirements of this Section shall be deemed a material event of default under this Agreement.

11.4.3 If, at any time during this Agreement, Franchisee or Franchisee's approved manager can no longer personally supervise the Franchised Business in accordance with this Agreement, Franchisee shall promptly notify Franchisor and designate, with Franchisor's prior approval, a replacement manager within thirty (30) days after Franchisee or Franchisee's approved manager ceases to serve, such replacement being subject to the same qualifications required by this Agreement. Franchisee's replacement manager shall

attend and satisfactorily complete Franchisor's Initial Training Program, at Franchisee's sole cost and expense, including the payment of the then-current tuition therefor. Franchisor, in Franchisor's sole discretion, may provide interim management support and charge Franchisee an interim management support fee, at the then-current rate, until an approved replacement manager is properly trained or certified in accordance with Franchisor's requirements. Payment of such interim management support fee, plus any and all costs of travel, lodging, meals and other expenses reasonably incurred by Franchisor, shall be withdrawn from Franchisee's designated bank account in accordance with Section 6.1.4.

11.5 Legal Compliance. Franchisee shall comply with all federal, state and local laws, rules and regulations and shall timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of the Franchised Business. Such laws, rules and regulations shall include, without limitation, licenses to do business, fictitious name registrations, sales and other tax permits, certificates or licenses required by any industry regulatory agency or association and any other requirement, rule, law or regulation of any federal, state or local jurisdiction.

11.6 Claims and Potential Claims. Franchisee shall notify Franchisor in writing within three (3) days of any incident or injury that could lead to, or the actual 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 in any way relating to or affecting the operation or financial condition of the Franchised Business. Any and all media inquiries concerning the Franchised Business or Franchised Business location, including, but not limited to, the business operation and incidents and occurrences related to a customer or employee, shall be referred to Franchisor. Neither Franchisee, Franchisee's employees nor anyone on Franchisee's behalf may comment to any broadcast medium, except as directed by Franchisor.

11.7 Assignment of Numbers and Listings. Franchisee shall execute such forms and documents, including the Internet Advertising, Social Media, Software, and Telephone Listing Agreement contained in Attachment 8, to appoint Franchisor its true and lawful attorney-in-fact, with full power and authority, for the sole purpose of assigning to Franchisor, Franchisee's telephone numbers, listings, and passwords and administrator rights for all email, software, social media, or other such accounts used or created by Franchisee in order to operate the Franchised Business. Upon the expiration or termination of this Agreement, Franchisor may exercise its authority, pursuant to such documents, to obtain any and all of Franchisee's rights to the telephone numbers of the Franchised Business and all related telephone directory listings and other business listings, and all Internet listings, domain names, Internet advertising, websites, listings with search engines, electronic mail addresses, social media, or any other similar listing or usages related to the Franchised Business.

11.8 Access to Tax Filings. Upon execution of this Agreement, and at any time thereafter upon Franchisor's request, Franchisee shall execute such forms and documents as Franchisor deems necessary, to appoint Franchisor its true and lawful attorney-in-fact with full power and authority, for the sole purpose of obtaining any and all returns and reports filed by Franchisee with any state or federal taxing authority.

11.9 Continuing Obligation. Franchisee and each Principal acknowledge and agree that the representations, warranties and covenants set forth in this Article 11 are continuing obligations of Franchisee and each Principal, as applicable, and that any failure to comply with such representations, warranties and covenants shall constitute a material event of default under this Agreement. Franchisee and each Principal shall cooperate with Franchisor in any efforts made by Franchisor to verify compliance with such representations, warranties and covenants.

## 12 FRANCHISEE'S OPERATIONS

12.1 Operation of Franchised Business. In order to maintain the highest degree of quality and service on a uniform System-wide basis, Franchisee shall operate the Franchised Business in conformity with the methods, standards and specifications prescribed by Franchisor. Franchisee agrees to comply with the Manual, as it is modified from time to time, and all directives, rules and procedures specified by Franchisor, and will, among other things:

12.1.1 Procure the necessary licenses or permits to allow the operation of the Franchised Business and otherwise comply with all applicable governmental laws, ordinances, rules and regulations;

12.1.2 Conduct sales in accordance with Franchisor's standards and specifications. Franchisee acknowledges and accepts that Franchisee may only engage in providing Break Coffee Beverage Machines and Break Coffee to end-users. Franchisee is expressly prohibited from selling services or products (i) that are not a part of the Break Coffee Co. System or that are not approved by Franchisor (ii) on the internet (except as part of System services in strict accordance with Franchisor's specifications), or (iii) to dealers and/or distributors for subsequent re-sale of Break Coffee Beverage Machines or Break Coffee beans, pods, or cold brew or other products. Engaging in such sales shall be a material default of this Agreement;

12.1.3 Maintain sufficient inventories of Break Coffee Beverage Machines, Break Coffee beans, pods and cold brew products and other products and supplies held for resale, as prescribed by Franchisor. Franchisee acknowledges and agrees that: (i) Franchisor and/or Franchisor's affiliate may be a designated supplier or sole approved supplier of any product or service that Franchisee is required to lease or purchase, (ii) Franchisor and/or Franchisor's affiliate may receive payment from supplier(s) related to Franchisee's required purchases or leases, and (iii) any payments so received are for Franchisor's benefit only and may be used or applied in any manner determined by Franchisor in Franchisor's sole and absolute discretion;

12.1.4 If required for Franchisee's optimal operation, maintain in good working order, cleanliness and appearance, a vehicle for use in the Franchised Business. Franchisor reserves the right to set specifications and standards of condition, age and branding, as set forth in the Manual, of vehicles used in the Franchised Business.

12.1.5 Timely make all required payments to suppliers and other contractors and creditors of the Franchised Business in accordance with the applicable agreements and provide documentation thereof, as requested by Franchisor;

12.1.6 Employ only qualified individuals, who are trained in accordance with Franchisor's standards, including but not limited to the protection of Franchisor's confidential and proprietary information, and who will at all times enhance Franchisor's brand and conduct themselves in a competent and courteous manner in accordance with this Agreement and the image and reputation of the System. Franchisee shall use its best efforts to insure that Franchisee's employees maintain a neat and clean appearance and render competent and courteous service to customers of the Franchised Business. Franchisee acknowledges and agrees that poorly trained employees, sloppy or unclean appearances and incompetent or discourteous service are extremely damaging to the goodwill of the System and the Marks and are a material default of this Agreement;

12.1.7 Permit Franchisor or its agents, to inspect the Franchised Business and any services, products or equipment, through customer service call attendance or otherwise, to determine whether they meet Franchisor's then-current standards, specifications and requirements. In addition to any other remedies Franchisor may have, Franchisee shall reimburse Franchisor for Franchisor's inspection costs of any item that does not conform to the System standards and specifications;

12.1.8 Prominently display identifying elements of the System of such nature, form, color, number, location and size, and containing such material, as Franchisor may from time to time reasonably direct or approve in writing; and to refrain from using any sign, advertising media or identifying element of any kind to which Franchisor reasonably objects, including signs and advertising media which have been outdated. Upon giving Franchisee notice of its objection to same or upon termination hereof, Franchisor may at any time enter upon the Franchised Business office location or elsewhere and remove any objectionable or non-approved sign, advertising media or identifying element and keep or destroy same without paying therefor or without being deemed guilty of trespass or any other tort; and

12.1.9 Conduct all advertising programs in a manner consistent with Franchisor's standards and specifications, in a manner satisfactory to Franchisor and that will not detract from the reputation of the System or the Marks.

## 12.2 Bookkeeping and Reports.

12.2.1 Franchisee agrees to keep and maintain complete and accurate books and records of its transactions and business operations using the accounting procedures and chart of accounts specified by Franchisor. Franchisee agrees to purchase the Computer Systems specified in Section 12.3 to maintain the records and accounts of the Franchisee to the standards of the Franchisor. Franchisee acknowledges and agrees that the financial data of Franchisee's Franchised Business (i) is owned by Franchisor, (ii) is Franchisor's Proprietary Information, and (iii) may be published in franchise disclosure document(s) issued by Franchisor following the Effective Date hereof.

12.2.2 Within fifteen (15) days after the close of each calendar quarter and within ninety (90) days after the close of each fiscal year, Franchisee will furnish Franchisor a full and complete written statement of income and expense and a profit and loss statement for the operation of the Franchised Business during said period, together with a balance sheet for the Franchised Business, all of which shall be prepared in accordance with generally accepted accounting principles and practice. Franchisee's annual statements and balance sheets shall be prepared by an independent certified public accountant and certified to be correct.

12.2.3 The financial statements required hereunder shall be in such form and contain such information as Franchisor may from time to time reasonably designate. Franchisee must maintain complete financial records for the Franchised Business for at least five (5) years from their date of preparation.

12.2.4 Franchisor reserves the right to require Franchisee to engage the services of a third-party accounting services firm, designated and approved by Franchisor, in the event that (i) Franchisee fails to keep books and records in accordance with Franchisor's standards or (ii) Franchisor, in its sole discretion, determines that use of a third-party accounting services firm by all System franchisees is beneficial to the System.

12.2.5 Franchisor shall have the right at all reasonable times to examine, at its expense, Franchisee's books, records, and tax returns. If Franchisor's examination finds an understatement of any Sales Report, Franchisee shall pay Franchisor the amounts due together with interest thereon at the rate provided herein. Additionally, if Franchisee (i) had failed to timely submit Sales Reports twice or more within a twelve (12)-month period or (ii) understated Gross Sales by two percent (2%) or more, Franchisee shall reimburse Franchisor for the cost of such examination. Such understatement may be considered a material default hereunder. Two (2) such understatements during the term of this Agreement may, at the option of Franchisor, be considered an incurable default and thereby subject to termination as provided herein.

## 12.3 Computer Systems.

12.3.1 Franchisee, at Franchisee's sole expense, shall install and maintain the Computer System and other computer hardware, software, applications and accounts Franchisor requires for the operation of the Franchised Business and shall follow the procedures related thereto that Franchisor specifies in the Manual or otherwise in writing.

12.3.2 Franchisor may require Franchisee, at Franchisee's sole expense, to install and maintain systems and payment processing and bookkeeping accounts that permit Franchisor to independently and electronically access and retrieve any information stored in Franchisee's Computer System and accounts, including, without limitation, information concerning Gross Sales. Upon Franchisor's request, Franchisee shall execute such documents as Franchisor deems necessary to permit Franchisor to independently and electronically access and retrieve all information stored on Franchisee's Computer System, other systems and payment processing and bookkeeping accounts.

12.3.3 Any and all data, including customer data, collected or provided by Franchisee, retrieved from Franchisee's Computer System, or otherwise collected from Franchisee by Franchisor or provided to Franchisor, is and will be owned exclusively by Franchisor and will be considered to be Franchisor's proprietary and Confidential Information. Franchisor has the right to use such data in any manner without compensation to Franchisee. Franchisor licenses to Franchisee the use of such data solely for the purpose of operating the Franchised Business; provided that, this license shall automatically and irrevocably terminate, without any additional action or notice required by Franchisor, upon the expiration or earlier termination of this Agreement.

12.3.4 Franchisee shall have and maintain adequate hardware and software in order to access the Internet at the speed required by Franchisor from time to time. Franchisee shall utilize the electronic mail account provided by Franchisor. Franchisee shall promptly read and respond to all electronic mail related to the Franchised Business no less often than on a daily basis and shall accept and acknowledge receipt of all electronic mail sent by Franchisor. Franchisee shall not establish any website or other listing on the Internet except as provided and specifically permitted herein.

12.3.5 Franchisor has established a website that provides information about the System and the services and products offered thereby (the "Website"). Franchisor has sole discretion and control over the Website. Franchisee has no ownership or other proprietary rights in or to Franchisor's Website(s).

12.3.6 In addition to Franchisee's obligation pursuant to Section 6.6 hereof, Franchisee shall pay all other fees, whether to Franchisor or to third party vendor(s), and expenses for technology required by this Agreement, including but not limited to, the costs of computer hardware and software, regularly recurring fees for software and Internet access, license fees, help desk fees, and any other licensing or user-based fees for operations or communications hardware, software, programs and applications.

12.3.7 Franchisee is solely responsible for maintaining the security and integrity of the Computer System and payment processing systems used in the Franchised Business and the customer and other data stored therein. Franchisee, at Franchisee's sole cost and expense, shall implement all computer hardware, software and Internet security procedures, including required updates or upgrades thereto, that are reasonably necessary to protect Franchisee's computer and payment processing systems and the data stored therein from viruses, malware, privacy breaches or other unauthorized access.

12.4 Employment Standards. Franchisee shall conduct a background review of every prospective employee's criminal history and any other histories as set forth in the Manual and that Franchisee determines to be necessary and appropriate, prior to hiring. Notwithstanding the foregoing, all matters of employment are within Franchisee's discretion and control. Franchisor shall not be liable to Franchisee, any employee or prospective employee of Franchisee, or any third party for any act or omission of Franchisee or any

employee or agent of Franchisee, and Franchisee's indemnification obligations set forth in Section 15.6 hereof shall apply to any claims, demands or actions against Franchisor arising from any act or omission of Franchisee or any employee or agent of Franchisee (including, without limitation, refusal to hire or discrimination claims or claims asserted by third parties for torts allegedly committed by any employee or agent of Franchisee).

12.5 Prices. Franchisor may from time to time offer guidance with respect to pricing of services and products. Franchisee is in no way bound to adhere to any such recommended or suggested prices. Franchisee shall have the right to provide services and sell products at any price that Franchisee may determine. If Franchisee elects to offer services and products at any price recommended by Franchisor, Franchisee acknowledges that Franchisor has made no guarantee or warranty that offering such services or products at the recommended price will enhance Franchisee's sales or profits.

12.6 Unapproved Item/Suppliers. If Franchisee desires to purchase, lease or use any unapproved equipment, product, or service or to purchase, lease or use any equipment, product or service from an unapproved supplier, Franchisee shall submit to Franchisor a written request for such approval prior to utilizing such product, service or supplier. Franchisee shall not purchase or lease any item or use any supplier until and unless such item or supplier has been approved in writing by Franchisor. Franchisor shall have the right to require that its representatives be permitted to inspect the supplier's facilities and to test or otherwise evaluate samples from the supplier. Franchisor reserves the right to charge Franchisee a fee equal to the actual cost and expense for inspection and testing. Franchisor shall notify Franchisee in writing of an approval of the proposed item or supplier within ninety (90) days after Franchisor receives all required information to evaluate the product, service or supplier; or, if no approval notice is received, the product, service or supplier is deemed "unapproved". Franchisor reserves the right, at its option, to re-inspect from time to time the facilities and products of any such approved supplier and to revoke its approval upon the supplier's failure to continue to meet any of Franchisor's then-current criteria. Nothing in the foregoing shall be construed to require Franchisor to approve any particular item or supplier.

12.7 External Quality Assurance Services. Franchisor reserves the right to establish quality assurance programs conducted by third-party providers, including, but not limited to, satisfaction surveys and periodic quality assurance audits ("Quality Review Services"). Upon Franchisor's request and at Franchisee's sole cost and expense, Franchisee shall subscribe, to any such third-party provider for Quality Review Services to monitor the operations of the Franchised Business as directed by Franchisor.

12.8 Variations in Standards. Notwithstanding anything to the contrary contained in this Agreement and this Section 12 in particular, Franchisee acknowledges and agrees that because complete and detailed uniformity under many varying conditions may not be possible or practical, Franchisor specifically reserves the right and privilege, at its sole discretion and as it may deem in the best interests of all concerned in any specific instance, to vary performance standards for some franchisees based upon the peculiarities and characteristics of the particular site or circumstance, business potential, existing business practices or any other condition which Franchisor deems to be of importance to the successful operation of such particular franchise business. Franchisor has full rights to vary standard specifications and practices for any other franchisee at any time without giving Franchisee comparable rights. Franchisee shall not be entitled to require Franchisor to disclose or grant to Franchisee a like or similar variation.

### **13. ADVERTISING, PROMOTIONS AND RELATED FEES**

13.1 Advertising Programs. Franchisor may from time to time develop and administer advertising and sales promotion programs designed to promote and enhance the collective success of all Franchised Businesses operating under the System. Franchisee, at Franchisee's sole expense, shall

participate in all such advertising and sales promotion programs in accordance with the terms and conditions established by Franchisor from time to time for each program. In all aspects of these programs, including, without limitation, the type, quantity, timing, placement and choice of media, market areas and advertising agencies, the standards and specifications established by Franchisor, as modified from time to time, shall be final and binding upon Franchisee.

