



## FRANCHISE DISCLOSURE DOCUMENT

Citadel Panda Express, Inc.,  
a California corporation  
1683 Walnut Grove Avenue  
Rosemead, California 91770  
626-799-9898  
**[www.pandaexpress.com](http://www.pandaexpress.com)**

Citadel Panda Express, Inc. offers licenses to qualified applicants to develop and operate a Panda Express restaurant featuring on-premises dining and carry-out of gourmet Chinese and other Asian food items, beverages and other related menu items.

The total investment necessary to begin operation of a Panda Express® restaurant franchise ranges from ~~\$510,000~~\$14,500 to ~~\$3,268,000~~\$3,275,500. This includes an initial franchise fee of \$25,000 that must be paid to Citadel Panda Express, Inc. or its affiliate.

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

The terms of your contract will govern your franchise relationship. Do not rely on the Disclosure Document alone to understand your contract and accompanying agreements. Read all of your contract and accompanying agreements carefully. Show your contract, accompanying agreements and this Disclosure Document to an advisor, like a lawyer or an accountant.

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

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

Date of Issuance: April 18, 202~~4~~5

## 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:

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<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 G.
<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 estimated initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit B includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Panda Express® restaurant in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Panda Express® franchisee?</b>	Item 20 or Exhibit G 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 the disclosure document to better understand this franchise opportunity. See the table of

## 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 franchised 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 franchisor to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit E.

Your state may also 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 the following risks be highlighted:

1. **Out-of-State Dispute Resolution.** The License Agreement requires you to resolve disputes with us by arbitration or litigation only in the state in which our then-current headquarters is located (currently California). Out of state or area arbitration or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to arbitrate or litigate with us in the location we select than in your own state.
2. **Completion of Training.** If you do not complete training to our satisfaction, or if you do not pass any required testing, we may cancel the License Agreement at our sole discretion. There is no refund if we cancel your License Agreement for these reasons.
3. **Mandatory minimum payments.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.
4. **Unopened Franchises.** The franchisor has signed a significant number of franchise agreements with franchisees who have not yet opened their outlets. If other franchisees are experiencing delays in opening their outlets, you also may experience delays in opening your own outlet.

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.

## **DISCLOSURES REQUIRED BY MICHIGAN LAW**

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

**(a) A prohibition on the right of a franchisee to join an association of franchisees.**

**(b) A requirement that a franchisee assent to a release, assignment, novation, waiver or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.**

**(c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.**

**(d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) The term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of the franchisor's intent not to renew the franchise.**

**(e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.**

**(f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.**

**(g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:**

**(i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.**

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

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

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

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

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

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

Michigan law provides that a franchisor whose most recent statements are un-audited and which show a net worth of less than \$100,000 shall, at the request of a franchisee, arrange for the escrow of initial investment and other funds paid by the franchisee or sub-franchisor until the obligations to provide real estate, improvements, equipment, inventory, training, or other items included in the franchise offering are fulfilled. At the option of the franchisor, a surety bond may be provided in place of escrow. In the event that an escrow is so established, the escrow agent shall be a financial institution authorized to do business in the State of Michigan. The escrow agent may release to the franchisor those amounts of the escrowed funds applicable to a specific franchisee or sub-franchisor upon presentation of an affidavit executed by the franchisee and an affidavit executed by the franchisor stating that the franchisor has fulfilled its obligation to provide real estate, improvements, equipment, inventory, training, or other items. This portion of the Michigan law does not prohibit a partial release of escrowed funds upon receipt of affidavits of partial fulfillment of the franchisor's obligation.

**SHOULD THE PROSPECTIVE FRANCHISEE HAVE ANY QUESTIONS REGARDING THE NOTICE OF THIS FILING WITH THE ATTORNEY GENERAL, SUCH QUESTIONS SHOULD BE ADDRESSED TO:**

**MICHIGAN ATTORNEY GENERAL'S OFFICE  
ADMINISTRATOR  
CONSUMER PROTECTION DIVISION  
FRANCHISE SECTION  
525 W. OTTAWA, 1<sup>ST</sup> FLOOR  
LANSING, MICHIGAN 48913  
(517) 335-7567**

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

To simplify the language in this Disclosure Document, the words “Panda,” “we,” “our” and “us” refer to Citadel Panda Express, Inc., the “Licensor” or “Franchisor” under this Disclosure Document and the Citadel Panda Express, Inc. License Agreement (the “License Agreement,” “Franchise Agreement” or “Agreement”). “You” means the person or entity to which we grant a License Agreement (also “licensee” or “franchisee” under this Disclosure Document). Capitalized terms have the meaning described in the License Agreement, which is attached as Exhibit A to this Disclosure Document.

We were incorporated in the State of California under the name Citadel Panda Express, Inc., on October 25, 1990. Our principal place of business is at 1683 Walnut Grove Avenue, Rosemead, California 91770.

We are a wholly owned subsidiary of Panda Express, Inc., a California corporation (“PEI”). PEI is, in turn, a wholly owned subsidiary of Panda Restaurant Group, Inc., a California corporation (“PRG”). PRG serves as a holding company for all Panda companies. PEI and PRG are our parents for purposes of this Disclosure Document. The principal business address for PEI and PRG is also 1683 Walnut Grove Avenue, Rosemead, California, 91770.

Our agent authorized to receive service of process is identified in Exhibit E to this Disclosure Document.

**The Business**

Panda Express restaurants are a chain of limited service, Chinese and Asian food restaurants, some of which are developed and operated by our Affiliates. We refer to Panda Express restaurants generally as “Panda Express Restaurants” and to the Panda Express Restaurants that you will develop and operate as your “Restaurant” or “Restaurants” (each as defined in the License Agreement). Panda Express Restaurants are retail outlets and are situated in a variety of different locations, including free-standing buildings, shopping centers, mall food courts, airports and other kinds of sites. Panda Express Restaurants operate under the Marks (as defined below), emphasize convenience and quality, and offer on-premises dining and carry-out of gourmet Chinese and other Asian food items, beverages and other related menu items. Menu items are prepared with specified recipes and procedures, Proprietary Products (as defined below), Trade Secrets (as defined in the Agreement), and/or special packaging and marketing techniques.

We anticipate that most of your Restaurants will be operated under License Agreements with us will be located in “captive” venues, such as military facilities, airports, campuses, hospitals, universities and similar facilities. Licensee applicants sometimes have a management arrangement (a “Client contract”) with the owner/lessor of the applicable venue. We offer and award qualified applicants a license (or “franchise” under this Disclosure Document) to develop and operate a Panda Express Restaurant at one or more locations we authorize. You are only permitted under the Agreement to use the Marks and Panda Express System (as defined below) in the operation of your Restaurant.

You must have our advance written authorization to develop and operate your Restaurant at any specific location. Unless you and we have agreed upon a date by which you must begin your site selection process, you are not obligated under the Agreement to open your Restaurant until you identify a proposed location and receive our authorization to establish your Restaurant there. We may permit you to operate one or more of your Restaurants under the Agreement, but we are not obligated to provide any authorization to any proposed Restaurant.

For each Restaurant we authorize, you are licensed to use our distinctive format and method of doing business developed and used for the operation of a Panda Express Restaurant. This distinctive format and method include Panda Express Restaurant design, other trade dress features, equipment, fixtures, and apparel specifications, specified Product (as defined in the Agreement) offerings and preparation methods, standard operating and administrative procedures, and management and technical training programs (the “Panda Express System”). A “Panda Express Restaurant” is a “brick and mortar” premises using our Marks and Panda Express System at a location approved by us for the retail distribution of Products and Services (as defined in the Agreement) to the general public. You must operate each Restaurant in compliance with the then-current Panda Express System, System Standards and the Manuals (each as defined in the Agreement). Operating and maintaining each Restaurant according to System Standards and the Manuals is important to the preservation of the goodwill associated with the Marks and the System.

We do business under the names “Citadel Panda Express” and “Panda Express.” PRG owns the Panda Express mark and all other trademarks and service marks licensed to you under the License Agreement (the “Marks”), as well as the Panda Express System. PRG has licensed us to use and to sublicense the use of the Marks and Panda Express System.

We offered and registered Panda Express Franchises in various states since 1995. In 2004 we began granting franchises under license agreements similar to the one attached to this Disclosure Document. We also grant licenses to develop Panda Express restaurant internationally in select jurisdictions.