### 13.2 Local Advertising.

13.2.1 Commencing three (3) months after Franchisee's completes the Initial Training Program described in Section 7.1 hereof, Franchisee shall spend monthly, throughout the Term, not less than Five Hundred Dollars (\$500.00) per month on advertising for the Franchised Business in the Territory in accordance with Franchisor's requirements and using marketing materials approved by Franchisor, as set forth in Section 13.5 hereof ("Local Advertising"). Notwithstanding the foregoing, Franchisee shall have no obligation to engage in Local Advertising at any time Franchisee reaches and maintains the Placement Limit.

13.2.2 Within ten (10) business days of Franchisor's request, Franchisee shall provide a quarterly expenditure report accurately reflecting Franchisee's Local Advertising expenditures for the preceding quarterly period. The following costs and expenditures incurred by Franchisee shall *not* be included in Franchisee's expenditures on Local Advertising for purposes of this Section, unless approved in advance by Franchisor in writing: (i) incentive programs for employees or agents of Franchisee; (ii) research expenditures; (iii) salaries and expenses of any of Franchisee's personnel to attend advertising meetings, workshops or other marketing activities; (iv) charitable, political or other contributions or donations.

13.2.3 Franchisee shall spend a minimum of Five Thousand Dollars (\$5,000.00) on Local Advertising and promotional activities in the Territory within ninety (90) following the Effective Date hereof to promote the opening of the Franchised Business. Franchisee shall conduct Franchisee's grand opening campaign in accordance with plans approved by Franchisor pursuant to Section 13.5.

### 13.3 Brand Fund.

13.3.1 Franchisor has established a national Brand Fund (the "Brand Fund") on behalf of the System for national advertising, marketing, and business system development and enhancements. Franchisee is required to make a monthly brand fund contribution ("Brand Fund Contribution") equal to two percent (2%) of Gross Sales, subject to a monthly minimum brand fund contribution set forth on Attachment 4 hereof ("Minimum Brand Fund Contribution"). Payments will be made in the same manner and time as the Royalty Fee, in accordance with Section 6.1.4 hereof.

13.3.2 Minimum Brand Fund Contribution Calculation. Franchisee shall attain or exceed the monthly Minimum Brand Fund Contribution set forth on Attachment 4 throughout the Term. Franchisor shall determine whether Franchisee has attained the Minimum Brand Fund Contribution through reconciliation on a six (6) – month basis and, as applicable, will collect the difference between the actual Brand Fund Contributions paid and the cumulative monthly Brand Fund Contributions required through invoice to Franchisee, deduction from the Distributed Balance, electronic funds transfer, or ACH.

13.3.3 Franchisor shall direct all advertising and marketing programs and shall have sole discretion to approve or disapprove the creative concepts, materials and media used in such programs and the placement and allocation thereof. Franchisee agrees and acknowledges that the Brand Fund is intended to maximize general public recognition and acceptance of the Marks and enhance the collective success of all Franchised Businesses operating under the System.

13.3.4 Franchisor may, but has no obligation to, contribute to the Brand Fund on the same basis as Franchisee with respect to Break Coffee Co. outlets operated by Franchisor or Franchisor's affiliates.

13.3.5 Franchisor may use the Brand Fund to satisfy any and all costs of developing, preparing, producing, directing, administering, conducting, maintaining and disseminating advertising, marketing, promotional and public relations materials, programs, campaigns, sales and marketing seminars and training programs of every kind and nature, through media now existing or hereafter developed (including, without limitation, the cost of television, radio, magazine, social media, newspaper and electronic advertising campaigns; direct mail and outdoor billboard advertising; public relations activities; conducting marketing research, employing advertising agencies to assist therein; developing, enhancing and maintaining the Website, social media platforms, apps, and other technology for the benefit of the Brand image and/or Systemwide improvements; and staff salaries and other personnel and departmental costs for advertising that Franchisor internally administers or prepares). While Franchisor does not intend that any part of the Brand Fund will be used for advertising which is principally a solicitation for franchisees, Franchisor reserves the right to use the Brand Fund for public relations, to explain the franchise system, and/or to include a notation in any advertisement indicating "Franchises Available."

13.3.6 The Brand Fund will be operated solely as a conduit for collecting and expending the brand development contributions for the System. The Brand Fund will not be used to defray any of Franchisor's general operating expenses, except for reasonable administrative costs, staff salaries of Brand Fund personnel and overhead that Franchisor may incur in activities related to the administration and direction of the Brand Fund and such costs and expenses pursuant Section 13.3.4. The Brand Fund and its earnings shall not otherwise inure to Franchisor's benefit.

13.3.7 At Franchisee's request, Franchisor will prepare an unaudited annual statement of the Brand Fund's operations and will make it available to Franchisee. In administering the Brand Fund, Franchisor undertakes no obligation to make expenditures for Franchisee that are equivalent or proportionate to Franchisee's contribution or to ensure that any particular franchisee benefits directly or pro rata from the production or placement of advertising.

13.3.8 Although the Brand Fund is intended to be of perpetual duration, Franchisor may terminate it at any time and for any reason or no reason. Franchisor will not terminate the Brand Fund, however, until all monies in the Brand Fund have been spent for brand development or promotional purposes or returned to contributors, without interest, on the basis of their respective contributions.

13.4 Directory Listings. At Franchisee's sole cost and expense, Franchisee must list the Franchised Business in local business directories, including, but not limited to, listings on Internet search engines. If feasible, and with Franchisor's prior written approval, Franchisee may do cooperative listings with other System franchisees. Notwithstanding the foregoing, Franchisee may not maintain any business profile on Facebook, Twitter, LinkedIn, YouTube or any other social media and/or networking site without Franchisor's prior written approval and in strict accordance with Franchisor's requirements.

13.5 Approval of Advertising. All advertising and promotion by Franchisee, in any medium, shall be conducted in a professional manner and shall conform to the standards and requirements of Franchisor as set forth in the Manual or otherwise. Franchisee shall submit to Franchisor for its approval samples of all advertising, press releases, promotional plans and materials and public relations programs that Franchisee desires to use, including, without limitation, any materials in digital, electronic or computerized form, or in any form of media now or hereafter developed that have not been either provided or previously approved by Franchisor. Franchisor shall approve or disapprove such plans and materials within ten (10) business days of Franchisor's receipt thereof. If Franchisor fails to respond to Franchisee's submission within ten (10) business days, such plans and materials shall be deemed "disapproved".

Franchisee shall not use such unapproved plans or materials until they have been approved by Franchisor in writing, and shall promptly discontinue use of any advertising or promotional plans or materials, whether or not previously approved, upon notice from Franchisor. Any advertising, marketing or sales concepts, programs or materials proposed or developed by Franchisee for the Break Coffee Co. brand and approved by Franchisor may be used by other System franchisees without any compensation to Franchisee.

## **14. INTELLECTUAL PROPERTY**

### **14.1 Ownership.**

14.1.1 Franchisee expressly understands and acknowledges that Franchisor's affiliate or its successor ("Licensor") is the record owner of the Marks. Franchisor holds the exclusive right to license the Marks to franchisees of the System for use pursuant to the System. Franchisee further expressly understands and acknowledges that Franchisor and/or Licensor claims copyrights and other proprietary rights on certain material used in the System, including but not limited to the Website, documents, advertisements, promotional materials and the Manual, whether or not Franchisor has filed for copyrights thereto with the U.S. Copyright Office. The Marks and copyrights, along with Franchisor's trade secrets, service marks, trade dress and proprietary materials and systems are hereafter collectively referred to as the "Intellectual Property".

14.1.2 As between Franchisor and Franchisee, Licensor and Franchisor are the owner of all right, title and interest in and to the Intellectual Property and the goodwill associated with and symbolized by them.

14.2 No Interference. Neither Franchisee nor any Principal shall take any action that would prejudice or interfere with the validity of Franchisor's or Licensor's rights with respect to the Intellectual Property. Nothing in this Agreement shall give the Franchisee any right, title, or interest in or to any of the Intellectual Property or any of Franchisor's or Licensor's service marks, trademarks, trade names, trade dress, logos, copyrights or proprietary materials, except the right to use the Intellectual Property and the System in accordance with the terms and conditions of this Agreement for the operation of a Franchised Business and only in approved advertising related to the Franchised Business.

14.3 Goodwill. Franchisee understands and agrees that any and all goodwill arising from Franchisee's use of the Intellectual Property and the System shall inure solely and exclusively to the benefit of Franchisor and Licensor, and upon expiration or termination of this Agreement and the license herein granted, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee's use of the Intellectual Property.

14.4 Validity. Franchisee shall not contest the validity of, or Franchisor's or Licensor's interest in, the Intellectual Property or assist others to contest the validity of, or Franchisor's or Licensor's interest in, the Intellectual Property.

14.5 Infringement. Franchisee acknowledges that any unauthorized use of the Intellectual Property shall constitute an infringement of Franchisor's or Licensor's rights in the Intellectual Property and a material event of default hereunder. Franchisee shall provide Franchisor or Licensor with all assignments, affidavits, documents, information and assistance Franchisor or Licensor reasonably requests to fully vest in Franchisor or Licensor all such rights, title and interest in and to the Intellectual Property, including all such items as are reasonably requested by Franchisor or Licensor to register, maintain and enforce such rights in the Intellectual Property.

14.6 Substitution. Franchisor reserves the right to substitute different Marks for use in identifying the System and the Franchised Business, if it in its sole discretion, determines that substitution of different Marks will be beneficial to the System. Franchisor will not be liable to Franchisee for any expenses, losses or damages sustained by as a result of any additions, modifications, substitutions or discontinuation of the Marks. Franchisee covenants not to commence or join in any litigation or other proceeding against Franchisor for any of these expenses, losses or damages.

14.7 Franchisee's Use of the Intellectual Property. With respect to Franchisee's use of the Intellectual Property pursuant to this Agreement, Franchisee further agrees that:

14.7.1 Unless otherwise authorized or required by Franchisor, Franchisee shall advertise the Franchised Business only under the Marks "Break Coffee Co." and design. Franchisee shall not use the Marks, or any portions, variations, or derivatives thereof, as part of its corporate or other legal name. All fictitious names used by Franchisee shall bear the designation "a franchisee of Break Coffee Co Franchising LLC".

14.7.2 Franchisee shall identify itself as the owner of the Franchised Business and as an independent Break Coffee Co. franchisee in conjunction with any use of the Intellectual Property, including, but not limited to, uses on invoices, order forms, receipts, and contracts.

14.7.3 Franchisee shall not use the Intellectual Property to incur any obligation or indebtedness on behalf of Franchisor.

14.7.4 Any item offered by Franchisee that contains the Marks, must be approved by Franchisor in writing prior to being distributed or sold by Franchisee and such approval may be granted or denied in Franchisor's sole and absolute discretion.

14.7.5 Franchisee shall not use the Intellectual Property in association with the offer or sale of any product or service that is outside of the System or that is not approved by Franchisor.

14.8 Claims. Franchisee shall notify Franchisor immediately via both email and telephone, of any apparent infringement of or challenge to Franchisee's use of any Intellectual Property and of any claim by any person of any rights in any Intellectual Property. Franchisee shall not communicate with any person other than Franchisor or any designated affiliate thereof, their counsel and Franchisee's counsel in connection with any such infringement, challenge, or claim. Franchisor shall have complete discretion to take such action as it deems appropriate in connection with the foregoing, and the right to control exclusively, or to delegate control to any of its affiliates of, any settlement, litigation or other proceeding arising out of any such alleged infringement, challenge or claim or otherwise relating to any Intellectual Property. Franchisee agrees to execute any and all instruments and documents, render such assistance, and do such acts or things as may, in the opinion of Franchisor, reasonably be necessary or advisable to protect and maintain the interests of Franchisor or any other person or entity in any litigation or other proceeding or to otherwise protect and maintain the interests of Franchisor or any other interested party in the Intellectual Property. Franchisor will indemnify and defend Franchisee against and reimburse Franchisee for actual damages (including settlement amounts) for which Franchisee is held liable in any proceeding arising out of Franchisee's use of any of the Intellectual Property that infringes on the rights of any other party, provided that the conduct of Franchisee with respect to such proceeding and use of the Intellectual Property is in full compliance with the terms of this Agreement.

14.9 License to Others. Franchisor may use and grant franchises and licenses to others to use the Intellectual Property and the System and to establish, develop and franchise other systems, different from the System licensed to Franchisee herein, without offering or providing Franchisee any rights in, to or under

such other systems and Franchisor may modify or change, in whole or in part, any aspect of the Intellectual Property or the System, so long as Franchisee's rights thereto are in no way materially harmed thereby.

14.10 Registration Prohibited. Franchisee shall not register or attempt to register the Intellectual Property in Franchisee's name or that of any other person, firm, entity, or corporation.

## **15 INSURANCE AND INDEMNIFICATION**

15.1 Procurement. Franchisee shall procure, prior to the commencement of any operations under this Agreement, and thereafter maintain in full force and effect during the term of this Agreement at Franchisee's sole cost and expense and to Franchisor's sole satisfaction, insurance policies protecting Franchisee and Franchisor, and naming Franchisor, its officers, directors, partners, owners, employees and affiliates as additional insureds as their interests may appear, in the following minimum limits (except as additional coverage and higher policy limits may reasonably be specified from time to time in the Manual or otherwise in writing):

15.1.1 Liability. Commercial general liability insurance, including contractual liability, public liability, personal injury, products liability, advertising injury, and environmental damage coverage in the amounts of at least One Million Dollars (\$1,000,000);

15.1.2 Automobile Insurance. Prior to operation of any vehicle on behalf of the Franchised Business, Franchisee must obtain comprehensive automobile liability insurance in the recommended amount of at least a combined single limit for bodily and property damage of One Million Dollars (\$1,000,000.00), or greater if required by state law; and

15.1.3 Employment. At all times when Franchisee has any employees, worker's compensation coverage in the limits required by state law, as well as such other insurance as may be required by statute or rule of the state in which the Franchised Business is located and operated.

15.2 Evidence of Insurance. Franchisee shall deliver to, and maintain at all times with Franchisor, current Certificates of Insurance evidencing the existence and continuation of the required coverages. In addition, if requested by Franchisor, Franchisee shall deliver to Franchisor a copy of the insurance policy or policies required hereunder.

15.3 Failure to Procure. If, for any reason, Franchisee should fail to procure or maintain the insurance required by this Agreement as revised from time to time for all franchisees by the Manual or otherwise in writing, Franchisor shall have the right and authority (without, however, any obligation) to immediately procure such insurance and to charge Franchisee for the cost thereof together with an administrative fee of ten percent (10%) for Franchisor's expenses in so acting, including all attorneys' fees. Franchisee shall pay Franchisor immediately upon notice by Franchisor to Franchisee that Franchisor has undertaken such action and the cost thereof.

15.4 Increase in Coverage. The levels and types of insurance stated herein are minimum requirements. Franchisor reserves the right to raise the required minimum requirements for any type of insurance or add additional types of insurance requirements as Franchisor deems reasonably prudent to require. Within thirty (30) days of any such required new limits or types of coverage, Franchisee must submit proof to Franchisor of Franchisee's coverage pursuant to Franchisor's requirements.

15.5 Additional Insured. All required insurance policies shall name Franchisor and their affiliates and their members, officers, agents and employees as additional insureds as their interests may appear, on a

primary, noncontributory basis, and shall contain a waiver of rights of subrogation against Franchisor. All public liability policies shall contain a provision that the additional insureds, although named as insureds, shall nevertheless be entitled to recover under such policies on any loss caused by Franchisee or Franchisee's servants, agents or employees.

15.6 Indemnification. TO THE FULLEST EXTENT PERMITTED BY LAW, FRANCHISEE AGREES TO EXONERATE AND INDEMNIFY AND HOLD HARMLESS BREAK COFFEE CO FRANCHISING LLC, WESTSIDE ID, LLC, XD OPERATIONS, LLC, BREAK COFFEE CO., LLC, AND ANY OF THEIR PARENT COMPANY, SUBSIDIARIES, DIVISIONS, AFFILIATES, SUCCESSORS, ASSIGNS AND DESIGNEES AS WELL AS THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SHAREHOLDERS, SUCCESSORS, DESIGNEES AND REPRESENTATIVES (COLLECTIVELY REFERRED TO AS THE "FRANCHISOR PARTY INDEMNITEES"), FROM ALL CLAIMS BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATED TO THE OPERATION, CONDITION, OR ANY PART OF FRANCHISEE'S BREAK COFFEE CO. FRANCHISE; THE SERVICES OR PRODUCTS OFFERED THEREBY; AND THE FRANCHISED BUSINESS OFFICE LOCATION, WHETHER CAUSED BY FRANCHISEE, FRANCHISEE'S AGENTS OR EMPLOYEES, OR ARISING FROM FRANCHISEE'S ADVERTISING OR BUSINESS PRACTICES. FRANCHISEE AGREES TO PAY FOR ALL OF THE FRANCHISOR PARTY INDEMNITEES' LOSSES, EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES) OR CONCURRENT OR CONTRIBUTING LIABILITY INCURRED IN CONNECTION WITH ANY ACTION, SUIT, PROCEEDING, INQUIRY (REGARDLESS OF WHETHER THE SAME IS REDUCED TO JUDGMENT OR DETERMINATION), OR ANY SETTLEMENT THEREOF FOR THE INDEMNIFICATION GRANTED BY FRANCHISEE HEREUNDER. THE FRANCHISOR PARTY INDEMNITEES SHALL HAVE THE RIGHT TO SELECT AND APPOINT INDEPENDENT COUNSEL TO REPRESENT ANY OF THE FRANCHISOR PARTY INDEMNITEES IN ANY ACTION OR PROCEEDING COVERED BY THIS INDEMNITY. FRANCHISEE AGREES THAT TO HOLD THE FRANCHISOR PARTY INDEMNITEES HARMLESS, FRANCHISEE WILL REIMBURSE THE FRANCHISOR PARTY INDEMNITEES AS THE COSTS AND EXPENSES ARE INCURRED BY THE FRANCHISOR PARTY INDEMNITEES.

\_\_\_\_\_  
Initial

## 16 TRANSFERS

### 16.1 Transfers by Franchisor.

16.1.1 Franchisor shall have the right to assign this Agreement, and all of Franchisor's rights and privileges hereunder, to any person, firm, corporation or other entity, without Franchisee's permission or prior knowledge, provided that, with respect to any assignment resulting in the subsequent performance by the assignee of Franchisor's obligations, the assignee shall expressly assume and agree to perform Franchisor's obligations hereunder. Specifically, and without limitation to the foregoing, Franchisee expressly affirms and agrees that Franchisor may: (i) sell Franchisor's assets and Franchisor's rights to the Marks and the System outright to a third party; (ii) engage in a public or private placement of some or all of Franchisor's securities; (iii) merge, acquire other corporations, or be acquired by another corporation, including competitors; (iv) undertake a refinancing, recapitalization, leveraged buy-out or other economic or financial restructuring; and (v) with regard to any or all of the above sales, assignments and dispositions, Franchisee expressly and specifically waives any claims, demands or damages arising from or relating to the loss of association with or identification of Franchisor. Nothing contained in this Agreement shall require Franchisor to remain in the business franchised herein or to offer the same products and services, whether or not bearing the Marks, in the event that Franchisor exercises its prerogative hereunder to assign Franchisor's rights in this Agreement.

16.1.2 Franchisee agrees that Franchisor has the right, now or in the future, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of that chain's or business' facilities, and to operate, franchise or license those businesses and/or facilities operating under the Marks or any other marks following Franchisor's purchase, merger, acquisition or affiliation, regardless of the location of the facilities (which Franchisee acknowledges may be within the Territory, proximate thereto, or proximate to any of Franchisee's locations).

16.1.3 If Franchisor assigns its rights in this Agreement, nothing herein shall be deemed to require Franchisor to remain in the coffee or beverage distribution business or to offer or sell any products or services to Franchisee.

16.2 Restrictions on Transfers by Franchisee. Franchisee's rights and duties under this Agreement are personal to Franchisee as it is organized and with the Principal(s) of the business as they exist on the date of execution of this Agreement, and Franchisor has made this Agreement with Franchisee in reliance on Franchisor's perceptions of the individual and collective character, skill, aptitude, attitude, business ability, and financial capacity of Franchisee. Thus, no transfer, as hereafter defined, may be made without Franchisor's prior written approval. Franchisor may void any transfer made without such approval.

16.3 Transfers by Franchisee. Franchisee shall not directly or indirectly sell, assign, transfer, give, devise, convey or encumber this Agreement or any right or interest herein or hereunder (a "Transfer"), the Franchise, the Franchised Business or any assets thereof (except in the ordinary course of business) or suffer or permit any such assignment, transfer, or encumbrance to occur by operation of law unless it first obtains the written consent of Franchisor. A transfer of any stock in the Franchisee if it is a corporation or a transfer of any ownership rights in Franchisee if it is a partnership, a limited liability company or limited partnership shall be considered a Transfer restricted hereunder. If Franchisee has complied fully with this Agreement and subject to Franchisor's Right of First Refusal set forth in Section 16.6, Franchisor will not unreasonably withhold its consent of a Transfer that meets the following requirements:

16.3.1 The proposed transferee and all its principals must have the demeanor, and be individuals of good character, and otherwise meet Franchisor's then-applicable standards for franchisees.

16.3.2 The transferee must have sufficient business experience, aptitude and financial resources to operate the Franchised Business and to comply with this Agreement;

16.3.3 The transferee has agreed to complete Franchisor's Initial Training Program to Franchisor's satisfaction;

16.3.4 Franchisee has paid all amounts owed to Franchisor and third-party creditors;

16.3.5 The transferee has executed Franchisor's then-standard form of Franchise Agreement, which may have terms and conditions different from this Agreement, except that the transferee shall not be required to pay the Initial Franchise Fee;

16.3.6 Franchisee and the transferee and each of Franchisee's and the transferee's Principals shall have executed a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Franchisor's officers, directors, shareholders, members and employees in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances. Franchisee will agree to subordinate any claims Franchisee may have against the transferee to Franchisor, and indemnify Franchisor against any claims by the transferee relating to

misrepresentations in the transfer process, specifically excluding those representations made by Franchisor in the Franchise Disclosure Document given to the transferee;

16.3.7 Franchisor has granted written approval of the material terms and conditions of the Transfer, including, without limitation, that the price and terms of payment will not adversely affect the Franchised Business's operation. However, Franchisor's approval of a Transfer is not in any way a representation or warranty of the transferee's success or the soundness of transferee's decision to purchase the Franchise on such terms and conditions. Franchisee shall provide Franchisor all proposed transfer documents for Franchisor's review at least thirty (30) days prior to a closing of the proposed Transfer;

16.3.8 If Franchisee or any Principal finances any part of the sale price of the Transfer, Franchisee or its Principal have agreed that all obligations of the transferee under any notes, agreements or security interests to Franchisee or its Principal will be subordinate to the transferee's obligations to Franchisor; and

16.4 Transfer Fee. As a condition to any Transfer, Franchisee shall pay Franchisor a transfer fee of Two Thousand Five Dollars (\$2,500.00), plus Franchisor's costs to provide the Initial Training Program to the transferee and Franchisor's legal fees, not to exceed Twelve Thousand Five Hundred Dollars (\$12,500.00). Notwithstanding the foregoing, for transfers of ownership interest among existing principals, shareholders or members, or to add a business entity or new shareholder or member of the Franchisee entity and such transfer does not change management control of the Franchise, the transfer fee is One Thousand Five Hundred Dollars (\$1,500.00).

16.5 Entity Formation Documents. The By-Laws of a corporation or Operating Agreement of a limited liability company of a Franchisee that is an entity must state that (i) the issuance and assignment of any interest in Franchisee are restricted by this Article 16; (ii) Franchisee may conduct no business except the operation of a Franchised Business pursuant to the terms of this Agreement; (iii) transfers of interests in Franchisee are subject to the terms of this Agreement governing transfers; and (iv) stock or member certificates will contain a legend so indicating.

#### 16.6 Franchisor's Right of First Refusal.

16.6.1 If Franchisee wishes to transfer all or part of its interest in the Franchised Business or this Agreement or if a Principal wishes to transfer any ownership interest in Franchisee, pursuant to any bona fide offer to purchase such interest, then Franchisee or such Principal shall promptly notify Franchisor in writing of each such offer, and shall provide such information and documentation relating to the offer as Franchisor may require.

16.6.2 Franchisor has the right, exercisable by written notice to Franchisee within thirty (30) days after receipt of written notification and copies of all documentation required by Franchisor describing such offer, to buy the interest in this Agreement and the Franchised Business or the Principal's interest in Franchisee for the price and on the terms and conditions contained in the offer, subject to Section 16.6.3.

16.6.3 Franchisee further agrees, in the event Franchisor exercises its right of first refusal, notwithstanding anything to the contrary contained in the offer, that (i) Franchisor may substitute cash for any other form of consideration contained in the offer; (ii) at Franchisor's option, Franchisor may pay the entire purchase price at closing; (iii) Franchisor's credit will be deemed equal to the credit of any proposed transferee; (iv) Franchisor will have up to ninety (90) days to close the purchase; and (v) Franchisor will be entitled to receive from the Franchisee all customary representations and warranties given by a seller of the assets of a business or equity interest in an entity, as applicable.

16.6.4 If Franchisor does not exercise its right to buy within thirty (30) days, Franchisee may thereafter transfer the interest to the transferee on terms no more favorable than those disclosed to Franchisor, provided that such transfer is subject to Franchisor's prior written approval pursuant to Section 16.3 hereof. However, if (i) the sale to the transferee is not completed within ninety (90) days after the offer is given to Franchisor or (ii) there is any material change in the terms of the offer, the offer will again be subject to Franchisor's right of first refusal.

16.7 Death or Permanent Disability. The grant of rights under this Agreement is personal to Franchisee, and on the death or permanent disability of Franchisee or any of Franchisee's Principals, the executor, administrator, conservator or other personal representative of Franchisee or Principal, as the case may be, shall be required to transfer Franchisee's or Principal's interest in this Agreement within three (3) months from the date of death or permanent disability, to a third party approved by Franchisor. Failure to transfer in accordance with the forgoing will constitute a material default and the Franchise granted by this Agreement will terminate. A transfer under this Section 16.7, including without limitation, transfer by devise or inheritance, is subject to the conditions for Transfers in this Article 16 and unless transferred by gift, devise or inheritance, subject to the terms of Section 16.6 above. For purposes of this Agreement, the term "permanent disability" means a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent such person from providing continuous and material supervision of the operation of Franchisee's Franchised Business during the six (6)-month period from its onset.

Immediately after the death or permanent disability of such person, or while the Franchise is owned by an executor, administrator, guardian, personal representative or trustee of that person, the Franchised Business shall be supervised by an interim successor manager satisfactory to Franchisor, or Franchisor, in its sole discretion, may provide interim management at Franchisor's then-current rates during the term of interim management, plus all travel related and other expenses, pending transfer of the Franchise to the deceased or disabled individual's lawful heirs or successors.

16.8 Effect of Consent to Transfer. Franchisor's consent to a Transfer will not waive any claims Franchisor may have against the Franchisee or any Franchisee's Principal(s) nor waive its right to demand that the transferee comply strictly with this Agreement.

16.9 Security Interests to Lender. If Franchisee is in full compliance with this Agreement, Franchisee may pledge or give a security interest in Franchisee's interest in the Assets and the Franchised Business to a lender of the funds needed by Franchisee for Franchisee's initial investment, provided that the security interest is subordinate to Franchisee's obligations to Franchisor, that a foreclosure on such a pledge or security interest and/or any Transfer resulting from such a foreclosure shall be subject to all provisions of this Agreement, and that Franchisee obtains from the lender a written acknowledgement to Franchisor of these restrictions. Notwithstanding the foregoing, in the event Franchisee obtains financing whereby funding is provided with the assistance of the United States Small Business Administration ("SBA Financing"), Franchisee shall be permitted to grant the lender of such SBA Financing a senior lien on any collateral Franchisee uses to secure the SBA Financing, and Franchisor agrees to (i) subordinate its interest in any lien on Franchisee's collateral to that of the lender of the SBA Financing and (ii) waive the requirement of the written acknowledgement referenced in this Section.

## **17 DEFAULTS**

17.1 Default and Automatic Termination. Franchisee shall be deemed to be in material default under this Agreement, and all rights granted herein shall automatically terminate without notice to Franchisee, if Franchisee shall become insolvent or makes a general assignment for the benefit of creditors; or if Franchisee files a voluntary petition under any section or chapter of federal bankruptcy law or under any

similar law or statute of the United States or any state thereof, or admits in writing its inability to pay its debts when due; or if Franchisee is adjudicated a bankrupt or insolvent in proceedings filed against Franchisee under any section or chapter of federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee; or if a receiver or other custodian (permanent or temporary) of Franchisee'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 Franchisee; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); or if Franchisee is dissolved; or if execution is levied against Franchisee's business or property; or if suit to foreclose any lien or mortgage against the Franchised Business premises or equipment is instituted against Franchisee and not dismissed within thirty (30) days.

17.2 Defaults with No Opportunity to Cure. Franchisee shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective immediately upon notice to Franchisee, if Franchisee, or any Principal, as the case may be:

17.2.1 fails to obtain all required licenses and permits before opening or open the Franchised Business within the time and in the manner specified in Article 8.

17.2.2 falsifies any report required to be furnished Franchisor hereunder;

17.2.3 ceases to operate the Franchised Business for a period of three (3) days or more;

17.2.4 fails to comply with any federal, state or local law, rule or regulation, applicable to the operation of the Franchised Business, including, but not limited to, the failure to pay taxes;

17.2.5 understates Gross Sales on two (2) occasions or more, whether or not cured on any or all of those occasions;

17.2.6 fails to comply with the covenants in Article 15;

17.2.7 permits a Transfer in violation of the provisions of Article 16 of this Agreement;

17.2.8 fails, or Franchisee's legal representative fails, to transfer the interests in this Franchise Agreement and the Franchised Business upon death or permanent disability of Franchisee or any Principal of Franchisee as required by Section 16.7.

17.2.9 has misrepresented or omitted material facts in applying for the Franchise;

17.2.10 is convicted of, or pleads no contest to, a felony or to a crime that could damage the goodwill associated with the Marks or does anything to harm the reputation of the System or the goodwill associated with the Marks;

17.2.11 receives an adverse judgment or a consent decree in any case or proceeding involving allegations of fraud, racketeering, unfair or improper trade practices or similar claim which is likely to have an adverse effect on the System, or the Marks, the goodwill associated therewith or Franchisor's interest therein, in Franchisor's sole opinion;

17.2.12 conceals revenues, knowingly maintains false books or records, or knowingly submits any false reports;

17.2.13 creates a threat or danger to public health or safety from operation of the Franchised Business;

17.2.14 refuses to permit Franchisor to inspect or audit Franchisee's books or records;

17.2.15 makes any unauthorized use of the Marks or copyrighted material or any unauthorized use or disclosure of Confidential Information (as defined in Section 19.2);

17.2.16 fails to comply with the non-competition covenants in Section 19.5;

17.2.17 defaults in the performance of Franchisee's obligations under this Agreement three (3) or more times during the term of this Agreement or has been given at least two (2) notices of default in any consecutive twelve (12)-month period, whether or not the defaults have been corrected;

17.2.18 has insufficient funds to honor a check or electronic funds transfer two (2) or more times within any consecutive twelve (12)-month period;

17.2.19 defaults, or an affiliate of Franchisee defaults, under any other agreement, including any other franchise agreement, with Franchisor or any of its affiliates, or suppliers and does not cure such default within the time period provided in such other agreement;

17.2.20 offers or uses any unauthorized and unapproved products or services;

17.2.21 fails to meet Minimum Performance Standards; or

17.2.22 terminates this Agreement without cause.

17.3 Curable Defaults. Franchisee shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, if Franchisee fails to cure the default within the time period set forth in this Section 17.3, effective immediately upon notice to Franchisee, if Franchisee, or any Principal, as the case may be:

17.3.1 fails to pay when due any amounts due to Franchisor under this Agreement or any related agreement and does not correct the failure within five (5) days after written notice; provided, however, Franchisor has no obligation to give written notice of a late payment more than two (2) times in any twelve (12)-month period, and the third such late payment in any twelve (12)-month period shall be a non-curable default under Sections 17.2.17 and/or 17.2.18;

17.3.2 fails to perform any non-monetary obligation imposed by this Agreement (excepting those defaults of obligations set forth in Sections 17.1 and 17.2 for which there is no opportunity to cure) and such default shall continue for five (5) days after Franchisor has given written notice of such default, or if the default cannot be reasonably corrected within said five (5)-day period, then if it is not corrected within such additional time as may be reasonably required assuming Franchisee proceeds diligently to cure; provided, however, Franchisor has no obligation to give written notice of a non-monetary default more than two (2) times in any twelve (12)-month period, and the third such default, whether monetary or non-monetary, in any twelve (12) - month period shall be a non-curable default under Section 17.2.17.