Although we have not conducted a business of the type to be operated by you, our Affiliates PEI and PRG own and operate businesses similar to a Panda Express Restaurant. PEI owns and operates Panda Express Restaurants, as discussed in more detail below. Hibachi-San, Inc., a wholly-owned subsidiary of PEI and our Affiliate, owns and operates (through its parents, PEI and PRG) restaurants trading under the name “Hibachi-San.”

The first Panda Express Restaurant was opened in 1983 in Glendale, California by Galleria Panda Express, Inc., a California corporation, a majority of whose stock was owned by Andrew and Peggy Cherng, the principal indirect owners of PRG. Galleria Panda Express, Inc. was merged into PEI on February 18, 1994.

PEI has owned and operated Panda Express® Restaurants since November 1990. As of December 30, 2023, it owned and operated 2,249 Panda Express Restaurants.

PEI occasionally sells a Panda Express Restaurant it operates to a prospective Panda Express licensee. In that case, you and PEI would sign an asset purchase agreement for the

purchase of the Panda Express Restaurant. Price, lease related provisions and other terms would be negotiated between you and PEI on a case -by -case basis. A sample asset purchase agreement is attached to this Disclosure Document as Exhibit F. You also would sign a License Agreement with us if you bought a Panda Express Restaurant from PEI.

PRG also owns and operates Panda Express® Restaurants in Canada, Japan and Korea, and is a minority owner in some joint ventures that own and operate Panda Express Restaurants in various captive venue locations in the United States, such as military bases and airports, the first of which opened in 2010. Licensees are not required to participate in joint ventures and can license any approved location independently, including airports and other captive venues. Occasionally, PRG may ask a prospective licensee to form a joint venture for a particular Panda Express Restaurant location, and the prospective licensee can accept or reject the proposal. As a matter of current practice, PRG is not the managing member for these joint ventures. A sample Limited Liability Company Operating Agreement with PRG is attached to this Disclosure Document as Exhibit I. We would grant a limited liability company formed for this purpose a Panda Express franchise.

PRG owns the Hibachi-San mark and all other trademarks and service marks used by Hibachi-San restaurants, as well as the Hibachi-San system. PRG also has licensed us to use and to sublicense the use of the Hibachi-San marks and Hibachi-San system. We began offering Hibachi-San licenses under a different Franchise Disclosure Document beginning in April, 2015, and as of the end of our last fiscal year, there were 2 franchised Hibachi-San Restaurants open and operating in the United States. However, this Disclosure Document pertains only to Panda Express® licenses. We do not own or operate any Hibachi-San Restaurants as of the issuance date of this Disclosure Document. Company-owned Hibachi-San Restaurants are owned and operated by our Affiliate Hibachi-San, Inc., (through its parents, PEI and PRG).

Except as noted above, we have not offered franchises in any other lines of business. None of our other Affiliates has offered franchises for Panda Express Restaurants or for any other line of business.

Various states and local jurisdictions have enacted laws, rules, regulations and ordinances that may apply to the operation of your Restaurant, including those which do the following:

1. establish general standards, specifications and requirements for the construction, design and maintenance of your Restaurant premises;
2. regulate matters affecting the health, safety and welfare of your customers, such as general health and sanitation requirements for restaurants; employee practices concerning the storage, handling, cooking and preparation of food; restrictions on smoking; access requirements for disabled persons; availability of and requirements for public accommodations, including restrooms;
3. set standards pertaining to employee health and safety, as well as wages, hours, overtime, hiring, firing and other employment-related matters;

4. set standards and requirements for fire safety and general emergency preparedness;
5. control the sale of alcoholic beverages; and
6. regulate the proper use, storage and disposal of waste, insecticides, and other hazardous materials.

~~Several states have passed laws restricting the use of plastic packaging and straws, and some have explicitly banned perfluoralkyl substances, otherwise known as "PFAS," in food packaging. Some states limit "food packaging" to paper-based packaging, like pizza boxes, while other states prohibit PFAS in any food packaging, including plastic packaging. PFAS appear in disposable products commonly used in the restaurant industry, such as takeout containers, sandwich wraps, and bags.~~

Many states and cities also regulate foodware and foodservice packaging items. Some cities ban plastic straws and other single-use items. Some states also now require a certain amount of post-consumer recycled content or restrict or prohibit the use of certain types of Styrofoam and plastic. Additionally, state extended producer responsibility laws could ultimately place reporting and other obligations on restaurant chains that distribute branded items.

~~The Food and Drug Administration finalized a rule in late 2022 that would impose traceability requirements on a wide range of food establishments, including some restaurants. Although the effective date is not until 2026, the rule would impose significant recordkeeping requirements on regulated entities, and such entities will need to train employees to understand how to comply with the new requirements.~~

Additionally, in January 2026, many restaurants will be required to keep certain key data elements when such restaurants receive food that is on the FDA's food traceability list. If a restaurant must keep such key data elements, it must keep the specific data required by FDA and must be able to make such information available to FDA via an electronic sortable spreadsheet.

You should investigate whether there are regulations and requirements that apply in the geographic area in which you want to locate your licensed business. You also should consider both their effect and the cost of compliance.

Your Restaurant will compete with other restaurants, which may include Panda Express Restaurants operated or developed by our Affiliates, as noted above. The market for your services is developed and will be the general public. However, since your Restaurant is likely to be located in a "captive facility," such as an airport, military base, university, mall or other similar facility, your market will likely be limited to those persons using or frequenting your facility, which may house competing food concepts.

This Panda Express license offering is made exclusively by Citadel Panda Express, Inc. It is not being made by PEI, PRG, or any other Affiliate, person or entity. No person or entity other than us will have any licensing relationship with you or any responsibility for our obligations under the License Agreement.

This Disclosure Document describes some of the terms and conditions on which we currently offer licenses in this state. The actual provisions of the Agreement and related

documents will control and you should refer to the Agreement and the other documents for more complete information. You are urged to review carefully all documents, including this Disclosure Document, with independent advisors, such as an attorney and accountant. They can provide legal, business or economic guidance.

Any business venture, whether licensed or not, necessarily involves risk of loss or failure. The purchase of a Panda Express Restaurant license is a speculative investment and significant investment beyond that outlined in this Disclosure Document may be required to succeed. There exists no guaranty against loss or failure in this or any other business, and the most important factors in the success of your Panda Express business are your business, marketing, judgment and other skills. We do not guarantee your success or any sales or profits or otherwise, and you may lose all of your investment.

## **ITEM 2: BUSINESS EXPERIENCE.**

### Andrew Jin-Chan Cherng – Co-Chairman of the Board of Directors and Co-Chief Executive Officer

Mr. Cherng has been our Chairman of the Board of Directors since our inception in 1990 and was our President until January, 1995. He has also served as the Chairman of the Board of Directors of PRG since 1986, and as the President and Chairman of the Board of our other Affiliates since their respective dates of incorporation. In October, 2009, Mr. Cherng assumed the position of our Co-Chief Executive Officer.

### Peggy Tsiang Cherng - Co-Chairman of the Board of Directors, Co-Chief Executive Officer and Treasurer

Mrs. Cherng has been a Director and Treasurer since our inception in 1990. She also served as PRG's Chief Executive Officer from April, 1998 until January, 2005. In October, 2009, Mrs. Cherng assumed the positions of our Co-Chairman of the Board of Directors and Co-Chief Executive officer. She has been a director and Treasurer of our other Affiliates since their respective dates of incorporation.

### David Landsberg – Chief Financial Officer

Mr. Landsberg joined PRG in October, 1997 as Director, Business Planning and was promoted to Vice President, Business Planning in March, 1999. In September, 2005, Mr. Landsberg was then promoted to Vice President, Real Estate-West, which he served until December 31, 2010. On January 1, 2011, Mr. Landsberg was promoted to Chief Financial Officer of PRG and also serves in that capacity for us.

### James Ku – Chief ~~Financial~~Development Officer

Mr. Ku worked for Walmart as Senior Vice President of China Realty since March 2018 and promoted to Chief Operating Officer in August 2020. Mr. Ku was promoted again to Vice President of Facility in December 2021. In January 2023, Mr. Ku joined PRG as Chief Development Officer. He also serves in the same capacity for us.