17.4 Franchisor's Cure of Franchisee's Defaults. In the event of a default by Franchisee, in addition to Franchisor's right to terminate the Franchise Agreement, and not in lieu thereof, Franchisor may, but has no obligation to:

17.4.1 effect a cure on Franchisee's behalf and at Franchisee's expense, and Franchisee shall immediately pay Franchisor the costs incurred by Franchisor upon demand; or

17.4.2 exercise complete authority with respect to the operation of the Franchise Business until such time as Franchisor determines that the default of Franchisee has been cured and that Franchisee is complying with the requirements of this Agreement. Franchisee specifically agrees that a designated representative of Franchisor may take over, control and operate the Franchised Business. In addition to all other fees paid under this Agreement, Franchisee shall pay Franchisor at Franchisor's then-current rates for interim management, plus all travel related and other expenses, during Franchisor's operation thereof as compensation therefor. Further, Franchisee shall reimburse Franchisor for the full compensation paid to such representative including the cost of all fringe benefits plus all travel expenses, lodging, meals and other expenses reasonably incurred by such representative until the default has been cured and Franchisee is complying with the terms of this Agreement.

17.5 Notice to Suppliers. In the event of a default by Franchisee, in addition to Franchisor's right to terminate the Franchise Agreement, and not in lieu thereof, Franchisor reserves the right with five (5) days' prior written notice to Franchisee, to direct suppliers to stop furnishing any and all products and supplies, including, but not limited to products sold under Franchisor's discounted pricing schedules, until such time as Franchisee's default is cured. In no event shall Franchisee have recourse against Franchisor for loss of revenue, customer goodwill, profits or other business arising from Franchisor's actions and the actions of suppliers.

17.6 Reimbursement of Costs. Franchisee shall reimburse Franchisor all costs and expenses, including but not limited to attorney's fees, incurred by Franchisor as a result of Franchisee's default, including costs in connection with collection of any amounts owed to Franchisor and/or enforcement of Franchisor's rights under this Agreement.

## **18 POST-TERMINATION**

18.1 Franchisee's Obligations. Upon termination or expiration of this Agreement, all rights and licenses granted hereunder to Franchisee shall immediately terminate and Franchisee and each Principal, if any, shall:

18.1.1 immediately cease to operate the Franchised Business, and shall not thereafter, directly or indirectly identify himself, herself or itself as a current or past Break Coffee Co. owner, franchisee or licensee;

18.1.2 immediately and permanently cease to use the Marks, any imitation of any Mark, Franchisor's copyrighted material or other intellectual property, confidential or proprietary material or indicia of the Franchised Business, or use any trade name, trade or service mark or other commercial symbol that suggests an association with Franchisor, Licensor, or the System. In particular, Franchisee shall cease to use, without limitation, all signs, billboards, advertising materials, displays, stationery, forms and any other articles, which display the Marks. Immediately return to the Franchisor any business cards, marketing materials, or any other items containing Marks;

18.1.3 take such action as may be necessary to cancel any assumed name or equivalent registration that contains the Mark or any other service mark or trademark of Franchisor, and Franchisee shall furnish Franchisor with evidence of compliance with this obligation which is satisfactory to Franchisor, within five (5) days after termination or expiration of this Agreement;

18.1.4 promptly pay all sums owing to Franchisor and its affiliates. Such sums shall include all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of any default by Franchisee. The payment obligation herein shall give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of the personal property, equipment, fixtures, and inventory owned by Franchisee at the time of default;

18.1.5 pay to Franchisor all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor in connection with obtaining any remedy available to Franchisor for any violation of this Agreement and, subsequent to the termination or expiration of this Agreement, in obtaining injunctive or other relief for the enforcement of any provisions of this Agreement that survive its termination;

18.1.6 immediately deliver at Franchisee's sole cost and expense, to Franchisor the Manual and all records, files, instructions, correspondence, invoices, agreements, all confidential, proprietary and copyrighted material and software, and all other materials related to operation of the Franchised Business, including but not limited to customer lists and records, (all of which are acknowledged to be Franchisor's property), delete all electronic copies and retain no copy or record of any of the foregoing, except Franchisee's 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;

18.1.7 comply with the non-disclosure and non-competition covenants contained in Article 19; and

18.1.8 in the event this Agreement is terminated due to Franchisee's default, pay Franchisor a lump sum payment (as liquidated damages and not as a penalty) in an amount equal to: (a) the average monthly Royalty Fee, Additional Royalty Fees, if any, and Brand Fund Contribution payable by Franchisee over the twelve (12) month period immediately prior to the date of termination (or such shorter time period if the Franchised Business has been open less than twelve (12) months); (b) multiplied by the lesser of (i) thirty-six (36) months or (ii) the number of months then remaining in the then-current term of this Agreement. Franchisee acknowledges that a precise calculation of the full extent of the damages Franchisor will incur in the event of termination of this Agreement as a result of Franchisee's default is difficult to determine and that this lump sum payment is reasonable in light thereof. The liquidated damages payable by Franchisee pursuant to this Section 18.1.8 shall be in addition to all other amounts payable under this Agreement and shall not affect Franchisor's right to obtain appropriate injunctive relief and remedies pursuant to any other provision of this Agreement.

## 18.2 Right to Purchase.

18.2.1 Franchisor shall have the option, to be exercised within sixty (60) days after termination or expiration of this Agreement, to purchase from Franchisee any or all of the furnishings, equipment (including the Computer System), signs, advertising materials, supplies, and inventory of Franchisee related to the operation of the Franchised Business, at Franchisee's cost or fair market value, whichever is less, and assume any and all contracts related to the operation of the Franchised Business. Franchisor shall purchase Franchisee's assets free and clear of any liens, charges, encumbrances or security interests and Franchisor shall assume no liabilities whatsoever, unless otherwise agreed to in writing by the parties. If the parties cannot agree on the fair market value within sixty (60) days of Franchisor's exercise of its option, fair market value shall be determined by two (2) appraisers, with each party selecting one (1) appraiser, and the average of their determinations shall be binding. In the event of such appraisal, each party shall bear its own legal and other costs and shall split the appraisal fees equally. If Franchisor elects to exercise its option to purchase herein provided, it shall have the right to set off (i) all fees for any such independent appraiser due from Franchisee, (ii) all amounts due from Franchisee to Franchisor or any of its affiliates and (iii) any costs incurred in connection with any escrow arrangement (including reasonable legal fees), against any payment therefor and shall pay the remaining amount in cash. Closing of the purchase shall take place no later than thirty (30) days after determination of the fair market value.

18.2.2 With respect to the option described in Section 18.2.1, Franchisee shall deliver to Franchisor in a form satisfactory to Franchisor, such warranties, releases of lien, bills of sale, assignments and such other documents and instruments that Franchisor deems necessary in order to perfect Franchisor's title and possession in and to the assets being purchased or assigned and to meet the requirements of all tax and government authorities. If, at the time of closing, Franchisee has not obtained all of these certificates and other documents, Franchisor may, in its sole discretion, place the purchase price in escrow pending issuance of any required certificates or documents.

18.2.3 Franchisor shall be entitled to assign any and all of its option in Section 18.2.1 to any other party, without the consent of Franchisee.

18.3 Assignment of Communications. Franchisee, at the option of Franchisor, shall assign to Franchisor all rights to the telephone numbers of the Franchised Business and any related public directory listing or other business listings and execute all forms and documents required by Franchisor and any telephone company at any time, to transfer such service and numbers to Franchisor. Further, Franchisee shall assign to Franchisor any and all social media and internet listings, domain names, internet advertising, websites, listings with search engines, electronic mail addresses or any other similar listing or usage related to the Franchised Business. Notwithstanding any forms and documents that may have been executed by Franchisee under Section 11.7, Franchisee shall provide Franchisor with all passwords and administrative rights, and hereby appoints Franchisor its true and lawful agent and attorney-in-fact with full power and authority, for the sole purpose of taking such action as is necessary to complete such assignment. This power of attorney shall survive the expiration or termination of this Agreement. Franchisee shall thereafter use different telephone numbers, electronic mail addresses or other listings or usages at or in connection with any subsequent business conducted by Franchisee.

18.4. Survival. The rights and obligations of the parties contained in this Article 18 shall survive the expiration or sooner termination of this Agreement.

## **19 NON-DISCLOSURE AND NON-COMPETITION COVENANTS**

### **19.1 Operations Manual.**

19.1.1 Franchisor has provided to Franchisee, on loan, a current copy of the Manual. The Manual may be in hard copy or made available to Franchisee in digital, electronic or computerized form or in some other form now existing or hereafter developed that would allow Franchisee to view the contents thereof. If the Manual (or any changes thereto) are provided in a form other than physical copy, Franchisee shall pay any and all costs to retrieve, review, use or access the Manual. To protect the reputation and goodwill of Franchisor and to maintain high standards of operation under Franchisor's Marks, Franchisee shall operate all aspects of the Franchised Business in accordance with the Manual, as they may from time to time be modified by Franchisor, other written directives that Franchisor may issue to Franchisee from time to time, whether or not such directives are included in the Manual, and any other manual and materials created or approved for use in the operation of the Franchised Business.

19.1.2 Franchisee and any and all Principals shall at all times treat the Manual, written directives, and other materials and any other confidential communications or materials, and the information contained therein, as confidential and shall maintain such information as trade secret and confidential in accordance with this Article and this Agreement. Franchisee and Franchisee's Principals, if any, shall not divulge and make such materials available to anyone other than those of Franchisee's employees who require the information contained therein to operate the Franchised Business. Franchisee shall, prior to disclosure, fully train and inform its employees on all the restrictions, terms and conditions under which it is permitted

to use Franchisor's intellectual, proprietary and confidential information; and shall ensure its employees' compliance with such restrictions, terms and conditions. Franchisee, Franchisee's Principals, and any person working with Franchisee shall agree not, at any time to use, copy, duplicate, record or otherwise reproduce these materials, in whole or in part, or otherwise make the same available to any person other than those authorized above, without Franchisor's prior written consent.

19.1.3 The Manual, written directives, and other materials and any other confidential communications provided or approved by Franchisor shall at all times remain the sole property of Franchisor. Franchisee shall maintain the Manual and all Franchisor's confidential and proprietary materials at all times in a safe and secure location, shall take all reasonable measures to prevent unauthorized access thereto, whether any attempted unauthorized access takes the form of physical access or access via computer or telecommunications networks or otherwise, and shall report the theft or loss of the Manual, or any portion thereof, immediately to Franchisor. At a minimum, Franchisee shall, in the case of computer and telecommunications networks, use the latest available firewall, encryption and similar technology to prevent unauthorized access. Franchisee shall delete all electronic copies, and return and cease using any physical copy of the Manual and other confidential and proprietary materials to Franchisor immediately upon request or upon transfer, termination or expiration of this Agreement.

19.1.4 Franchisor may from time to time revise the contents of the Manual and other materials created or approved for use in the operation of the Franchised Business. Franchisee expressly agrees to comply with each new or changed policy, standard or directive. In the event of any dispute as to the contents of the Manual, the terms of the master copy of the Manual maintained by Franchisor shall control.

19.1.5 If Franchisee loses, misplaces or otherwise requests a physical copy of the Manual, Franchisor, in its discretion, may provide such physical copy and Franchisee shall pay Franchisor the then-current replacement fee.

19.2 Confidential Information. Franchisee and Principal(s) acknowledge and accept that during the term of this Agreement, Franchisee and Principal(s) will have access to Franchisor's trade secrets, including, but not limited to, methods, processes, customer lists, vendor partnerships and/or relationships, sales and technical information, financial information, costs, pricing formulae, equipment, technologies and procedures relating to the operation of the Franchised Business; the Manual; methods of advertising and promotion; curricula; instructional materials; and any other information which Franchisor may or may not specifically designate as "confidential" or "proprietary"; and the components of the System, whether or not such information is protected or protectable by patent, copyright, trade secret or other proprietary rights (collectively referred to herein as the "Confidential Information"). Franchisee and Principal(s) covenant and agree that Franchisee and Principal(s) shall not, during the term of this Agreement and thereafter, communicate or divulge to, or use for the benefit of, any other person or entity, and, following the expiration or termination of this Agreement, shall not use for their own benefit, any Confidential Information that may be communicated to Franchisee or Principal(s) or of which Franchisee or Principal(s) may be apprised in connection with the operation of the Franchised Business under the terms of this Agreement. Franchisee and Principal(s) shall not divulge and make any Confidential Information available to anyone other than those of Franchisee's employees who require the Confidential Information to operate the Franchised Business and who have themselves entered into confidentiality and non-compete agreements containing the same provisions as contained in this Agreement, in accordance with Section 19.11 hereof. Franchisee and Principal(s) shall not at any time copy, duplicate, record or otherwise reproduce any Confidential Information, in whole or in part, or otherwise make the same available to any person other than those authorized above, without Franchisor's prior written consent. The covenants in this Section 19.2 shall survive the expiration, termination or transfer of this Agreement or any interest herein and shall be perpetually binding upon Franchisee and each Principal.

19.3 Protection of Information. Franchisee shall take all steps necessary, at Franchisee's own expense, to protect the Confidential Information and shall immediately notify Franchisor if Franchisee finds that any Confidential Information has been divulged in violation of this Agreement.

19.4 New Concepts. If Franchisee or Principal(s) develops any new concept, process, product, or improvement in the operation or promotion of the Franchised Business ("Improvements"), Franchisee is required to promptly notify Franchisor and provide Franchisor with all related information, processes, products, or other improvements, and sign any and all forms, documents and/or papers necessary for Franchisor to obtain full proprietary rights to such Improvements, without compensation and without any claim of ownership or proprietary rights to such Improvements. Franchisee and Principal(s) acknowledge that any such Improvements will become the property of Franchisor, and Franchisor may use or disclose such information to other franchisees as it determines to be appropriate. Franchisee acknowledges and agrees that nothing in this Section 19.4 permits Franchisee to test, introduce, provide, or otherwise offer any Improvement to customers, or use any Improvement in the operation of the Franchised Business, unless and until Franchisor consents to the use of the Improvement for such purpose.

19.5 Noncompetition Covenants. Franchisee and Principal(s) specifically acknowledge that, pursuant to this Agreement, Franchisee and Principal(s) will receive valuable training, trade secrets and Confidential Information of the System that are beyond the present knowledge, training and experience of Franchisee and Principal(s). Franchisee and Principal(s) acknowledge that such specialized training, trade secrets and Confidential Information provide a competitive advantage and will be valuable to them in the development and operation of the Franchised Business, and that gaining access to such specialized training, trade secrets and Confidential Information is, therefore, a primary reason why Franchisee and Principal(s) are entering into this Agreement. In consideration for such specialized training, trade secrets, Confidential Information and rights, Franchisee and Principal(s) covenant and agree that, except as otherwise approved in writing by Franchisor:

19.5.1 During the term of this Agreement, Franchisee and each Principal shall not, either directly or indirectly, for themselves or through, on behalf of, or in conjunction with, any person or entity (i) divert, or attempt to divert, any business or customer of the Franchised Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any business that offers or sells coffee machinery, coffee beverage systems, or related items ("Competitive Business"); or (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System or (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of the Franchisor or any Break Coffee Co. franchisees or Franchisor-affiliated businesses.

19.5.2 Upon the expiration or earlier termination of this Agreement or upon a Transfer and continuing for twenty-four (24) months thereafter, Franchisee and Principal(s) shall not, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person or entity (i) divert, or attempt to divert, any business or customer of the Franchised Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; or (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any Competitive Business within fifteen (15) miles of the Territory or of any Break Coffee Co. business; or (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of the Franchisor or any Break Coffee Co. franchisees.

19.6 Reasonableness of Restrictions. Franchisee and Principal(s) acknowledges and agrees that the covenants not to compete set forth in this Agreement are fair and reasonable and will not impose any

undue hardship on Franchisee or Principal(s) since Franchisee or Principal(s), as the case may be, have other considerable skills, experience and education which afford Franchisee or Principal(s), as the case may be, the opportunity to derive income from other endeavors.

19.7 Reduction of Time or Scope. If the period of time or the geographic scope specified above, should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion thereof, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Paragraph 19 or any portion thereof, without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice thereof, and Franchisee agrees to forthwith comply with any covenant as so modified.

19.8 Injunctive Relief. Franchisee and Principal(s) acknowledge that a violation of the covenants of confidentiality and non-competition contained in this Agreement would result in immediate and irreparable injury to Franchisor for which monetary damages cannot fully remedy. Accordingly, Franchisee and Principal(s) hereby consent to the entry of a temporary and permanent injunction prohibiting any conduct by Franchisee or Principal(s) in violation of the terms of the covenants set forth in this Article 19 and hereby agree to waive any and all defenses to the entry of such injunction(s). Notwithstanding, Franchisee and Principal(s) acknowledge and agree that the foregoing injunctive relief is in addition to, and does not restrict Franchisor from pursuing, any and all claims for monetary damages resulting from a breach by Franchisee or Principal(s) of the covenants contained herein.

19.9 Liquidated Damages – Violation of Confidentiality or Non-Competition Covenants. In the event Franchisee and/or Principal(s) violate the covenants of confidentiality and/or non-competition set forth herein, Franchisee and/or Principal(s) shall pay Franchisor a lump sum payment (as liquidated damages and not as a penalty) an amount equal to One Hundred Thousand Dollars (\$100,000.00), plus Franchisor's attorney's fees, for each such violation. Franchisee and Principal(s) acknowledge that a precise calculation of the full extent of the damages that Franchisor will incur in the event of Franchisee's and/or Principal(s)' violation of the covenants of confidentiality and/or non-competition is difficult to determine and that this lump sum payment is reasonable in light thereof. The liquidated damages payable by Franchisee pursuant to this Section 19.9 shall be in addition to all other amounts payable under this Agreement and shall not affect Franchisor's right to obtain appropriate injunctive relief and remedies pursuant to any other provision hereof.

19.10 No Defense. Franchisee and Principal(s) expressly agree that the existence of any claims they may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Article 19.

19.11 Covenants of Employees, Agents, and Third Persons. Franchisee shall require and obtain execution of covenants similar to those set forth in this Article 19 (including covenants applicable upon the termination of a person's employment with Franchisee) from all employees, contractors or third persons who will have access to Franchisor's Confidential Information, and Franchisee shall provide Franchisor with executed versions thereof. Such covenants shall be substantially in the forms set forth in Attachment 9 as revised and updated from time to time and contained in the Manual. Franchisee shall indemnify and hold Franchisor harmless from any and all liability, loss, attorneys' fees, or damage Franchisor may suffer as a result of Franchisee's failure to obtain executed restricted covenants by employees, agents and third persons as required by this Section.

## 20. DISPUTE RESOLUTION

20.1 Internal Dispute Resolution. Franchisee shall first bring any claim, controversy or dispute arising out of or relating to this Agreement, the Attachments hereto or the relationship created by this Agreement to Franchisor's president and/or chief executive officer for resolution. After providing notice as set forth in Section 21.7 below. Franchisee must exhaust this internal dispute resolution procedure before Franchisee may bring Franchisee's dispute before a third party. This agreement to first attempt resolution of disputes internally shall survive termination or expiration of this Agreement.

20.2 Mediation. At Franchisor's option, any claim, controversy or dispute that is not resolved pursuant to Section 20.1 hereof shall be submitted to non-binding mediation. Franchisee shall provide Franchisor with written notice of Franchisee's intent to pursue any unresolved claim, controversy or dispute, specifying in sufficient detail the nature thereof, prior to commencing any legal action. Franchisor shall have thirty (30) days following receipt of Franchisee's notice to exercise Franchisor's option to submit such claim, controversy or dispute to mediation. Mediation shall be conducted through a mediator or mediators in accordance with the American Arbitration Association Commercial Mediation Rules. Such mediation shall take place in the then-current location of Franchisor's corporate headquarters. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorney's fees incurred by either party), shall be borne by the parties equally. Franchisor may specifically enforce Franchisor's rights to mediation, as set forth herein.

### 20.3 Arbitration.

20.3.1 Except disputes not subject to alternative dispute resolution as set forth in Section 20.4, any dispute between Franchisor and Franchisee and/or any Principal arising out of or relating to this Agreement, the Attachments hereto or any breach thereof, including any claim that this Agreement or any of its parts, is invalid, illegal or otherwise voidable or void, which has not been resolved in accordance with Sections 20.1 or 20.2, will be resolved by submission to the American Arbitration Association or its successor organization to be settled by a single arbitrator in accordance with the Commercial Arbitration Rules then in effect for such Association or successor organization.

20.3.2 All issues relating to arbitrability or the enforcement of the agreement to arbitrate contained in this Article 20 will be governed by the Federal Arbitration Act (9 U.S.C. §1 *et seq.*) and the federal common law of arbitration. All hearings and other proceedings will take place in the Hudson County, New Jersey, or the offices of the American Arbitration Association, or, if Franchisor so elects, in the county where the principal place of business of Franchisee is then located.

20.3.3 This arbitration provision is self-executing and will remain in full force and effect after expiration or termination of this Agreement. Any arbitration will be conducted on an individual, and not a class-wide or multiple plaintiffs, basis. If either party fails to appear at any properly-noticed arbitration proceeding, an award may be entered against the party by default or otherwise, notwithstanding the failure to appear. Judgment upon an arbitration award may be entered in any court having jurisdiction and will be binding, final and not subject to appeal. No punitive or exemplary damages will be awarded against Franchisor, Franchisee, or entities related to either of them, in an arbitration proceeding or otherwise, and are hereby waived.

20.3.4 The provisions of this Section 20.3 are independent of any other covenant or provision of this Agreement; provided, however, that if a court of competent jurisdiction determines that any of the provisions are unlawful in any way, the court will modify or interpret the provisions to the minimum extent necessary to have them comply with the law.

20.3.5 In proceeding with arbitration and in making determinations hereunder, no arbitrator shall extend, modify or suspend any terms of this Agreement or the reasonable standards of business performance and operation established by Franchisor in good faith. No notice, request or demand for arbitration shall stay, postpone or rescind the effectiveness of any termination of this Agreement.

20.3.6 Except as expressly required by law, Franchisor, Franchisee and any Principal shall keep all aspects of any mediation and/or arbitration proceeding in confidence, and shall not disclose any information about the proceeding to any third party other than legal counsel who shall be required to maintain the confidentiality of such information.

20.4 Exceptions. Notwithstanding the requirements of Sections 20.2 or 20.3, the following claims shall not be subject to mediation or arbitration:

20.4.1 Franchisor's claims for injunctive or other extraordinary relief;

20.4.2 disputes and controversies arising from the Sherman Act, the Clayton Act or any other federal or state antitrust law;

20.4.3 disputes and controversies based upon or arising under the Lanham Act, as now or hereafter amended, relating to the ownership or validity of the Marks; and

20.4.4 enforcement of Franchisee's post-termination obligations, including but not limited to, Franchisee's non-competition covenants.

20.5 Governing Law and Venue. This Agreement is made in, and shall be substantially performed in, the State of New Jersey. Any claims, controversies, disputes, or actions arising out of this Agreement shall be governed, enforced, and interpreted pursuant to the laws of the State of New Jersey. Franchisee and its Principal(s), except where specifically prohibited by law, hereby irrevocably submit themselves to the sole and exclusive jurisdiction of the state and federal courts in New Jersey. Franchisee and its Principal(s) hereby waive all questions of personal jurisdiction for the purpose of carrying out this provision.

20.6 Mutual Benefit. Franchisee, Principal(s), and Franchisor acknowledge that the parties' agreement regarding applicable state law and forum set forth in Section 20.5 provide each of the parties with the mutual benefit of uniform interpretation of this Agreement and any dispute arising hereunder. Each of Franchisee, Principal(s), and Franchisor further acknowledge the receipt and sufficiency of mutual consideration for such benefit and that each party's agreement regarding applicable state law and choice of forum have been negotiated in good faith and are part of the benefit of the bargain reflected by this Agreement.

20.7 Waiver of Certain Damages. Franchisee and Principal(s), if any, hereby waive, to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special, consequential or other damages (including, without limitation, loss of profits) against Franchisor, its affiliates, and their respective officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees, in their corporate and individual capacities, arising out of any cause whatsoever. Each of Franchisee and Principal(s), if any, agree that in the event of a dispute, Franchisee and each Principal shall be limited to the recovery of any actual damages sustained.

20.8 Limitations of Claims. Any and all claims asserted by Franchisee arising out of or relating to this Agreement or the relationship among the parties will be barred unless a proceeding for relief is commenced within one (1) year from the date on which Franchisee knew or should have known of the facts giving rise to such claims.

20.9 Survival. The provisions of this Article 20 shall continue in full force and effect notwithstanding the expiration or termination of this Agreement or a transfer by Franchisee or any Principal of their respective interests in this Agreement.

## 21 GENERAL

### 21.1 Relationship of the Parties.

21.1.1 Independent Licensee. Franchisee is and shall be an independent licensee under this Agreement, and no partnership shall exist between Franchisee and Franchisor. This Agreement does not constitute Franchisee as an agent, legal representative, or employee of Franchisor for any purpose whatsoever, and Franchisee is not granted any right or authority to assume or create any obligation for or on behalf of, or in the name of, or in any way to bind Franchisor. Franchisee agrees not to incur or contract any debt or obligation on behalf of Franchisor or commit any act, make any representation, or advertise in any manner which may adversely affect any right of Franchisor or be detrimental to Franchisor or other franchisees of Franchisor. Franchisor does not assume any liability, and will not be considered liable, for any agreements, representations, or warranties made by Franchisee which are not expressly authorized under this Agreement. Franchisor will not be obligated for any damages to any person or property which directly or indirectly arise from or relate to Franchisee operation of the Franchised Business. Pursuant to the above, Franchisee agrees to indemnify Franchisor and hold Franchisor harmless from any and all liability, loss, attorneys' fees, or damage Franchisor may suffer as a result of claims, demands, taxes, costs, or judgments against Franchisor arising out of any allegation of an agent, partner, or employment relationship.

21.1.2 No Relationship. Franchisee acknowledges and agrees that Franchisee alone exercises day-to-day control over all operations, activities, and elements of the Franchised Business, and that under no circumstance shall Franchisor do so or be deemed to do so. Franchisee further acknowledges and agrees, and will never claim otherwise, that the various restrictions, prohibitions, specifications, and procedures of the System which Franchisee is required to comply with under this Agreement, whether set forth in the Manual or otherwise, does not directly or indirectly constitute, suggest, infer or imply that Franchisor controls any aspect or element of the day-to-day operations of the Franchised Business, which Franchisee alone controls, but only constitute standards Franchisee must adhere to when exercising control of the day-to-day operations of the Franchised Business.

21.1.3 Franchisee's Employees. Franchisor has no authority to control, either directly or indirectly, the essential terms and conditions of employment of Franchisee's employees. Franchisee acknowledges and agrees that Franchisee, in Franchisee's sole and absolute discretion, shall determine all such essential terms and conditions of employment, which are defined in the Manual or otherwise defined by law. Franchisee specifically agrees that any training Franchisor provides for Franchisee's employees is geared to impart to those employees, with Franchisee's ultimate authority, the various procedures, protocols, systems, and operations of a Break Coffee Co. Franchise and in no fashion reflects any employment relationship between Franchisor and such employees. If ever it is asserted that Franchisor is the employer, joint employer or co-employer of any of Franchisee's employees in any private or government investigation, action, proceeding, arbitration or other setting, Franchisee irrevocably agrees to assist Franchisor in defending said allegation, appearing at any venue requested by Franchisor to testify on Franchisor's behalf, participate in depositions, other appearances or preparing affidavits rejecting any assertion that Franchisor is the employer, joint employer or co-employer of any of Franchisee's employees.

21.2 Successors. This Agreement shall bind and inure to the benefit of the successors and assigns of Franchisor and shall be personally binding on and inure to the benefit of Franchisee (including the individuals executing this Agreement on behalf of the Franchisee entity) and its or their respective heirs,

executors, administrators and successors or assigns; provided, however, the foregoing provision shall not be construed to allow a transfer of any interest of Franchisee or Principals, if any, in this Agreement or the Franchised Business, except in accordance with Article 16 hereof.

21.3 Invalidity of Part of Agreement. Should any provisions in this Agreement, for any reason, be declared invalid, then such provision shall be invalid only to the extent of the prohibition without in any way invalidating or altering any other provision of this Agreement.

21.4 Construction. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed, and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any provision herein may require, as if such words had been fully and properly written in the appropriate number and gender. All covenants, agreements and obligations assumed herein by Franchisee and any Principals shall be deemed to be joint and several covenants, agreements, and obligations of each of the persons named as Franchisee, if more than one person is so named.

21.5 Captions. Captions and section headings are used herein for convenience only. They are not part of this Agreement and shall not be used in construing it.

21.6 Notices. Whenever notice is required or permitted to be given under the terms of this Agreement, it shall be given in writing, and be delivered personally or by certified mail or courier, postage prepaid, addressed to the party for whom intended, and shall be deemed given on the date of delivery or delivery is refused. All such notices shall be addressed to the party to be notified at their respective addresses as set forth in the introductory paragraph of this Agreement, or at such other address or addresses as the parties may from time to time designate in writing.

21.7 Effect of Waivers. No waiver, delay, omission or forbearance on the part of Franchisor to exercise any right, option, duty or power arising from any default or breach by Franchisee shall affect or impair the rights of Franchisor with respect to any subsequent default of the same or of a different kind. Any use by Franchisee of the System or any part thereof at any place other than in the Territory shall not give Franchisee any rights not specifically granted hereunder. Failure to take action to stop such use shall not in any event be considered a waiver of the rights of Franchisor at any time to require Franchisee to restrict said use to the Territory.

21.8 Remedies Cumulative. All rights and remedies of the parties to this Agreement shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies that are provided for herein or that may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement or any other agreement between Franchisee or any of its affiliates and Franchisor or any of its affiliates. The rights and remedies of the parties to this Agreement shall be continuing and shall not be exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration, earlier termination or exercise of Franchisor's rights pursuant to Articles 17 and 18 shall not discharge or release Franchisee or any Principal from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination or the exercise of such rights under this Agreement.

21.9 Consent to Do Business Electronically. The parties to the Franchise Agreement hereby consent to do business electronically. Pursuant to the Uniform Electronic Transactions Act as adopted by the State of New Jersey, the parties hereby affirm to each other that they agree with the terms of the Franchise Agreement, and by attaching their digital signature, including any DocuSign signature, to the Franchise

Agreement, they are executing the document and intending to attach their digital signature to it. Furthermore, the parties acknowledge that the other parties to the Franchise Agreement can rely on a digital signature, including a DocuSign signature, as the respective party's signature.

21.10 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument.

21.11 Survival. Any obligation of Franchisee or any Principal that contemplates performance of such obligation after termination or expiration of this Agreement or the transfer of any interest of Franchisee or any Principal therein shall be deemed to survive such termination, expiration or transfer.

21.12 Entire Agreement. This Agreement, including all attachments, is the entire agreement of the parties, superseding all prior written or oral agreements of the parties concerning the same subject matter, and superseding all prior written or oral representations made to Franchisee, except that nothing in this Agreement or any related agreement with Franchisor is intended to disclaim any representations made to Franchisee in Franchisor's Franchise Disclosure Document. No agreement of any kind relating to the matters covered by this Agreement and no amendment of the provisions hereof shall be binding upon either party unless and until the same has been made in writing and executed by all interested parties.

**-Remainder of Page Intentionally Blank-**

The parties hereto have executed this Break Coffee Franchise Agreement on the day and year first above written.

FRANCHISOR:

BREAK COFFEE CO FRANCHISING LLC

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

\_\_\_\_\_  
(Print Name, Title)

FRANCHISEE (Entity):

\_\_\_\_\_

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

\_\_\_\_\_  
(Print Name, Title)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**ATTACHMENT 1**

**TRADEMARKS**

Service Mark –



Character Mark –

Break Coffee

## **ATTACHMENT 2**

### **TERRITORY DESCRIPTION**

Territory (insert map and/or define by zip codes):

The above-described Territory represents \_\_\_\_ territories for the purposes of calculating Minimum Royalty Fees, Minimum Brand Fund Contributions, and Minimum Performance Standards pursuant to Sections 3.6, 6.1.2, 6.15, 13.3.1, and 13.3.2 and Attachments 3 and 4 of this Agreement.

### ATTACHMENT 3

#### MINIMUM PERFORMANCE STANDARDS

Franchisee must maintain or exceed the minimum number of active accounts **per Territory**, as set forth below, based on the Territory Count set forth on the Data Sheet and Attachment 2 hereof. An “Active Account” is a customer who has a Break Coffee Beverage Machine in use such that it generates a billing invoice.

	If Franchisee has:				
Month	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	The Minimum Number of Active Accounts <b>per Territory</b> is:				
0 - 6	0	0	0	0	0
7 - 24	6	4	3	3	3
25 - 60	12	7	6	5	5
61+	18	11	9	8	7

**ATTACHMENT 4**

**MINIMUM MONTHLY ROYALTIES AND  
BRAND FUND CONTRIBUTIONS**

Franchisor will reconcile the actual Royalty Fees and actual Brand Fund Contributions paid by Franchisee in each 6-month period of the Term ending January 31 and July 31. If Franchisee’s total Royalty Fee payments and/or total Brand Fund Contributions actually paid for any 6-month period do not meet or exceed the cumulative monthly Minimum Royalty Fees and cumulative Minimum Brand Fund Contributions as set forth below, Franchisee shall pay the difference in accordance with Sections 6.1.5 and 13.3.2 hereof.