### Monte H. Baier – Senior Vice President, General Counsel and Secretary

Mr. Baier joined PRG in September, 2007 as Senior Vice President and General Counsel and became our Secretary in May, 2016. He has responsibility for all legal and regulatory affairs.

Douglas Stalgren – Vice President, Panda Express International

Mr. Stalgren joined Panda Restaurant Group in August 2004. In October 2006 he was promoted to Director of Real Estate Legal for Panda Restaurant Group. In April 2007, Mr. Stalgren was promoted to Executive Director/Director, Legal for Cherng Family Trust, which he served until May 2011. In May 2011, Mr. Stalgren was promoted to Executive Director for Panda Express International. In May 2016, Mr. Stalgren was promoted once more to Vice President, Panda Express International and continues to serve in that capacity for us.

Andrew Chan – Director, Domestic and International Licensing Operations

Mr. Chan started working at Panda Inn, Pasadena in July 1978 as a waiter. He was later promoted to be the Manager of Panda Inn in 1983. In August of 1989, he was promoted to be the Director of Panda Inn. In 1990, he became the Regional Director of Panda Express Operations overseeing and developing the markets of San Diego, Hawaii and Orange County, in charge of financial, people development and operation excellence results. In 2010, he was promoted to Zone Vice President, Director of Operations overseeing Nevada, Kansas, Nebraska, and Southern California Regions. In February of 2012, he decided to retire after 35 years of service. In February 2019, he returned and joined PRG as Director, Domestic and International Licensing Operations and also serves in the same capacity for us.

Donna Wanser – Vice President, Real Estate Legal [and Property Management](#)

Ms. Wanser joined PRG in November, 2000 as Executive Director, Real Estate Legal/Lease Administration and was promoted to Vice President, Legal in November, 2004, where she currently serves and has full responsibility for all Real Estate Legal, Property Management, Legal Licensing and various PRG corporate functions. [She also serves the same capacity for us.](#)

~~Hector Coronel – Vice President of Portfolio Strategy~~

~~Mr. Coronel joined PRG in June, 2004 and has opened street stores throughout the country as a street level dealmaker. In August, 2014 he was promoted to Director, Non-Traditional Business Development, where his responsibilities involve managing the Mall portfolio and licensing new restaurant development. In September 2019, he was promoted to Executive Director of Asset Management and Non-traditional Business Development. In April 2023, he was promoted to Vice President of Portfolio Strategy. He also serves in the same capacity for us.~~

Brian Jarvis – Executive Director of Business Development, Non-Traditional, Licensing & International

Mr. Jarvis joined PRG in May 2006 as Real Estate Manager. He also worked as a financial analyst forecasting system wide sales and as a portfolio manager overseeing Panda's real estate assets and served as Senior Real Estate Manager from July 2014 to June 2018. He became Director of Non-Traditional and Licensing in June 2018. As Director of

Non-Traditional and Licensing at PRG, Mr. Jarvis is responsible for non-traditional real estate development in the United States and Canada. He leads new restaurant growth for airports, universities, military bases, stadiums, theme parks, hospitals, and casinos. He was promoted to Executive Director of Business Development, Non-Traditional, Licensing & International in August 2022. He also serves in the same capacity for us.

### **ITEM 3: LITIGATION**

#### Pending

*Aveon Goosby v. Panda Restaurant Group, Inc./Panda Express, Inc.* (California Superior Court, County of Los Angeles, Case No. 23STCV15228). On 5/23/23 we received Plaintiff's written PAGA notice for claims against Panda. The notice alleges Panda violated Labor Code Section 1391 by employing Plaintiff and other similarly situated associates for hours beyond what is legally allowed. Specifically, requiring minors, under 18 years old, to work more than four hours on school days and after 10pm on days that precede a school day. We have filed a motion for judgment on the pleadings due to the defective nature of the PAGA letter. PRG intends to vigorously defend against the claims in the action.

*Aveon Goosby v. Panda Restaurant Group, Inc./Panda Express, Inc.* (California Superior Court, County of Los Angeles, Case No. 23STCV31730). In a separate individual action, on December 28, 2023, former associate, Aveon Goosby filed a complaint against PRG alleging: (i) Whistleblower Retaliation; (ii) Wrongful Termination and (iii) Intentional Infliction of Emotional Distress. We are vigorously defending against the claims in the action and will be filing a demurrer to the complaint shortly. PRG intends to vigorously defend against the claims in the action.

*Marc-Antony Halliday v. Panda Restaurant Group, Inc.* (Superior Court of the State of California, County of Los Angeles, Case No. 24STCV12667). On 5/16/24, former associate Marc-Antony Halliday filed class action lawsuit against PRG alleging claims for: (1) negligence; (2) negligence per se; (3) declaratory judgment; (4) violation of California Consumer Privacy Act; (5) violation of California Consumer Rights Act; (6) violation of California's Unfair Competition Law; and (7) invasion of privacy. The Halliday lawsuit is one of nine class action lawsuits filed against PRG arising out of a data security incident which occurred between March 7, 2024, and March 10, 2024. On October 1, 2024, the parties agreed to a conditional global settlement of all the lawsuits. As part of the conditional settlement, the plaintiffs dismissed the related lawsuits, and all claims related to the Data Breach will be combined and resolved in the Halliday case. The parties are in the process of finalizing the settlement approval paperwork. The court set April 28, 2025, as the deadline for the plaintiffs to file their motion for preliminary approval of the settlement.

*Americo Pena, as an individual and on behalf of all others similarly situated v. Panda Restaurant Group, Inc., Panda Express, Inc., and Does 1 - 50* (Superior Court of the State of California, County of Los Angeles, Case No. 24STCV15775). On June 24, 2024 Plaintiff filed a class action asserting: (1) Unpaid Wages; (2) Inaccurate Wage Statements; (3) Unfair or Unlawful Business Practices; and (4) Violation of the California Labor Code. The suit alleges Panda violated Labor Code Section 1391 by employing Plaintiff and other similarly situated associates for hours beyond what is legally allowed, including, but not limited to, requiring minors, under 18 years old, to work more than four hours on school days and after 10pm on days that precede a school day. PRG intends to vigorously defend against the claims in the



[action.](#)

Concluded

~~*Fortunee Massuda v. Panda Express, Inc., Panda Restaurant Group, Inc., Citadel Panda Express, Inc., Andrew Cherng and Peggy Cherng* (U.S. District Court for the Northern District of Illinois – Eastern Division, Case No. 12-CV-09683). On December 5, 2012, Dr. Fortunee Massuda (“Massuda”) filed a complaint against PEI, PRG, and CPE, and each of their principal shareholders (collectively, the “Panda Companies”), alleging that the Panda Companies: (i) were unjustly enriched; (ii) defrauded Massuda of her investment interest in PE Chicago and Rezko Enterprises; (iii) conspired to defraud Massuda of same; (iv) aided and abetted a breach of fiduciary duty by Rezko; (v) violated the Illinois Uniform Fraudulent Transfer Act – Actual Fraud (740 ILC 160 et. seq.); and (vi) violated the Illinois Uniform Fraudulent Transfer Act – Constructive Fraud (740 ILC 160 et. seq.). All of these allegations are related to the Sirazi case referenced above and similarly arise from PEI’s purchase of PE Chicago’s interest in the Rezko-Citadel partnership on June 1, 2006 (the “Transaction”). Massuda sought actual and exemplary damages for an unstated amount (but not less than \$4 million), the unwinding of the Transaction, avoiding the Transaction, awarding the cash value of the same transferred interest based on its fair value to certain creditors including Massuda, statutory relief under the Illinois Uniform Fraudulent Transfer Act, interest, and attorneys’ fees and costs. The Panda Companies were successful in seeking dismissal of all allegations except one. Massuda appealed the decision to the 7th Circuit Court of Appeals on January 22, 2014, and the 7th Circuit court affirmed that decision in favor of the Panda Companies on July 7, 2014.~~

*Khan Kudo, individually and on behalf of all persons similarly situated v. Panda Express, Inc. and Panda Restaurant Group, Inc.* (United States District Court, Southern District of New York, Case No.: 09 CV 0712-CS). On January 26, 2009, Khan Kudo, a former General Manager, filed a lawsuit against PRG and PEI on behalf of himself and current and former General Managers of Panda Express outside of California, alleging that they were entitled to unpaid overtime wages and liquidated damages under the Fair Labor Standards Act (the “FLSA”). He alleged that since January 26, 2006, Plaintiffs had been misclassified as “exempt”, but were actually “non-exempt” employees within the meaning of the FLSA. He alleged that these General Managers were required to be compensated for overtime compensation at rates no less than 1.5 times the regular rate of pay for hours worked in excess of 40 hours per week. He also alleged that PRG and PEI violated New York Labor Law, were unjustly enriched as a result of this practice, and retaliated against him in violation of 29 USC § 215(a)(3). The relief sought included an injunction against PRG and PEI from engaging in the alleged unlawful practices; unpaid wages for hours actually worked as well as overtime compensation due; compensatory and punitive damages in a sum to be determined at trial; interest; and costs and reasonable attorneys’ and expert fees. PRG and PEI defended the action, but to manage risk, elected to settle the matter (on a claims-made basis) with the entire class, in an aggregate amount equal to approximately \$2.98 million, which was approved by the court on June 26, 2015. After the claims process, the settlement amount was reduced to approximately \$2.86 million.