The Royalty Fee, on a monthly basis, will equal the greater of (i) 12% of Gross Sales or (ii) the following amount **per Territory** based on Territory Count set forth on the Data Sheet and Attachment 2 hereof and operating month:

	If Franchisee has:				
Month	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	The monthly Minimum Royalty Fee <b>per Territory</b> is:				
0 - 6	\$0	\$0	\$0	\$0	\$0
7 – 24	\$350	\$210	\$175	\$150	\$140
25 - 60	\$700	\$420	\$350	\$315	\$280
61+	\$1,050	\$630	\$525	\$473	\$420

The Brand Fund Contribution, on a monthly basis, will equal the greater of (i) 2% of Gross Sales or (ii) the following amount **per Territory** based on the Territory Count set forth on the Data Sheet and Attachment 2 hereof and operating month:

	If Franchisee has:				
Month	1 Territory	2 Territories	3 Territories	4 Territories	5 Territories
	The monthly Minimum Brand Fund Contribution <b>per Territory</b> is:				
0 - 6	\$0	\$0	\$0	\$0	\$0
7 – 24	\$58	\$35	\$29	\$26	\$23
25 - 60	\$117	\$70	\$58	\$53	\$47
61+	\$175	\$105	\$88	\$79	\$70

**ATTACHMENT 5**

**AUTHORIZATION AGREEMENT  
AUTOMATIC DEPOSITS (ACH WITHDRAWALS)**

Franchisor Name: **Break Coffee Co Franchising LLC**

I (We) hereby authorize Break Coffee Co Franchising LLC, hereinafter called Franchisor, to initiate debit entries to my (our) Checking Account/Savings Account (Select One) indicated below at the depository financial institution named below, and to debit the same to such account. I (We) acknowledge that the origination of ACH transactions to my (our) account must comply with the provisions of U.S. Law, and that I will be responsible for any banking fees that my institution charges.

Financial Institution Name: \_\_\_\_\_ Branch: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

ACH/Routing Number: \_\_\_\_\_ Account Number: \_\_\_\_\_  
(Nine Digits)

This authorization is to remain in full force and effect until Franchisor has received a written replacement ACH Withdrawal Form notification from me. I (We) understand that revocation of this Authorization Agreement by me (us) may constitute an event of Default under the Franchise Agreement.

I (We) understand that the amount to be withdrawn by Franchisor will not be the same each month and I (We) therefore authorize all monetary transfers pursuant to Articles 6 and 18 of the Franchise Agreement.

\_\_\_\_\_  
Print Franchisee / Account Holder Name                      Print Franchisee/Co-Account Holder Name

\_\_\_\_\_  
Franchisee/ Account Holder Signature-Date                      Franchisee/Co-Account Holder Signature-Date

\_\_\_\_\_  
Daytime Phone Number    Email Address

**PLEASE ATTACH A VOIDED CHECK TO THIS FORM**

**Please Return Form to: Break Coffee Co Franchising LLC  
155 2<sup>nd</sup> Street  
Jersey City, NJ 07302**

**ATTACHMENT 6**

**STATEMENT OF OWNERSHIP INTERESTS IN  
FRANCHISEE/ENTITY**

**Name**

**Percentage of Ownership**

**ATTACHMENT 7**

**SPOUSE GUARANTY**

This Guaranty and Covenant (this “Guaranty”) is given by the undersigned (“Guarantor”) on \_\_\_\_\_ (the “Effective Date”) to Break Coffee Co Franchising LLC, a Delaware limited liability company (“Franchisor”), in order to induce Franchisor to enter into that certain Franchise Agreement dated on or about the Effective Date hereof (the “Franchise Agreement”) with \_\_\_\_\_, a(n) \_\_\_\_\_ and \_\_\_\_\_ (collectively “Franchisee”).

Guarantor acknowledges that Guarantor is the spouse of Franchisee’s Principal, as that term is used in the Franchise Agreement.

Guarantor acknowledges that Guarantor has read the terms and conditions of the Franchise Agreement and acknowledges that the execution of this Guaranty is in partial consideration for, and a condition to the granting of, the rights granted in the Franchise Agreement to Franchisee, and that Franchisor would not have granted these rights without the execution of this Guaranty by Guarantor.

Guarantor hereby individually makes, agrees to be bound by, and agrees to perform, all of the monetary obligations and non-disclosure and non-competition covenants and agreements of the Franchisee as set forth in the Franchise Agreement, including but not limited to, the covenants set forth in Sections 19.2, 19.5, 19.6, 19.8 and 19.9 of the Franchise Agreement (“Guaranteed Obligations”). Guarantor shall perform and/or make punctual payment to Franchisor of the Guaranteed Obligations in accordance with the terms of the Franchise Agreement or other applicable document forthwith upon demand by Franchisor.

This Guaranty is an absolute and unconditional continuing guaranty of payment and performance of the Guaranteed Obligations. This Guaranty shall not be discharged by renewal of any claims guaranteed by this instrument, change in ownership or control of the Franchisee entity, transfer of the Franchise Agreement, the suffering of any indulgence to any debtor, extension of time of payment thereof, nor the discharge of Franchisee by bankruptcy, operation of law or otherwise. Presentment, demand, protest, notice of protest and dishonor, notice of default or nonpayment and diligence in collecting any obligation under any agreement between Franchisee and Franchisor are each and all waived by Guarantor and/or acknowledged as inapplicable. Guarantor waives notice of amendment of any agreement between Franchisee and Franchisor and notice of demand for payment by Franchisee. Guarantor further agrees to be bound by any and all amendments and changes to any agreement between Franchisee and Franchisor.

Franchisor may pursue its rights against Guarantor without first exhausting its remedies against Franchisee and without joining any other guarantor hereto and no delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise by Franchisor of any right or remedy shall preclude the further exercise of such right or remedy.

If other guarantors have guaranteed any and or all of the Guaranteed Obligations, their liability shall be joint and several to that of Guarantor.

Until all of the Guaranteed Obligations have been paid in full and/or performed in full, Guarantor shall not have any right of subrogation, unless expressly given to Guarantor in writing by Franchisor.

All Franchisor’s rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between Franchisor and Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to Franchisor by law.

Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.

This Guaranty shall extend to and inure to the benefit of Franchisor and its successors and assigns and shall be binding on Guarantor and its successors and assigns.

Guarantor has signed this Guaranty as of the date set forth above.

GUARANTOR - SPOUSE OF FRANCHISEE'S PRINCIPAL:

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

## ATTACHMENT 8

### INTERNET ADVERTISING, SOCIAL MEDIA, SOFTWARE, AND TELEPHONE ACCOUNT AGREEMENT

**THIS INTERNET ADVERTISING, SOCIAL MEDIA, SOFTWARE, AND TELEPHONE ACCOUNT AGREEMENT** (the “Agreement”) is made and entered into this day of \_\_\_\_\_ (the “Effective Date”) by and between Break Coffee Co Franchising LLC a Delaware limited liability company (the “Franchisor”), and \_\_\_\_\_ a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ and \_\_\_\_\_’s principal(s) \_\_\_\_\_, an individual residing at \_\_\_\_\_ and \_\_\_\_\_, an individual residing at \_\_\_\_\_ (“Principal(s)”). \_\_\_\_\_ and Principal(s) shall be collectively referred to in this Agreement as the “Franchisee”.

**WHEREAS**, Franchisee desires to enter into a franchise agreement with Franchisor for an Break Coffee Co. business (“Franchise Agreement”) which will allow Franchisee to conduct internet-based advertising, maintain social media accounts, software accounts, and use telephone listings linked to the Break Coffee Co. brand.

**WHEREAS**, Franchisor would not enter into the Franchise Agreement without Franchisee’s agreement to enter into, comply with, and be bound by all the terms and provisions of this Agreement;

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual promises and covenants contained herein, and in further consideration of the Franchise Agreement and the mutual promises and covenants contained therein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### 1. Definitions

All terms used but not otherwise defined in this Agreement shall have the meanings set forth in the Franchise Agreement. “Termination” of the Franchise Agreement shall include, but shall not be limited to, the voluntary termination, involuntary termination, or natural expiration thereof.

#### 2. Internet Advertising and Telephone Accounts

2.1 Interest in Websites, Social Media and Software Accounts and Other Electronic Listings. Franchisee may acquire (whether in accordance with or in violation of the Franchise Agreement) during the term of Franchise Agreement, certain right, title, or interest in and to certain domain names, social media accounts, software accounts, hypertext markup language, uniform resource locator addresses, access to corresponding internet websites, and the right to hyperlink to certain websites and listings on various internet search engines (collectively, “Electronic Advertising”) related to the Franchised Business or the Marks.

2.2 Interest in Telephone Numbers and Listings. Franchisee has or will acquire during the term of the Franchise Agreement, certain right, title, and interest in and to those certain telephone numbers and regular, classified, internet page, and other telephone directory listings (collectively, the “Telephone Listings”) related to the Franchised Business or the Marks.

2.3 Transfer. On Termination of the Franchise Agreement, or on periodic request of Franchisor, Franchisee will immediately:

2.3.1 direct all internet service providers, domain name registries, internet search engines, social media and software companies, and other listing agencies (collectively, the “Internet Companies”) with which Franchisee has Internet Web Sites, Social Media Accounts and other Listings: (i) to transfer all of Franchisee’s Interest in such Internet Web Sites, Social Media Accounts and other Listings to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Internet Web Sites, Social Media Accounts and other Listings, Franchisee will immediately direct the Internet Companies to terminate such Internet Web Sites, Social Media Accounts and other Listings or will take such other actions with respect to the Internet Web Sites, Social Media Accounts and other Listings as Franchisor directs; and

2.3.1 direct all telephone companies, telephone directory publishers, and telephone directory listing agencies (collectively, the “Telephone Companies”) with which Franchisee has Telephone Numbers and Listings: (i) to transfer all Franchisee’s Interest in such Telephone Numbers and Listings to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Telephone Numbers and Listings, Franchisee will immediately direct the Telephone Companies to terminate such Telephone Numbers and Listings or will take such other actions with respect to the Telephone Numbers and Listings as Franchisor directs.

2.4 Appointment; Power of Attorney. Franchisee hereby constitutes and appoints Franchisor and any officer or agent of Franchisor, for Franchisor’s benefit under the Franchise Agreement and this Agreement or otherwise, with full power of substitution, as Franchisee’s true and lawful attorney-in-fact with full power and authority in Franchisee’s place and stead, and in Franchisee’s name or the name of any affiliated person or affiliated company of Franchisee, to take any and all appropriate action and to execute and deliver any and all documents that may be necessary or desirable to accomplish the purposes of this Agreement. Franchisee further agrees that this appointment constitutes a power coupled with an interest and is irrevocable until Franchisee has satisfied all of its obligations under the Franchise Agreement and any and all other agreements to which Franchisee and any of its affiliates on the one hand, and Franchisor and any of its affiliates on the other, are parties, including without limitation this Agreement. Without limiting the generality of the foregoing, Franchisee hereby grants to Franchisor the power and right to do the following:

2.4.1 Direct the Internet Companies to transfer all Franchisee’s Interest in and to the Internet Web Sites, Social Media Accounts and/or other Listings to Franchisor, or alternatively, to direct the Internet Companies to terminate any or all of the Internet Web Sites, Social Media Accounts and/or other Listings;

2.4.2 Direct the Telephone Companies to transfer all Franchisee’s Interest in and to the Telephone Numbers and Listings to Franchisor, or alternatively, to direct the Telephone Companies to terminate any or all of the Telephone Numbers and Listings; and

2.4.3 Execute such standard assignment forms or other documents as the Internet Companies and/or Telephone Companies may require in order to affect such transfers or terminations of Franchisee’s Interest.

2.5 Certification of Termination. Franchisee hereby directs the Internet Companies and Telephone Companies to accept, as conclusive proof of Termination of the Franchise Agreement, Franchisor’s written statement, signed by an officer or agent of Franchisor, that the Franchise Agreement has terminated.

2.6 Cessation of Obligations. After the Internet Companies and the Telephone Companies have duly transferred all Franchisee's Interests as described in paragraph 2.3 above to Franchisor, as between Franchisee and Franchisor, Franchisee will have no further interest in, or obligations with respect to the particular Electronic Advertising and/or Telephone Listing. Notwithstanding the foregoing, Franchisee will remain liable to each and all of the Internet Companies and Telephone Companies for the respective sums Franchisee is obligated to pay to them for obligations Franchisee incurred before the date Franchisor duly accepted the transfer of such Interests, or for any other obligations not subject to the Franchise Agreement or this Agreement.

### 3. Miscellaneous

3.1 Release. Franchisee hereby releases, remises, acquits, and forever discharges each and all of the Internet Companies and/or Telephone Companies and each and all of their parent corporations, subsidiaries, affiliates, directors, officers, stockholders, employees, and agents, and the successors and assigns of any of them, from any and all rights, demands, claims, damage, losses, costs, expenses, actions, and causes of action whatsoever, whether in tort or in contract, at law or in equity, known or unknown, contingent or fixed, suspected or unsuspected, arising out of, asserted in, assertible in, or in any way related to this Agreement.

3.2 Indemnification. Franchisee is solely responsible for all costs and expenses related to its performance, its nonperformance, and Franchisor's enforcement of this Agreement, which costs and expenses Franchisee will pay Franchisor in full, without defense or setoff, on demand. Franchisee agrees that it will indemnify, defend, and hold harmless Franchisor and its affiliates, and its and their directors, officers, shareholders, partners, members, employees, agents, and attorneys, and the successors and assigns of any and all of them, from and against, and will reimburse Franchisor and any and all of them for, any and all loss, losses, damage, damages, claims, debts, claims, demands, or obligations that are related to or are based on this Agreement.

3.3 No Duty. The powers conferred on Franchisor hereunder are solely to protect Franchisor's interests and shall not impose any duty on Franchisor to exercise any such powers. Franchisee expressly agrees that in no event shall Franchisor be obligated to accept the transfer of any or all of Franchisee's Interest in any matter hereunder.

3.4 Further Assurances. Franchisee agrees that at any time after the date of this Agreement, Franchisee will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the purposes of this Agreement.

3.5 Successors, Assigns, and Affiliates. All Franchisor's rights and powers, and all Franchisee's obligations, under this Agreement shall be binding on Franchisee's successors, assigns, and affiliated persons or entities as if they had duly executed this Agreement.

3.6 Effect on Other Agreements. Except as otherwise provided in this Agreement, all provisions of the Franchise Agreement and attachments and schedules thereto shall remain in effect as set forth therein.

3.7 Survival. This Agreement shall survive the Termination of the Franchise Agreement.

3.8 Governing Law. This Agreement shall be governed by and construed under the laws of the State of New Jersey, without regard to the application of New Jersey conflict of law rules.

The undersigned have executed or caused their duly authorized representatives to execute this Agreement as of the Effective Date.

FRANCHISOR:

BREAK COFFEE CO FRANCHISING LLC

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

\_\_\_\_\_, \_\_\_\_\_  
(Print Name, Title)

FRANCHISEE (Entity):

\_\_\_\_\_

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

\_\_\_\_\_, \_\_\_\_\_  
(Print Name, Title)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

## ATTACHMENT 9

### CONFIDENTIALITY AND NON-COMPETE AGREEMENT

This Confidentiality and Non-Compete Agreement (the “Agreement”) is made and entered into this day of \_\_\_\_\_, by \_\_\_\_\_, a(n) \_\_\_\_\_ (“Franchisee”), a franchisee of Break Coffee Co Franchising LLC a Delaware limited liability company (“Franchisor”), and \_\_\_\_\_, an individual (“Covenantor”).