~~*Katia Rojo v. Panda Restaurant Group, Inc., Panda Express, Inc., Panda Express, LLC, and Panda Management Company, Inc.* (Superior Court of the State of California, County of Los Angeles, Case No. BC499661). On January 22, 2013, Katia Rojo, a former hourly employee at Panda Express, filed a class action lawsuit alleging that PRG, PEI, PEL, and PMC: (i) failed to timely pay final (regular) wages after separation from employment; (ii) failed to pay overtime at the proper rate; (iii) failed to pay meal and/or rest period premium wages; (iv) failed~~



~~to pay vacation wages; (v) failed to provide complete and accurate wage statements; (vi) failed to timely pay overtime, meal/rest premium wages, and vacation wages after separation from employment; and (vii) subjected Plaintiffs to unfair business practices related to same. Plaintiffs sought declaratory judgments confirming unlawful business practices, injunction against same, damages in an unspecified amount, penalties, pre-judgment and post-judgment interest, attorneys' fees and costs, and restitution. The allegations in this particular matter are related to the claims in the *Josefina Diaz* matter above, and Rojo elected to opt-out of settlement. PRG, PEI, PEL, and PMC defended the action, but to manage risk, elected to settle the matter with Rojo for \$8,000 in exchange for the dismissal of the case based on a settlement agreement effectively dated April 3, 2015.~~

~~*Danny Diaz v. Panda Restaurant Group, Inc., and Panda Express, Inc.* (Superior Court of the State of California, County of Los Angeles, Case No. BC500664). On February 7, 2013, Danny Diaz, a former hourly employee at PEI, filed a lawsuit alleging that PRG and PEI: (i) failed to pay regular wages based on work completed while not clocked in; (ii) failed to timely pay wages after separation from employment; and (iii) subjected Diaz to unfair business practices related to same. Diaz sought declaratory judgments confirming the violations alleged, general, special, liquidated, actual, consequential, and incidental damages in an unspecified amount, pre-judgment interest, attorneys' fees and costs, penalties, restitution, appointment of a receiver to manage awarded funds, and injunctive relief. PEI and PRG defended the action, but to manage risk, elected to settle the matter with Diaz for \$22,500. Pursuant to the settlement, this case was dismissed on May 13, 2014.~~

*Carmelo Trujillo v. Panda Restaurant Group, Inc., Panda Express, LLC, Panda Express, Inc., Panda Express (P.R.), Inc, and Does 1 through 50.* (California Superior Court, County of San Diego, Case No. 37-2015-00034660-CU-WT-CTL). On October 14, 2015, Carmelo Trujillo, a former associate working as kitchen help at a Panda Inn, located in San Diego, California, filed a suit against PRG, PEI, PE (PR) and PEL (together "Panda") alleging: (i) harassment and hostile work environment; (ii) failure to take all reasonable steps to prevent harassment, hostile work environment and retaliation; (iii) unlawful retaliation; (iv) discrimination and wrongful termination on the basis of sex and marital status; (v) discrimination and wrongful termination on the basis of disability/medical condition; (vi) wrongful termination in violation of public policy; and (vii) unfair business practices. Plaintiff specifically sought \$85,000. Plaintiff alleged he was inappropriately groped and touched by his supervisor and claimed he reported the incidents to his managers at the restaurant. To manage risk on or about March 18, 2016, Panda entered into a settlement agreement and release of claims for \$38,000.

*Javier Lopez Tapia v. Panda Express, LLC, Panda Express, Inc., Panda Express (P.R.), Inc., and Does 1 through 50* (California Superior Court, County of Los Angeles, Case No. BC607846). On January 21, 2016, former associate Javier Tapia filed a class action against PEL, PEI, and PE (PR) ("Panda") alleging: (i) unfair competition in violation of California Business & Professions Code §17200; (ii) failure to pay overtime wages in violation of California Labor Code §510; (iii) failure to provide accurate itemized statements in violation of California Labor Code §226; (vi) failure to provide meal and rest breaks in violation of the California Wage Orders and pursuant to California Labor Code §226.7 and (v) failure to provide wages when due in violation of California Labor Code §§201, 202 and 203. On March 21, 2016, Plaintiff filed a first amended complaint which added a claim for the violation of the Private Attorneys General Act. Plaintiff demanded a jury trial and sought restitutionary disgorgement, compensatory damages, the greater of \$50 or actual damages for the initial pay period per violation and \$100 for each member of the California sub-class and other monetary relief for penalties, costs and

fees. Panda defended the action, but to manage risk, elected to settle the matter for \$4.1 million, which was approved by the court on November 21, 2018.

*Jeff Ross and Roxanne Oliveira v. Panda Restaurant Group, Inc., and Does 1-50* (California Superior Court, County of Los Angeles, Case No. 21STCV03662). On January 29, 2021, guests Jeff Ross and Roxanne Oliveira filed a class action against PRG alleging: (i) unfair competition in violation of California's Unfair Competition Law, California Business & Professions Code §17200 et seq. and (ii) violation of California's Consumer Legal Remedies Act, California Civil Code §1750 et seq.. The action relates to our online/mobile ordering delivery fee. The parties have reached a settlement agreement and obtained court approval on November 20, 2023. The parties have agreed there is no admission of liability on the side of PRG. Plaintiffs' counsel filed a Second Amended Complaint to incorporate the causes of actions and class members in *Natasha Scott v. Panda Restaurant Group, Inc., and Does 1-50* (U.S. District Court – Central District of California, Case No. 2:21-cv-05368-MCS-GJS) to this action on December 6, 2022. The parties settled the matter for \$900,000 in cash and up to \$500,000 in vouchers, to be distributed amongst those who elected to participate in the settlement.

*Natasha Scott v. Panda Restaurant Group, Inc., and Does 1-50* (U.S. District Court – Central District of California, Case No. 2:21-cv-05368-MCS-GJS). On July 1, 2021, guest Natasha Scott filed a class action against PRG alleging: (i) unfair competition in violation of California's Unfair Competition Law, California Business & Professions Code §17200 et seq.; (ii) violation of California's Consumer Legal Remedies Act, California Civil Code §1750 et seq.; and (iii) violation of Michigan Consumer Protection Act., Michigan Compiled Laws § 445.903, et seq.. The action relates to our online/mobile ordering delivery fee. The parties have reached a settlement agreement and obtained court approval of a settlement in *Jeff Ross and Roxanne Oliveira v. Panda Restaurant Group, Inc., and Does 1-50* (California Superior Court, County of Los Angeles, Case No. 21STCV03662) on November 20, 2023. The parties have agreed there is no admission of liability on the side of PRG. The parties settled the matter for \$900,000 in cash and up to \$500,000 in vouchers, to be distributed amongst those who elected to participate in the settlement.

*Lesly Minas v. Panda Express, Inc.; Panda Restaurant Group, Inc., and Does 1-100* (California Superior Court, County of Los Angeles-Central District, Case No. 21STCV29628). On August 11, 2021, former associate Lesly Minas filed a class action against PRG alleging: (i) failure to pay wages for all hours of work at the legal minimum wage rate in violation of California Labor Code §1194 and 1197; (ii) failure to pay overtime wages in violation of California Labor Code §510 and 1194; (iii) failure to authorize or permit meal periods in violation of California Labor Code §512 and 226.7; (iv) failure to authorize or permit required rest periods in violation of California Labor Code §226.7; (v) failure to indemnify employees from employment-related losses and expenditures in violation of California Labor Code §2802; (vi) failure to timely pay earned wages during employment in violation of California Labor Code §204; (vii) failure to provide complete and accurate wage statements in violation of California Labor Code §226; (viii) failure to pay all wages timely upon separation of employment in violation of California Labor Code §201, 202, and 203; (ix) disproportionate adverse effect on a protected group in violation of California Labor Code §1197.5 and Government Code §12940. et seq.; and (x) unfair business practices in violation of California Business and Professions Code §17200, et. seq.. On August 11, 2021, Plaintiff sent a Private Attorneys General Act ("PAGA"). The relief sought includes a finding of violation on side of PRG; damages, according to proof, including but not limited to unpaid wages, unpaid use and/or costs of necessary tools

and/or resources; for any and all legally applicable penalties; liquidated damages pursuant to California Labor Code §1194.2; pre-judgment and post-judgment interest; attorney's fees and cost of suit; restitution; injunctive relief; and other further relief in law and/or equity as the Court deems just or appropriate. PEI and PRG defended the action, but to manage risk, elected to settle the matter, as described in *Yaritza Martinez v. Panda Express, Inc., Panda Restaurant Group, Inc., Panda Express, LLC, and DOES 1-10* (California Superior Court, County of Solano, Case No. FCS059627).

*Jeffrey Lee v. Panda Restaurant Group, Inc.* (County of San Francisco Superior Court PAGA, Case No. CGC-22-599478), On March 16, 2022, Plaintiff filed a class action in the San Francisco County Superior Court against Panda Express, LLC, Panda Express, Inc. and Panda Express (P.R.), Inc. ("Defendants"), alleging (i) Unfair competition; (ii) failure to pay minimum wages; (iii) failure to pay overtime wages; (iv) failure to provide meal periods; (v) failure to provide rest periods; (vi) failure to provide accurate itemized wage statements; (vii) failure to reimburse business expenses; and (viii) failure to provide wages timely. Defendants defended the action, but to manage risk, elected to settle the matter, as described in *Yaritza Martinez v. Panda Express, Inc., Panda Restaurant Group, Inc., Panda Express, LLC, and DOES 1-10* (California Superior Court, County of Solano, Case No. FCS059627).

*Yaritza Martinez v. Panda Express, Inc., Panda Restaurant Group, Inc., Panda Express, LLC, and DOES 1-10* (California Superior Court, County of Solano, Case No. FCS059627) On February 9, 2023, Plaintiff filed a lawsuit regarding her wage and hour PAGA claims, including: (i) Failure to Pay Minimum Wages, Including Overtime; (ii) Failure to Provide Lawful Meal Periods; (iii) Failure to Authorize and Permit Rest Periods; (iv) Failure to Timely Pay Wages During Employment; (v) Failure to Provide Accurate Itemized Employee Wage Statements; (vi) Failure to Reimburse Necessary Expenses; (vii) Failure to Keep Accurate Payroll Records; (viii) Failure to Timely Pay All Wages Owed Upon Separation of Employment; and (ix) Failure to Pay Sick Pay at the Proper Rate. PEI and PRG defended the action, but to manage risk, elected to settle the matter, along with *Jeffrey Lee v. Panda Restaurant Group, Inc.* (County of San Francisco Superior Court PAGA, Case No. CGC-22-599478) and *Lesly Minas v. Panda Express, Inc.; Panda Restaurant Group, Inc., and Does 1-100* (California Superior Court, County of Los Angeles-Central District, Case No. 21STCV29628) On December 16, 2024, the Court approved a settlement of \$2,752,965.

*NovaDine, Inc. v. Panda Restaurant Group, Inc.* (JAMS Arbitration), On 2/10/23, Plaintiff, PRGs former online ordering vendor filed its amended Arbitration demand against Panda Restaurant Group, Inc. ("PRG"), alleging: (i) Breach of Contract; (ii) Fraudulent Inducement; and (iii) Unlawful Disclosure of Trade Secrets. PRG prevailed on defending against the claims of Fraudulent Inducement but not on Breach of Contract and Unlawful Disclosure of Trade Secrets. Novadine was awarded \$1.7MM for the breach of contract, \$0 for unlawful disclosure of trade secrets, but was also ordered to pay PRG \$5.3MM. The award was finalized by the arbitrator on April 22, 2024.

Except for the actions disclosed above, no other litigation or action is required to be disclosed in this Item.

#### **ITEM 4: BANKRUPTCY.**

No bankruptcies are required to be disclosed in this Item.

**ITEM 5:        INITIAL FEES.**

The Initial License Fee (as defined in the Agreement) offered for new licensees is \$25,000, including for captive venue locations. All licensees must pay an Initial License Fee, even if the licensee is a joint venture company formed with our Affiliate.

We may negotiate different fee amounts and other terms as we consider appropriate, subject to applicable law. Initial License Fees received in the U.S. in 2023<sup>3</sup><sup>4</sup> ranged from \$12,500 to \$25,000, with the \$12,500 amount having been previously negotiated with multi-restaurant licensees open new restaurants under existing agreement terms.

Your Initial License Fee is fully earned and payable within 5 days of your receipt of our written authorization for your Restaurant you propose. No Initial License Fee is due until we give you a written authorization for your Restaurant, regardless of when the License Agreement is executed. The fee is entirely non-refundable.

We may negotiate different fee amounts and other terms as we consider appropriate, subject to applicable law. Initial License Fees received from licensees will be included in our general operating funds. In addition to the Initial License Fees, we or any Affiliate of ours may receive as reimbursement, payments for goods such as initial inventory or furniture, fixtures, equipment and supplies before your Restaurant opens.

**ITEM 6:        OTHER FEES.**

<b>FEE<sup>1</sup></b>	<b>AMOUNT</b>	<b>WHEN PAYABLE</b>	<b>REMARKS</b>
Royalty	Each Royalty Period you pay us 8% or as otherwise established, unless it is less than the minimum Royalty amount, which is currently \$4,000 <sup>2</sup> . If the percentage royalty amount is less, then you must pay the minimum Royalty amount for that Restaurant for that Royalty Period, unless otherwise negotiated between you and us.	The 15 <sup>th</sup> day of each month for all Royalty Periods completed in the preceding calendar month.	<p>Payments for each Restaurant start with the Royalty Period in which operations first begin.</p> <p>No minimum Royalty is due for a specific Restaurant in any Royalty period in which your Restaurant is closed due to a force majeure event.</p> <p>The minimum Royalty for a specific Restaurant is prorated for any Royalty Period in which your Restaurant is closed because of holidays or breaks at the venue location, which has been approved by the owner or lessor of the venue (such as a spring break or summer break period at a university site).</p> <p>We can adjust the minimum Royalty amount once a year according to the change in the prior year's Consumer Price Index. We have to give you advance written notice before an adjustment can be made.</p> <p>We have in the past deferred receipt of</p>

<b>FEE<sup>1</sup></b>	<b>AMOUNT</b>	<b>WHEN PAYABLE</b>	<b>REMARKS</b>
			<p>royalties during the 1<sup>st</sup> year of operations (which are later due and payable in subsequent years) for Panda Express Restaurants in certain military locations and may choose to do so currently.</p> <p>Royalties paid are in addition to the Proprietary Product markup described in Item 8.</p>
Initial Training Fees	There is no fee for initial training and we do not limit the number of persons who can attend as of the date of this Disclosure Document; but under the License Agreement we can charge up to \$1,000 <sup>2</sup> for each attendee beyond 8, per Restaurant. <sup>4</sup>	Before training or as incurred.	<p>You must pay us \$50-\$100 for uniforms for each associate who attends.</p> <p>You are responsible for all fees, transportation, salary, living, incidental and other expenses of attendance for all training programs.</p> <p>We can adjust the initial training fee cap once a year according to changes in the prior year's Consumer Price Index.</p>
Opening Operational Assistance	\$500 <sup>2</sup> per whole or partial 8-hour day.	Before training or as incurred.	If we believe it necessary, we will provide you with opening operational assistance for the opening of your Restaurant, including on-site opening assistance for a time period we determine based on your experience and availability of trained personnel. You are responsible for our personnel's expenses, including travel, lodging, food and incidental expenses.
Remedial Training Fees & Fees for On Site Consultations Requested by You	\$500 <sup>2</sup> per whole or partial 8-hour day.	Before training or as incurred.	<p>We charge a fee for remedial training provided to you and/or your personnel. You are responsible for our personnel's expenses, including travel, lodging, food and incidental expenses.</p> <p>We can adjust the amount of the remedial training fee once a year according to changes in the prior year's Consumer Price Index.</p>
Online Training/ Continuous Education	Range between \$250.00 - \$500.00.	Before training or as incurred.	Amount varies by the number of people being trained.