**WHEREAS**, Franchisee and Franchisor are parties to a franchise agreement dated \_\_\_\_\_ (the “Franchise Agreement”), whereby Franchisor has granted Franchisee the right to use certain of Franchisor’s trademarks and copyrights, including but not limited to, the Break Coffee Co. trademarks and logo, website, documents, advertisements, photographs, social media content, promotional materials and operations manual (collectively referred to as the “Intellectual Property”) for the establishment and operation of a Break Coffee Co. franchised business;

**WHEREAS**, in connection with his or her duties, it will be necessary for Covenantor to have access to some or all of the Intellectual Property and other confidential information, knowledge, know-how, techniques, training, and other materials used in or related to the Break Coffee Co. brand and/or concerning the methods of operation of a Break Coffee Co. franchised business (collectively referred to as “Confidential Information”);

**WHEREAS**, the Intellectual Property and Confidential Information provide economic advantages to Franchisor and licensed users of Franchisor, including Franchisee;

**WHEREAS**, Franchisee has acknowledged the importance of restricting the use, access and dissemination of the Intellectual Property and Confidential Information, and Franchisee therefore has agreed to obtain from Covenantor a written agreement protecting the Intellectual Property and Confidential Information and further protecting the Break Coffee Co. brand against unfair competition; and

**WHEREAS**, Covenantor acknowledges that receipt of and the right to use the Intellectual Property and Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

#### **1. Confidentiality Agreement.**

**a.** Covenantor shall, at all times, maintain the confidentiality of the Confidential Information and shall use the Intellectual Property and such Confidential Information only in the course of his or her employment by or association with Franchisee in connection with the operation of a Break Coffee Co. franchised business under the Franchise Agreement and in accordance with the requirements thereof.

**b.** Covenantor shall not at any time make copies of any documents or compilations containing some or all of the Intellectual Property or Confidential Information, and shall not reproduce, in whole or in part, any of the Intellectual Property or Confidential Information, without Franchisor’s express written permission.

**c.** Covenantor shall not at any time disclose or permit the disclosure of the Confidential Information except, and only then to the limited extent necessary, to those employees of Franchisee for training and assisting such employees in the operation of Franchisee's Break Coffee Co. franchised business.

**d.** Covenantor shall surrender any material containing some or all of the Intellectual Property or Confidential Information to Franchisee or Franchisor, upon request, or upon termination of employment or association with Franchisee.

**e.** Covenantor shall not at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the Break Coffee Co. brand.

**f.** Upon termination of employment or association with Franchisee, Covenantor shall immediately lose all rights to access and/or use the Intellectual Property and Confidential Information for any purpose whatsoever.

## **2. Covenants Not to Compete.**

**a.** In order to protect the goodwill and unique qualities of the Break Coffee Co. brand, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants that during Covenantor's employment or association with Franchisee, Covenantor shall not, for Covenantor or through, on behalf of or in conjunction with any person or entity:

(i) divert, or attempt to divert, any business or customer of Franchisee or of other franchisees in the Break Coffee Co. system to any competitor, by direct or indirect inducement or otherwise or

(ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any business that offers or sells coffee machinery, coffee beverage systems, or related items by any means, including, without limitation, sales via the Internet or catalogs.

**b.** In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the goodwill and unique qualities of the Break Coffee Co. system, Covenantor further agrees and covenants that, upon the termination of Covenantor's employment or association with Franchisee and continuing for twenty-four (24) months thereafter, Covenantor shall not, for Covenantor or through, on behalf of or in conjunction with any person or entity:

(i) divert, or attempt to divert, any business or customer of the Franchisee's Break Coffee Co. franchised business or the business of other franchisees in the Break Coffee Co. system to any competitor, by direct or indirect inducement or otherwise or

(ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any business that offers or sells coffee machinery, coffee beverage systems within the Territory of the Franchisee's Break Coffee Co. franchised business, within fifteen (15) miles outside of the boundaries of Territory of the Franchisee's Break Coffee Co. franchised business or within fifteen (15) miles of the territory of any other Break Coffee Co. affiliate-owned or franchised business.

**c.** The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor.

**d.** If the period of time or the geographic scope specified Section 2.b. above, should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion thereof, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Agreement or any portion thereof, without Covenantor's or Franchisee's consent, effective immediately upon receipt by Covenantor of written notice thereof, and Covenantor agrees to forthwith comply with any covenant as so modified.

### **3. General.**

**a.** Franchisee shall take full responsibility for ensuring that Covenantor acts as required by this Agreement.

**b.** Covenantor agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions hereof, Franchisee is obligated to enforce the provisions of this Agreement and shall be entitled, in addition to any other remedies that are made available to it at law or in equity, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

**c.** Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement.

**d.** Any failure by Franchisee to object to or take action with respect to any breach of any provision of this Agreement by Covenantor shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Covenantor.

**e.** THIS AGREEMENT SHALL BE INTERPRETED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REFERENCE TO NEW JERSEY CHOICE OF LAW PRINCIPLES. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF OR HERSELF TO THE JURISDICTION OF THE STATE AND FEDERAL COURTS OF THE STATE OF NEW JERSEY. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON COVENANTOR IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY NEW JERSEY OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE IN NEW JERSEY; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION THAT INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE THAT HAS JURISDICTION.

**f.** The parties agree that each of the foregoing covenants contained herein shall be construed as independent of any other covenant or provision of this Agreement.

**g.** Covenantor acknowledges and agrees that each of the covenants contained herein will not impose any undue hardship on Covenantor since Covenantor has other considerable skills, experience and education which affords Covenantor the opportunity to derive income from other endeavors.

**h.** This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

**i.** All notices and demands required to be given hereunder shall be in writing, and shall be delivered personally or by certified or registered mail, postage prepaid, addressed to the party for whom intended, and shall be deemed given on the date of delivery or the date delivery is refused. All such notices shall be addressed to the party to be notified at the following addresses:

If directed to Franchisee:

\_\_\_\_\_

\_\_\_\_\_

If directed to Covenantor:

\_\_\_\_\_

\_\_\_\_\_

Any change in the foregoing addresses shall be effected by giving written notice of such change to the other parties.

**j.** Franchisor is an intended third-party beneficiary of this Agreement, and Franchisor may take whatever action it deems necessary to enforce Covenantor's obligations hereunder. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall inure to the benefit of its respective affiliates, successors and assigns.

**k.** The respective obligations of Franchisee and Covenantor hereunder may not be assigned by Franchisee or Covenantor, without the prior written consent of Franchisor.

**-Remainder of Page Intentionally Blank-**

The undersigned have entered into this Confidentiality and Non-Compete Agreement as of the date first written above.

FRANCHISEE:

\_\_\_\_\_

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

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

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

COVENANTOR:

\_\_\_\_\_

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

**EXHIBIT C**  
**FINANCIAL STATEMENTS**

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**FINANCIAL STATEMENTS**  
**PERIOD FROM JANUARY 1, 2025 THROUGH JANUARY 17, 2025**

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**FOR THE PERIOD FROM JANUARY 1, 2025 THROUGH JANUARY 17, 2025**

**Table of Contents**

	<b><u>Page</u></b>
<b>Independent Auditor's Report</b>	1 - 2
<b>Financial Statements</b>	
Balance sheet	3
Statement of operations and member's equity	4
Statement of cash flows	5
Notes to financial statements	6 - 9

## INDEPENDENT AUDITOR'S REPORT

To the Member  
Break Coffee Co Franchising, LLC

### Opinion

We have audited the accompanying financial statements of Break Coffee Co Franchising, LLC (a limited liability company), which comprise the balance sheet as of January 17, 2025, and the related statements of operations and member's equity and cash flows for the period from January 1, 2025 through January 17, 2025, and the related notes to the financial statements.

In our opinion, the financial statements referred to above presents fairly, in all material respects, the financial position of Break Coffee Co Franchising, LLC as of January 17, 2025, and the results of its operations and its cash flows for the period from January 1, 2025 through January 17, 2025 in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

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

### Responsibilities of Management for the Financial Statements

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

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

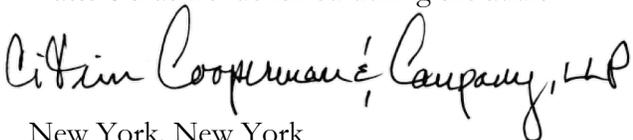
## Auditor's Responsibilities for the Audit of the Financial Statements

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

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

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Break Coffee Co Franchising, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Break Coffee Co Franchising, LLC's ability to continue as a going concern for a reasonable period of time.

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



New York, New York  
March 31, 2025

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**BALANCE SHEET**  
**JANUARY 17, 2025**

**ASSETS**

Cash	\$ <u>971</u>
<b>TOTAL ASSETS</b>	<b>\$ <u><u>971</u></u></b>

**LIABILITIES AND MEMBER'S EQUITY**

Liabilities	\$ -
Commitments and contingencies (Notes 4 and 5)	
Member's equity	<u>971</u>
<b>TOTAL LIABILITIES AND MEMBER'S EQUITY</b>	<b>\$ <u><u>971</u></u></b>

See accompanying notes to financial statements.

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**STATEMENT OF OPERATIONS AND MEMBER'S EQUITY**  
**FOR THE PERIOD FROM JANUARY 1, 2025 THROUGH JANUARY 17, 2025**

Revenues	\$ -
Selling, general and administrative expenses	<u>-</u>
Net income	-
Member's equity - beginning	-
Member contributions	<u>971</u>
<b>MEMBER'S EQUITY - ENDING</b>	<b>\$ <u>971</u></b>

See accompanying notes to financial statements.

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**STATEMENT OF CASH FLOWS**  
**FOR THE PERIOD FROM JANUARY 1, 2025 THROUGH JANUARY 17, 2025**

Cash flows from operating activities:	
Net income	\$       -
Cash provided by financing activities:	
Member contributions	<u>          971</u>
Net increase in cash	971
Cash - beginning	<u>          -</u>
<b>CASH - ENDING</b>	<b><u>          971</u></b>

See accompanying notes to financial statements.

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**JANUARY 17, 2025**

**NOTE 1. ORGANIZATION AND NATURE OF OPERATIONS**

Break Coffee Co Franchising, LLC (the "Company"), a wholly-owned subsidiary of Westside Xpresso Delight, LLC ("Parent"), was formed on September 15, 2023, as a Delaware limited liability company, to sell franchises pursuant to a license agreement dated November 15, 2023, between the Company and Break Coffee Co. LLC (the "Licensor"). Pursuant to the Company's standard franchise agreement, franchisees will operate a business under the "Break Coffee Co." name and system that sells, services and stocks coffee machines, equipment, premium beans and supplies to offices and other commercial centers.

The Company is a limited liability company and, therefore, the member is not liable for the debts, obligations or other liabilities of the Company, whether arising in contract, tort or otherwise, unless the member has signed a specific guarantee.

Operating cycle

The Company's normal operating cycle consists of a 12-month period and its fiscal year ends on December 31. As there had been no significant operating activities from September 15, 2023 (inception) through December 31, 2024, the Company had elected to present its results of operations from January 1, 2025 through January 17, 2025.

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Basis of accounting

The accompanying financial statements have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Variable interest entities

In accordance with the provisions of the Financial Accounting Standards Board ("FASB") Accounting Standards Update ("ASU") No. 2018-17, *Consolidation (Topic 810): Targeted Improvements to Related Party Guidance for Variable Interest Entities* ("ASU 2018-17"), FASB no longer requires nonpublic companies to apply variable interest entity guidance to certain common control arrangements, including leasing arrangements under common control. The Company has applied these provisions to the accompanying financial statements and has determined that the entity related through common ownership of the Parent, as disclosed in Note 5, meet the conditions under ASU 2018-17 and, accordingly, is not required to include the accounts of the related party in the Company's financial statements.

Use of estimates

The preparation of the Company's financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the Company's financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Revenue and cost recognition

The Company expects that it will derive substantially all its revenue from franchise agreements related to franchise fee revenue, coffee machine sales, royalty fees, brand fund contribution fees, technology and support fees, transfer fees, and training fees. No such franchise agreements have been executed by the Company as of the date these financial statements were available to be issued.

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**JANUARY 17, 2025**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

Revenue and cost recognition (continued)

*Franchise fees, royalties, brand fund contribution and other franchise-related fees*

Contract consideration from franchisees is expected to consist primarily of initial or renewal franchise fees, coffee machine sales, sales-based royalties, sales-based brand fund contribution fees, technology and support fees, training fees and transfer fees payable by a franchisee for the transfer of their franchise unit to another franchisee. The Company intends to collect an up-front fee for the grant of such rights. The initial franchise fees are nonrefundable and collectable when the underlying franchise agreement is signed by the franchisee. Sales-based royalties, brand fund contribution fees and technology fees are payable on a monthly basis. Renewal and transfer fees are due from franchisees when an existing franchisee renews the franchise agreement for an additional term or signs a new franchise agreement in relation to the renewal, or when a transfer to a third party occurs, respectively.

The Company's primary performance obligation under the franchise agreement includes granting certain rights to the Company's intellectual property in addition to a variety of activities relating to opening a franchise unit. Those services include training and other such activities commonly referred to collectively as "pre-opening activities." The Company will determine if a certain portion of those pre-opening activities provided is not brand specific and provides the franchisee with relevant general business information that is separate from the operation of a Company-branded franchise unit. The portion of pre-opening activities that is not brand specific will be deemed to be distinct, as it provides a benefit to the franchisee and is not highly interrelated to the use of the Company's intellectual property, and will therefore be accounted for as a separate performance obligation. All other pre-opening activities are expected to be highly interrelated to the use of the Company's intellectual property and will therefore be accounted for as a single performance obligation, which is satisfied by granting certain rights to use the Company's intellectual property over the term of each franchise agreement.

The Company will estimate the stand-alone selling price of pre-opening activities using an adjusted market assessment approach. The Company will first allocate the initial franchise fees and the fixed consideration under the franchise agreement to the stand-alone selling price of the pre-opening activities and the residual, if any, to the right to access the Company's intellectual property. Consideration allocated to pre-opening activities that are not brand specific will be recognized when those performance obligations are satisfied.

Initial and renewal franchise fees allocated to the right to access the Company's intellectual property will be recognized as revenue on a straight-line basis over the term of the respective franchise agreement.

Royalties will be earned as a percentage of franchisee gross sales ("sales-based royalties") over the term of the franchise agreement, as defined in each respective franchise agreement. Franchise royalties which represent sales-based royalties that are related entirely to the use of the Company's intellectual property will be recognized as franchisee sales occur and the royalty is deemed collectible.

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**JANUARY 17, 2025**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

Revenue and cost recognition (continued)

*Brand fund contribution*

The Company may maintain a brand fund which will be established to collect and administer funds contributed for use in marketing and promotional programs for franchise units. Brand fund fees will be collected from franchisees based on a percentage of franchisee gross sales. The Company has determined that it acts as a principal in the collection and administration of the brand fund and therefore will recognize the revenues and expenses related to the brand fund on a gross basis. The Company has determined that the right to access its intellectual property and administration of the brand fund are highly interrelated and therefore will be accounted for as a single performance obligation. As a result, revenues from the brand fund represent sales-based royalties related to the right to access the Company's intellectual property, which will be recognized as franchisee sales occur.

If brand fund fees exceed the related brand fund expenses in a reporting period, advertising costs will be accrued up to the amount of brand fund revenues recognized.

*Other revenues*

The Company will recognize revenue from other fees and other services provided to the franchisees as a single performance obligation, when the services are rendered.

*Incremental costs of obtaining a contract*

The Company will capitalize direct and incremental costs, principally consisting of commissions, associated with the sale of franchises and amortize them over the term of the franchise agreement.

Accounts receivable

Accounts receivable will be stated at the amount the Company expects to collect. The Company will maintain an allowance for credit losses to estimate expected lifetime credit losses that are based on historical experience, the aging of accounts receivable, consideration of current economic conditions and its expectations of future economic conditions. If the financial condition of the Company's franchisees was to deteriorate or other circumstances occur that result in an impairment of franchisees' ability to make payments, the Company will record additional allowances as needed. The Company will write off uncollectible receivables against the allowance when collection efforts have been exhausted.

Income taxes

The Company is treated as a partnership for tax purposes and, as such, is not liable for federal or state income taxes. As a single-member limited liability company and, therefore, a disregarded entity for income tax purposes, the Company's assets and liabilities are combined with and are included in the income tax return of the Parent. Accordingly, the accompanying financial statements do not include a provision or liability for federal or state income taxes.

**BREAK COFFEE CO FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**JANUARY 17, 2025**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

Uncertain tax positions

The Company recognizes and measures its unrecognized tax benefits in accordance with Accounting Standards Codification ("ASC") 740, *Income Taxes*. Under that guidance, management assesses the likelihood that tax positions will be sustained upon examination based on the facts, circumstances and information, including the technical merits of those positions, available at the end of each period. The measurement of unrecognized tax benefits is adjusted when new information is available or when an event occurs that requires a change. There were no uncertain tax positions at January 17, 2025.

Subsequent events

In accordance with FASB ASC 855, *Subsequent Events*, the Company has evaluated subsequent events through March 31, 2025, the date on which these financial statements were available to be issued. Except as disclosed in Note 5, there were no other material subsequent events that required recognition or additional disclosure in these financial statements.