FEE <sup>1</sup>	AMOUNT	WHEN PAYABLE	REMARKS
Inspections/ Quality Control Programs	<p>The current program(s) are identified at Section 10.8 of the License Agreement and in Item 8. The current charge is <del>\$163.77</del><u>177.24</u> per quarterly <del>cleaning</del><u>food safety</u> inspection, subject to 4 % annual increase. Refused Entry Fee <del>\$163.77</del><u>177.24</u> will be charged if you refuse the above inspection. Current charges for customer service satisfaction surveys range from <del>\$1720</del>-<del>\$2022 per store per month.</del></p> <p>The current charges for Mystery Shopper services range from <del>\$46</del><u>19.75</u>-\$55, in addition to <del>\$911</del>-<u>\$12</u> meal reimbursement per service.</p>	As incurred.	<p>The current inspection program(s) are currently conducted by a third- party company described in Item 8, subject to change. We or PRG are billed by the third party for charges for all Panda Express Restaurants, and licensees reimburse us or PRG as applicable for their portion of the related cost. The cost is the same for your Restaurant(s) as for Panda Express Restaurants owned by us or our Affiliate.</p> <p>The cost of customer satisfaction surveys is subject to change by the vendor. You will be responsible for cost of food you provide to guests that redeem a coupon for completing a survey.</p> <p>We can add new inspection programs and quality control measures at a future date.</p>
Transfer Fee	A non-refundable transfer fee of \$10,000 <sup>2</sup> per transferred Restaurant, plus our out of pocket costs associated with the transfer, including attorneys' fees. This amount is due even if transfer is not completed for any reason.	Payable upon application for transfer.	<p>If you own multiple locations, the cumulative transfer fee will not exceed \$30,000<sup>2</sup> per transfer transaction.</p> <p>We can adjust the Restaurant transfer fee and the cumulative transfer fee once a year according to changes in the prior year's Consumer Price Index.</p>
Inspection or Audit Costs	The Royalties on the understated amount, with interest, plus the cost of <u>the</u> inspection or audit, if applicable.	On demand.	Reasonable audit/inspection costs are payable if the amount of the understatement exceeds 3%.
Interest on Late Payments; Bank Charges	<p>10% per annum, or, if lower, the maximum lawful rate.</p> <p>Amount of any bank fees/charges for dishonored payments.</p>	On demand.	
Successor Restaurant Fee	\$10,000 <sup>2</sup> per Restaurant.	When you elect a successor operating term for a specific Restaurant.	We can adjust the successor Restaurant fee amount once a year according to changes in the prior year's Consumer Price Index.



<b>FEE<sup>1</sup></b>	<b>AMOUNT</b>	<b>WHEN PAYABLE</b>	<b>REMARKS</b>
Management Fees and Costs	7% of Gross Volume, per Restaurant managed by us, plus our costs.	If you do not cure an operating default, and we elect to manage your Restaurant(s).	We can discontinue providing management services on no less than 10 days' notice.
Gift Card Program Participation Fees (Optional)	Currently participants pay a card cost of between \$0.09 and \$0.535 per card, and a transaction fee of between \$0.0199 and \$0.032 per transaction, depending on volume, plus their share of technical support, set-up, packing costs, fulfillment costs, and administrative costs.	As incurred, if you elect to participate in the gift card program.	There could be additional item fees, such as card carriers or promotional materials that are not covered in this amount.  You are not required to participate in this program as of the date of this Disclosure Document.
Tax Payments	Unknown	On demand	You reimburse us for any gross receipts taxes, value added taxes, sales taxes, use taxes, personal property taxes or any other taxes we pay on your behalf or we incur because of payments you make. You also pay withholding tax if required under law.
Early Termination Fee	An amount equal to the anticipated amount of royalties you would have paid to us had you operated for the full required eight month notice period (based on the average daily Gross Revenues and related royalty fee during the full prior calendar month times the number of days to reach the required eight month notice period).	On demand.	Payable if you exercise your early termination right without providing a full eight months' prior notice.
Quarterly Promotional and Marketing Campaign Materials	\$300-\$1,000 per year.	As incurred	You must purchase approved campaign materials from our marketing department.

**NOTES:**

<sup>1</sup> All fees are non-refundable and payable to Citadel Panda Express, Inc., unless otherwise noted. You are not required to pay us or any affiliate of ours any other fees or any

fees that we or an affiliate collect for a third party in connection with your franchise. We reserve the right to waive or prorate any fees.

Amounts due to us are payable by wire transfer, ACH (Automated Clearing House), or another method or in another manner as stated in the Manuals. Payments must be received by us or credited to our account, as applicable, by end of business on the date due. We can apply any payments owed by you to any debt of yours that we choose. We also can set off any amounts we owe to you against any amount you owe to us or our Affiliates. We can keep amounts received on your account for debts you owe us. We may elect to waive and/or credit, reduce or defer payment of any and all fees and charges of any kind related to a license and/or licensee on a case-by-case basis as we consider appropriate and as permitted by law. We may negotiate different fee amounts and other terms with you as we consider appropriate. You should understand that other licensees and other Panda Express Restaurants may operate under more favorable fee and Proprietary Product markup terms than you will have.

<sup>2</sup> This amount is current as of the date of this Disclosure Document. We can opt to adjust it once a year in proportion to the changes in the Consumer Price Index (U.S. Average, all items), maintained by the U.S. Department of Labor (or any successor index) as compared to the previous year. We will notify you of any percentage adjustment we make in any year.

<sup>3</sup> "Gross Volume" includes the amount of sales of all products and services sold in, on, about or from your Restaurant, whether for cash or on a charge, credit or time basis, without reserve or deduction for inability to collect, including, but not limited to all charges and/or revenues that are received or earned by you and/or your Affiliate:

A. by, at or in connection with any Restaurant operated by you including beverage sales, whether they are (i) a part of a Panda Express combination plate, or (ii) being purchased through a Panda Express register and sold under Panda Express Marks or Trade Dress;

B. from sales of Panda Express products in violation of the License Agreement at locations outside a Restaurant;

C. from proceeds of any business interruption insurance, less the actually paid deductible amount;

D. from mail, fax, telephone orders, third-party delivery services and/or any orders received through other electronic or other means and filled on or from a Restaurant;

E. from all deposits not refunded to purchasers;

F. from orders sold under Panda Express Marks or Trade Dress though filled outside a Restaurant; and

G. in connection with any Similar Business operated in violation of the License Agreement.

All sales and/or billings, whether collected or not, will be included in Gross Volume, with no deduction for credit card, third-party delivery service charges or fees, or other charges. Gross Volume does not include sales tax collected and paid when due to the appropriate taxing



authority and actual customer refunds, adjustments, credits, and employee discounts given. If all Royalty payments to us are paid on time and the cumulative amount of Royalty payments for a particular Restaurant exceed the applicable Royalty percentage rate on Gross Volume earned or received at that Restaurant for any calendar year, we will credit the excess amount against future Royalties you owe for that particular Restaurant.

We can adjust the percentage Royalties and the minimum Royalty amount for future Restaurants. We will notify you of any modification to the Royalty percentage and/or Minimum Royalty amount to be applied to a future Restaurant when we send you our written authorization for a proposed location. No adjustment would apply retroactively to any Restaurant authorized or operating at the time of the adjustment (except for any applicable inflation adjustment), unless you and we mutually amend the License Agreement. The current Royalty period is a four-week period. If we change the time period, any amounts that are paid based on that period will be appropriately adjusted, as will the due dates of any reports or other matters impacted by the change to the time period.

Before opening or operating any Restaurant, your Head of Operations, Operations Training Leader, Store Manager, Assistant Manager(s), Head Chef(s), Shift Lead(s), Cook(s), Kitchen Help, and Counter Help for that Restaurant must attend and successfully complete the applicable initial training program.

#### **ITEM 7. ESTIMATED INITIAL INVESTMENT**

##### **YOUR ESTIMATED INITIAL INVESTMENT**

<b>Type of Expenditure<sup>1</sup></b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is Made</b>
Initial License Fee <sup>2</sup>	\$25,000	Cashier's check	Within 5 days of your receipt of our written authorization for your Restaurant	Us
Lease of Premises (Initial 3 months' rent) <sup>3</sup>	\$10,000 - \$425,000	As incurred	As arranged	Lessor (Landlord)
Leasehold Improvements <sup>4</sup>	\$100,000 - \$1,500,000	As arranged	Before opening	Lessor or contractors, us and/or our Affiliates
Furniture, Fixtures, Equipment and Supplies <sup>5</sup>	\$120,000 - \$650,000	Varies with supplier	As incurred	Approved Suppliers, us and/or our Affiliates

Type of Expenditure <sup>1</sup>	Amount	Method of Payment	When Due	To Whom Payment is Made
Initial Inventory <sup>6</sup>	\$11,000 - \$18,000	Lump sum	Varies with Supplier	Approved Suppliers, us and/or our Affiliates
Computer Hardware and Software <sup>7</sup>	\$16,500 - \$27,000	As arranged	As incurred	Approved Suppliers
Non-resettable cash register(s)	\$6,000 – \$8,000	As arranged	As incurred	Outside supplier or vendor
Insurance <sup>8</sup>	<del>\$90,000</del> 94,500 - <del>\$150,000</del> 157,500 (annual premium)	As arranged	As incurred	Insurance carrier
Expenses Incurred During Initial Training <sup>9</sup>	\$13,000 - \$29,000	As Incurred	During training	Transportation lines, hotels, restaurants
Architectural and Design Fees	\$35,000 - \$120,000	Lump sum	As incurred	Architects and designers
Construction Supervision	\$20,000 - \$150,000	As arranged	As incurred	General contractor
Sales Tax Deposits	\$4,500 - \$10,000	Lump sum	Before opening	State revenue department
Telephone, Fax and other Communication Related Fees	\$500 - \$1,000	As incurred	As incurred	Outside suppliers or vendors
Licenses and Permits <sup>10</sup>	\$1,500 – \$60,000	As required	As incurred	Applicable agency/governmental authorities
Payroll and Related Taxes <sup>11</sup>	\$39,000- \$65,000	As incurred	As Incurred	Employees

Type of Expenditure <sup>1</sup>	Amount	Method of Payment	When Due	To Whom Payment is Made
Additional Funds (3 months) <sup>12</sup>	\$18,000 -\$30,000	As incurred	Before opening	Vendors, utilities, employees
TOTAL <sup>13</sup>	<del>\$510,000</del> <u>514,500</u> – <del>\$3,268,000</del> <u>3,275,500</u>			

## NOTES:

<sup>1</sup> The initial investment table shows certain expenditures required to open a single Panda Express Restaurant. Note that these amounts may vary widely. The figures provided apply to all types of Panda Express Restaurants and venues. Costs depend on whether or not a building is new construction or an existing restaurant, as well as the condition of the property, the geographical location and how big it is. Amounts paid to us are nonrefundable unless otherwise noted. Amounts paid to suppliers/vendors are refunded according to arrangements you make with the vendor, if any. These figures are estimates of the range of some of your initial costs in developing a single Restaurant and in the first three months operating that location. Your actual initial costs may be less or more. If you acquire an operating Panda Express Restaurant from PEI the price you pay for its assets and other terms of acquisition will be negotiated between you and PEI and is not reflected in the above chart. If you are an owner in a joint venture company with one of our Affiliates, you also may make capital contributions to your business entity as provided in your operating agreement and as negotiated among the owners of the business entity licensee.

<sup>2</sup> **Initial License Fee.** This fee is nonrefundable.

<sup>3</sup> **Lease of Premises.** The rent estimates contemplate 3 months' rent, and the range is based on various Panda Express Restaurant venues throughout the country. Rent expense varies, and the low-high range given is based on location, square footage, age and condition of the structure, lease arrangements and other factors and could differ materially from area to area. In particular, rent in airports may be significantly higher than in other venues, and this accounts for the high end given in the above chart. Since real estate costs can vary significantly from market to market, you must investigate related costs in your own area. To assist you with your investigation, note that the typical Panda Express Restaurant in a captive venue will be approximately 500 to 1,500 square feet, although a few Panda Express Restaurants occupy approximately 3,000 square feet. Other charges may include Common Area Maintenance Charges ("CAM"), utilities, taxes, and insurance, as imposed by the facility. Leases frequently specify minimum rent and percentage rent (typically 10%) applicable above a threshold sales volume. In a food court environment, CAM typically amounts to 35% to 50% of minimum rent. A pro-rated charge for taxes, insurance and utilities also applies.

**4 Leasehold Improvements.** You must follow our design standards and construction process and have our approval to open. The cost of construction and leasehold improvements depends upon the size, condition, and location of your Restaurant and the local cost of labor. The range of figures stated for a Panda Express Restaurant is the cost of reasonable renovation or leasehold improvements and may be less if the lessor provides a construction allowance to lessee. Included in the estimate are construction charge backs for landlord-provided work. Fixtures include counters, tables, chairs, wall coverings, decorations and other fixtures. The cost of fixtures will vary, depending on the seating capacity of your Restaurant, lease or finance terms available to you, the layout of your Restaurant and other relevant factors. The high estimate contemplates leasehold improvements for approximately 2,500 square feet and includes an elaborate exhaust system, as is sometimes required by the applicable lessor.

**5. Equipment and Supplies.** The equipment necessary for the operation of a Panda Express Restaurant includes grills, refrigerators, induction table and other equipment. You will purchase or lease approved brands and models from approved, third party suppliers and, in limited circumstances, from us. The cost of the equipment, and the low-high range given, depends on financing terms available, the size of your Restaurant, brands purchased and other factors.

**6. Initial Inventory.** Your initial inventory will be purchased by you from designated or approved third party product suppliers and, in limited circumstances, from us. Initial inventory includes various food products, certain proprietary spice mixes, seasonings, flavorings, menu items, sauces and marinades, beverages, paper products, cleaning supplies and miscellaneous items used in the operation of your Restaurant. The initial inventory expenditure will vary, and the low-high range given was factored according to varying anticipated sales volume and current market prices for supplies.

**7. Computer Hardware and Software.** The cost of the computer equipment and software, including point of sale systems, needed to operate a Panda Express Restaurant varies, and the low-high range given is based on the manufacturer, the operating features, whether the equipment is already owned by you, whether the equipment is new or used, and whether you purchase or lease the equipment. This also includes the prepaid cost for the first year of required maintenance. We estimate it will cost \$14,000 to \$21,000 to purchase the computer hardware with an additional \$2,000 to \$4,000 for subscription fees and then additional \$500 to \$2,000 per year for maintenance fees. Computer hardware must include a stateful inspection or Next-Gen firewall and related switches. If you purchase a wireless access point it must be on a separate firewall segment from your point of sale. It is possible to subscribe to POS services that are fully cloud POS systems, in which case the recurring costs will increase while the initial costs will decrease.

**8. Insurance.** You must maintain in force at all times policies of insurance covering various risks and issued by carriers we approve. Policies must name us and our Affiliates as additional insured for Liability policies and meet other coverage criteria as specified by us in the Manual or otherwise. We specify the types and amounts of coverage required under these policies and can require commercially reasonable adjustments from time to time. Each such policy shall be underwritten by insurers rated "A-" or better, with minimum financial rating of VII, by A.M. Best Company.

Current insurance requirements include the following:

1. commercial general liability insurance with limits not less than \$10,000,000 per occurrence for bodily injury and property damage, products/completed operations, personal and advertising injury (which policy shall contain a contractual liability endorsement specifically deleting any contractual liability exclusion for personal injury and shall not have a deductible in excess of \$10,000). These requirements can be met with a combination of general liability and umbrella/excess liability policies. Terms and Conditions of umbrella/excess insurance must be as broad as underlying policies or greater. The insurance must be written on an occurrence basis; a claims made basis will not be accepted as compliance with the terms of the License Agreement.
2. automobile liability insurance with a limit of not less than \$3,000,000 per accident, bodily injury and property damage, for any owned, hired or non-owned vehicle used by you for the business (the auto liability shall also be scheduled as underlying on the umbrella/excess policy referenced above for additional limits);
3. cyber insurance coverage with an aggregate minimum limit of \$10,000,000. This insurance coverage shall include network security liability, employee privacy liability and electronic media liability. This insurance coverage shall be a worldwide coverage;
4. Property All Risk Insurance valued at replacement cost, including business interruption insurance providing for continued payment of all amounts due us and/or our Affiliate under this Agreement; and
5. worker's compensation insurance with a carrier and in amounts established under local law for each Restaurant and a policy of employer's liability insurance with limits of liability not less than \$1,000,000 per accident or disease.