**NOTE 3. CONCENTRATIONS OF CREDIT RISK**

The Company places its cash, which may at times be in excess of Federal Deposit Insurance Corporation insurance limits, with a major financial institution. Management believes that this policy will limit the Company's exposure to credit risk.

**NOTE 4. BRAND FUND CONTRIBUTION**

Pursuant to the structured form of the franchising arrangement, the Company reserves the right to collect brand fund contribution fees equal to 2% of franchisees' gross sales. These funds are to be spent solely on advertising and related expenses for the benefit of the franchisees with a portion designated to offset the Company's administrative costs to administer the funds, all at the discretion of the Company. There have been no contributions to the brand fund as of the date these financial statements were available to be issued.

**NOTE 5. RELATED-PARTY TRANSACTIONS**

License agreement

On November 15, 2023, the Company entered into a five-year exclusive license agreement with the Licensor for the use of the registered name "Break Coffee Co." (the "license agreement"), which is automatically renewable for additional successive five-year periods unless both parties mutually agree otherwise. Pursuant to the license agreement, the Company acquired the right to sell Break Coffee Co. franchises, and the right to earn franchise fees, royalties and other fees from franchisees. The Company is obligated to pay the Licensor a license fee, as further detailed in the license agreement.

On March 31, 2025, the Company and the Licensor mutually agreed to and entered into an amendment to the license agreement whereby the registered marks were amended to reflect the current registration numbers.

## **EXHIBIT D**

### **OPERATIONS MANUAL TABLE OF CONTENTS**

#### Brand Standards Manual Table of Contents

This Manual contains the following Manuals:

1. Operations Manual
2. Systems Manual
3. Marketing Manual
4. Corporate and SME Operators Manual
5. Corporate and SME Diagrams and Parts Index Operations Manual Index

Operations Part 1:	Welcome to Break Coffee Co.	Page	3
Operations Part 2:	Why Break Coffee Co.	Page	4
Operations Part 3:	Business Operations	Page	5
Operations Part 4:	Business Mind Set	Page	7
Operations Part 5:	Break Coffee Co. Intellectual Property	Page	10
Operations Part 6:	Dispute Resolution	Page	11
Operations Part 7:	Franchisee Roles and Responsibilities	Page	12
Operations Part 8:	Uniforms	Page	14
Operations Part 9:	Customer Service	Page	15
Operations Part 10:	Payment of Fees	Page	16
Operations Part 11:	Franchise and Systems Equipment Inclusions	Page	17
Operations Part 12:	Break Coffee Co. Systems and Products	Page	20
Operations Part 13:	Online Ordering, Authorized Suppliers and Purchase Orders	Page	23
Operations Part 14:	Additional Franchise Purchase Requirements	Page	26
Operations Part 15:	Transfer Requirements	Page	27
Operations Part 16:	Franchisee Reporting	Page	32
Operations Part 17:	Performance Criteria	Page	34
Operations Part 18:	Web Site and Intranet	Page	36
Operations Part 19:	Forms	Page	39
System Manual Index			
Systems Part 1:	Business Systems	Page	3
Systems Part 2:	New Location Installation Procedure Corporate Systems	Page	5

Systems Part 3:	Weekly Location Service Procedure Corporate Systems	Page	7
Systems Part 4:	Weekly Sales, Service and Payment Reports Corporate Systems	Page	9
Systems Part 5:	Routine Maintenance and Basic Trouble Shooting Corporate Systems	Page	10
Systems Part 6:	New Location Installation Procedure SME Systems	Page	13
Systems Part 7:	Bi-Monthly Location Service Procedure SME Systems	Page	15
Systems Part 8:	Bi-Monthly Sales, Service and Payment Reports SME Systems	Page	17
Systems Part 9:	Routine Maintenance and Basic Trouble Shooting SME Systems	Page	18
Systems Part 10:	Warranty	Page	21
Systems Part 11:	Serial Number Tracking	Page	23
Systems Part 12:	Forms	Page	24

#### Marketing Manual Index

Marketing Part 1:	Business Marketing	Page	2
Marketing Part 2:	Marketing Processes and Campaigns	Page	5
Marketing Part 3:	Marketing Strategies	Page	7
Marketing Part 4:	Customer Service with WOW Factor	Page	17
Marketing Part 5:	Authorized Marketing Material	Page	18

#### Corporate and SME Operators Manual Index

Jura X9 Operators Manual: Light Green Pages  
Blitz POD Operators Manual: Light Yellow Pages

#### Corporate and SME Diagrams and Parts Index

Jura X9 Diagrams and Parts List: Light Green Pages  
Blitz POD Diagrams and Parts List: Light Yellow Pages

**EXHIBIT E**

**LIST OF CURRENT FRANCHISEES AND FORMER FRANCHISEES**

**CURRENT FRANCHISEES**

(as of December 31, 2024)

<b>Franchisee</b>	<b>Territory</b>	<b>Telephone Number</b>
Kovacs Distribution, LLC Tyler Burdett	Washington, DC	571-218-0864
XD Coffee, Inc. Thomas Dowd	Fort Lauderdale, Florida	954-734-5710
Derek Gilroy	Chicago, Illinois	773-259-1148
Deka Partners, LLC Nicole Amico	Ridgewood, New Jersey	917-842-8535
Russell Goeseke	Buffalo, New York	716-471-6138
FMD Tech Matthew Dwyer	New York, New York	914-355-8971
Walter Koehler	New York, New York	908-783-5995
XD5C LLC Bryan Zeiss	Charlotte, North Carolina	704-258-6494

**FORMER FRANCHISEES**

(as of December 31, 2024)

that had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or has not communicated with the franchisor within the 10 weeks preceding the Issuance Date of this Disclosure Document:

Stuart Mills	New York, New York	646-341-7002
--------------	--------------------	--------------

**EXHIBIT F**

**FORM OF RELEASE**

**GENERAL RELEASE**

This release (the "Release") is given this day of \_\_\_\_\_ by \_\_\_\_\_, a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ ("Franchisee") and \_\_\_\_\_'s principals \_\_\_\_\_, an individual residing at \_\_\_\_\_ and ("Principal(s)").

Franchisee and Principal(s), on behalf of themselves and their respective officers, directors, employees, successors, assigns, heirs, personal representatives, and all other persons acting on their behalf or claiming under them (collectively, the "Franchisee Releasors"), hereby release, discharge and hold harmless Break Coffee Co Franchising LLC ("Franchisor"), and its affiliates, officers, directors, members, shareholders, employees, agents, attorneys, successors, and assigns (collectively, the "Franchisor Releasees") from any suits, claims, controversies, rights, promises, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character and description, in law or in equity, whether presently known or unknown, vested or contingent, suspected or unsuspected arising under, relating to, or in connection with the Franchise Agreement dated \_\_\_\_\_ between Franchisee and Franchisor and any related agreements and the relationship created thereby, or the Franchised Business operated under the Franchise Agreement, or any claims or representations made relative to the sale of the franchise to operate such Franchised Business or under any federal or state franchise or unfair or deceptive trade practice laws, which any of the Franchisee Releasors now own or hold or have at any time heretofore owned or held against the Franchisor Releasees (collectively, the "Franchisee Released Claims").

FRANCHISEE AND PRINCIPAL(S) ON BEHALF OF THEMSELVES AND THE FRANCHISEE RELEASORS WAIVE ANY RIGHTS AND BENEFITS CONFERRED BY ANY APPLICABLE PROVISION OF LAW EXISTING UNDER ANY FEDERAL, STATE OR POLITICAL SUBDIVISION THEREOF WHICH WOULD INVALIDATE ALL OR ANY PORTION OF THE RELEASE CONTAINED HEREIN BECAUSE SUCH RELEASE MAY EXTEND TO CLAIMS WHICH THE FRANCHISEE RELEASORS DO NOT KNOW OR SUSPECT TO EXIST IN THEIR FAVOR AT THE TIME OF EXECUTION OF THIS AGREEMENT. The Franchisee Releasors also covenant not to bring any suit, action, or proceeding, or make any demand or claim of any type, against any Franchisor Releasees with respect to any Franchisee Released Claim, and Franchisee and Principal(s) shall defend, indemnify and hold harmless each of Franchisor Releasees against same.

Release given this day of \_\_\_\_\_ by:

FRANCHISEE:

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_

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

(Print Name)

\_\_\_\_\_

(Print Name, Title)

**EXHIBIT G**  
**STATE ADDENDA**

**EXHIBIT H**

**FRANCHISEE ACKNOWLEDGMENT STATEMENT**

**BREAK COFFEE CO. FRANCHISEE ACKNOWLEDGEMENT STATEMENT**

Acknowledgement of the truthfulness of the statements below are an inducement for the Franchisor to enter into a Franchise Agreement. Notify Franchisor immediately, prior to acknowledgment, if any statement below is incomplete or incorrect.

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

1. Franchisee has conducted an independent investigation of all aspects relating to the financial, operational and other aspects of the business of operating the Franchised Business. Franchisee further acknowledges that, except as may be set forth in Franchisor’s Disclosure Document, no representations of performance (financial or otherwise) for the Franchised Business provided for in this Agreement has been made to Franchisee by Franchisor and Franchisee and any and all Principals hereby waive any claim against Franchisor for any business failure Franchisee may experience as a franchisee under this Agreement.

\_\_\_\_\_  
Initial

2. Franchisee has conducted an independent investigation of the business contemplated by this Agreement and understands and acknowledges that the business contemplated by this Agreement involves business risks making the success of the venture largely dependent upon the business abilities and participation of Franchisee and its efforts as an independent business operation.

\_\_\_\_\_  
Initial

3. Franchisee agrees that no claims of success or failure have been made to it or him or her prior to signing the Franchise Agreement and that it/she/he understands all the terms and conditions of the Franchise Agreement. Franchisee further acknowledges that the Franchise Agreement contains all oral and written agreements, representations and arrangements between the parties hereto, and any rights which the respective parties hereto may have had under any other previous contracts are hereby cancelled and terminated, and that this Agreement cannot be changed or terminated orally.

\_\_\_\_\_  
Initial

4. Franchisee has no knowledge of any representations by Franchisor or its officers, directors, shareholders, employees, sales representatives, agents or servants, about the business contemplated by the Franchise Agreement that are contrary to the terms of the Franchise Agreement or the documents incorporated herein. Franchisee acknowledges that no representations or warranties are made or implied, except as specifically set forth in the Franchise Agreement. Franchisee represents, as an inducement to Franchisor’s entry into this Agreement, that it has made no misrepresentations in obtaining the Franchise Agreement.

\_\_\_\_\_  
Initial

5. Franchisor expressly disclaims the making of, and Franchisee acknowledges that it has not received or relied upon, any warranty or guarantee, express or implied, as to the potential volume, profits or success of the business venture contemplated by the Franchise Agreement.

\_\_\_\_\_  
Initial

6. Franchisee acknowledges that Franchisor's approval or acceptance of Franchisee's Business location does not constitute a warranty, recommendation or endorsement of the location for the Franchised Business, nor any assurance by Franchisor that the operation of the Franchised Business at the premises will be successful or profitable.

\_\_\_\_\_  
Initial

7. Franchisee acknowledges that it has received the Break Coffee Co Franchising LLC Franchise Disclosure Document with a complete copy of the Franchise Agreement and all related Attachments and agreements at least fourteen (14) calendar days prior to the date on which the Franchise Agreement was executed. Franchisee further acknowledges that Franchisee has read such Franchise Disclosure Document and understands its contents.

\_\_\_\_\_  
Initial

8. Franchisee acknowledges that it has had ample opportunity to consult with its own attorneys, accountants and other advisors and that the attorneys for Franchisor have not advised or represented Franchisee with respect to the Franchise Agreement or the relationship thereby created.

\_\_\_\_\_  
Initial

9. Franchisee, together with Franchisee's advisers, has sufficient knowledge and experience in financial and business matters to make an informed investment decision with respect to the Franchise granted by the Franchise Agreement.

\_\_\_\_\_  
Initial

10. Franchisee is aware of the fact that other present or future franchisees of Franchisor may operate under different forms of agreement(s), and consequently that Franchisor's obligations and rights with respect to its various franchisees may differ materially in certain circumstances.

\_\_\_\_\_  
Initial

11. It is recognized by the parties that Franchisor is also (or may become) a manufacturer or distributor of certain products under the Marks licensed herein; and it is understood that Franchisor does not warrant that such products will not be sold within the Franchisee's Territory by others who may have purchased such products from Franchisor.

\_\_\_\_\_  
Initial

12. BY EXECUTING THE FRANCHISE AGREEMENT, FRANCHISEE AND ANY PRINCIPAL, INDIVIDUALLY AND ON BEHALF OF FRANCHISEE'S AND SUCH PRINCIPAL'S HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, HEREBY FOREVER RELEASE AND DISCHARGE BREAK COFFEE CO FRANCHISING LLC, AND ITS PARENT COMPANY, SUBSIDIARIES, DIVISIONS, AFFILIATES, SUCCESSORS, ASSIGNS AND DESIGNEES, AND THE FOREGOING ENTITIES' DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SHAREHOLDERS, SUCCESSORS, DESIGNEES AND REPRESENTATIVES FROM ANY AND ALL

CLAIMS, DEMANDS AND JUDGMENTS RELATING TO OR ARISING UNDER THE STATEMENTS, CONDUCT, CLAIMS OR ANY OTHER AGREEMENT BETWEEN THE PARTIES EXECUTED PRIOR TO THE DATE OF THE FRANCHISE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER PRESENTLY KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, ARISING UNDER THE FRANCHISE, SECURITIES, TAX OR ANTITRUST LAWS OF THE UNITED STATES OR OF ANY STATE OR TERRITORY THEREOF. THIS RELEASE SHALL NOT APPLY TO ANY CLAIMS ARISING FROM REPRESENTATIONS MADE BY FRANCHISOR IN FRANCHISOR'S FRANCHISE DISCLOSURE DOCUMENT RECEIVED BY FRANCHISEE.

Initial

FRANCHISEE:

\_\_\_\_\_

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

\_\_\_\_\_,  
(Print Name, Title)

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

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

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

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

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

### 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>
Illinois	Pending
Maryland	Pending
Michigan	Pending
New York	Pending
Rhode Island	June 5, 2025
Wisconsin	May 23, 2025

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 I**

**RECEIPTS**

**RECEIPT**

This Franchise Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Franchise Disclosure Document and all exhibits carefully.

If Break Coffee Co 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 you to receive this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Break Coffee Co 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC, 20580, and to your state authority listed on Exhibit A.

The name and principal business address and telephone number of each franchise seller offering the franchise is:

Joshua Kovacs 155 2 <sup>nd</sup> Street Jersey City, NJ 07302 347-421-4196
--

Issuance Date: April 2, 2025

I received a Disclosure Document dated April 2, 2025, that included the following Exhibits:

- EXHIBIT A: List of State Franchise Administrators and Agents for Service of Process
- EXHIBIT B: Franchise Agreement
- EXHIBIT C: Financial Statement
- EXHIBIT D: Operations Manual Table of Contents
- EXHIBIT E: List of Current Franchisees and Former Franchisees
- EXHIBIT F: Form of Release
- EXHIBIT G: State Addenda
- EXHIBIT H: Franchisee Acknowledgement Statement
- EXHIBIT I: Receipt

Date Received: \_\_\_\_\_  
(If other than date signed)

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

\_\_\_\_\_  
(Signature of recipient)

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

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

**KEEP FOR YOUR RECORDS**

**RECEIPT**

This Franchise Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Franchise Disclosure Document and all exhibits carefully.

If Break Coffee Co 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 you to receive this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Break Coffee Co 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC, 20580, and to your state authority listed on Exhibit A.

The name and principal business address and telephone number of each franchise seller offering the franchise is:

Joshua Kovacs 155 2 <sup>nd</sup> Street Jersey City, NJ 07302 347-421-4196
--

Issuance Date: April 2, 2025

I received a Disclosure Document dated April 2, 2025, that included the following Exhibits:

- EXHIBIT A: List of State Franchise Administrators and Agents for Service of Process
- EXHIBIT B: Franchise Agreement
- EXHIBIT C: Financial Statement
- EXHIBIT D: Operations Manual Table of Contents
- EXHIBIT E: List of Current Franchisees and Former Franchisees
- EXHIBIT F: Form of Release
- EXHIBIT G: State Addenda
- EXHIBIT H: Franchisee Acknowledgement Statement
- EXHIBIT I: Receipt

Date Received: \_\_\_\_\_  
(If other than date signed)

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

\_\_\_\_\_  
(Signature of recipient)

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

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

Please return signed receipt to Break Coffee Co Franchising LLC  
Joshua Kovacs  
155 2<sup>nd</sup> Street, Jersey City, NJ 07302