If you are self-insured you may, with our prior written consent, self-insure the obligations described above, as long as you give us satisfactory evidence of comparable coverage, maintain a minimum net worth of ~~\$400~~150 Million, and submit annual audited financial statements which verify the minimum net worth requirement is met.

You must provide evidence of insurance in place on an annual basis and prior to signing the License Agreement. We must be specifically named as Certificate Holder and Additional Insured status granted for commercial general liability, automobile liability, and umbrella/excess insurance. Your insurance in place must be primary and our insurance shall be non-contributory. You shall waive all your rights of subrogation against us and notify your insurer of such.

**9. Initial Training Expenses.** The Initial License Fee covers an initial training program per Restaurant. All costs related to training for you and any of your personnel attending the initial training program, including any travel, living, incidental and other expenses, are your sole responsibility. The amount expended will depend, in part, on the distance you must travel and whether lodging is required. We also can charge a fee for training of additional and/or subsequent personnel.

<sup>10</sup> **Licenses and Permits.** You are solely responsible for identifying and complying with all applicable laws, regulations and ordinances. We make no representations or assurances about the type of licenses, permits, or other authorizations that are required for your particular Restaurant, whether for build out or for any legal compliance matters. You should investigate the requirements in your area and the related costs before acquiring a license.

<sup>11</sup> **Payroll and Related Taxes.** This category is an estimate amount for a month. The amounts may vary depending on how much you pay to your employees, the required staffing and the sales amounts.

<sup>12</sup> **Additional Funds.** Additional Funds is an estimate of the funds needed to cover certain business expenses during the first three months of operation of your Restaurant (excluding payroll and related taxes covered in a separate line item in the chart). You will need capital to support on-going costs of your business, such as additional inventory, supplies, utilities, recruitment and training costs, uniforms, donations and discounts. You also need to hire some outside services, such as companies offering security, safety, maintenance, quality control/evaluation, surveys, marketing, laundry, and professional services. New businesses often have larger expenses than revenues. The low-high range given shows that your costs will depend on factors such as how much you follow our recommended systems and procedures, your technical, marketing and general business skills, local economic conditions, the local market for your Restaurant, competition, local market costs, and your sales levels. This is only an estimate. You may need more additional funds during the 3 months of initial operation, and you will have ongoing expenses and revenue needs after the first 3 months. In addition, the estimates presented relate only to costs associated with the licensed business and do not cover any personal, "living" or other expenses.

<sup>13</sup> **Total.** This estimate of costs and expenses covers pre-opening expenses and the first 3 months of operations. All of the above amounts are estimates. We have implemented a pilot program on a limited basis under which a licensee's Restaurant may be free standing, developed with a drive-thru feature and have a larger footprint (estimated to be approximately 2,600 sq. feet) than a typical licensed captive venue location. We estimate that the total initial investment expenses noted above for such a drive thru location will increase by up to \$1,500,000, due in part to greater construction and site development costs; as well as increased furniture, fixtures, signage and equipment costs. In preparing the figures in this Item, we relied on our Affiliates' over 27 years of experience in the restaurant business. The total amounts listed in the above chart do not include tax obligations or royalties payments or provide for your cash needs to cover any financing you incur. Costs to open and to operate for 90 days may be more or less than the amounts specified above. The amount of reserves you need will vary greatly from licensee to licensee and will depend upon many factors, including the rate of growth and success of your business,

We urge you to retain the services of an experienced accountant or financial advisor to develop a business plan and financial projections for a particular Restaurant. We also recommend that you:

1. obtain, before purchasing a license, proposing your Restaurant, or making any expenditures or commitments, independent estimates from third party vendors;

2. discuss with current Panda Express licensees their economic experiences (including initial costs) in opening and operating a Panda Express Restaurant; and
3. evaluate the adequacy of your total financial reserves.

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

You must purchase, use and offer the types, brands and quality of equipment, products and services that we specify. We have the right to develop new items for sale at your Restaurant. We give you approved suppliers to contact for equipment, products and services that your business must use or provide and which meet Panda Express standards. We also have a right to designate a single supplier or multiple suppliers for any given item or service and may concentrate purchases with one or more suppliers. Except as noted below, there are presently no required or other material products or services for which we or our Affiliates are approved sources or exclusive suppliers. The only products you must buy from us are the Quarterly Promotional and Marketing Campaign Materials and the uniforms for training described in Item 6. As of the date of this Disclosure Document you pay our cost plus shipping for the promotional materials. We also have the option of charging you a markup in the future for our processing, handling and other expenses in connection with the promotional materials. In the future, we or our Affiliates may also become approved sources or exclusive suppliers for other products or services.

We designate exclusive suppliers for a variety of products and services that we consider essential to maintain uniform and consistent Panda Express quality and image. You must purchase Proprietary Products and Panda Express custom designed Equipment exclusively from our designated distributors or direct suppliers of these items. Proprietary Products generally consist of food items made according to our recipes and formulas and branded items. A list of Equipment requirements and Proprietary Products are available to you upon request, respectively, current as of the date of this Disclosure Document, and/or as we may specify in the Manuals from time to time. All other required food, beverages, Equipment and supplies must meet our specifications. These items can be purchased through our designated distributors/direct suppliers [under our designated program or agreement](#). If the lessor or the operations manager of the facility at which a Restaurant is established restricts access for purposes of inspection, product delivery or other business purpose, you must use best efforts to obtain the third party's consent to immediate access, including access for approved suppliers/distributors. You are responsible for ensuring the timely and efficient delivery of approved products to your Restaurant and for coordinating arrangements of the same between the lessor or operations manager and the distributor/supplier.

The list of Proprietary Products and custom-designed Equipment can change in the future. You also are required to pay for and participate in our current programs for evaluation and improvement in Safety/Cleanliness and Customer Satisfaction. Food Safety audits are conducted by Ecosure, an independent food safety audit division of Ecolab Inc. Customer Satisfaction is evaluated by Service Management Group, LLC. (through customer surveys) and Ipsos-Insight, LLC. (through mystery shopper services). Current charges for these programs are included in Item 6 of this Disclosure Document, but they can change.

You must notify us in writing if you wish to buy or use any not yet approved items or suppliers. You will submit to us the information, specifications, and samples we request and

pre-pay any reasonable charges connected with our review and evaluation of any proposal. We are not required to reveal recipes, specifications and/or formulas for Proprietary Products or specifications for custom-designed Equipment. We will notify you within a reasonable time (generally within 8 weeks) whether or not you are authorized to purchase or use the proposed items or deal with the proposed supplier. We can condition and/or revoke our approval of particular items or suppliers. Our criteria for supplier approval are available to you. We consider factors such as product safety, availability, quality, and brand equity.

We require you to purchase a temperature probe from any supplier of your choosing, as long as it meets the specifications we provide to you. Other than that item, we do not currently require specific hardware or software, although we have the right to do so. If we establish those requirements and generally require other Panda Express Restaurants in your geographic region to meet them, then you also will be required to buy and use the hardware, software or other system at each of your Restaurants. Currently, you must maintain a POS system that includes a “non-resettable grand total.” The cost of any optional or required maintenance and any support contracts, upgrades and updates will be determined by the suppliers of the systems you choose. While the following combination of hardware and software is not specifically required, it has been approved by us: Xenial POS software on NCR RealPOS ~~XR7CX7~~ or Posiflex XT~~838~~15 hardware. An acceptable system is available from numerous manufacturers.

We and our Affiliates don’t sell any products to licensees, other than a small amount of quarterly promotional material and uniforms, as described above. However, if we or our Affiliates were to sell any other products or services to you, we or our Affiliates would make a profit on the sales comparable to other suppliers in the industry. You would have to follow our then current order, delivery and payment policies and procedures. We and our Affiliates have a right to keep all rebates, discounts, allowances or other benefits earned as a result of your purchases of any required or other supplier’s products or services. Certain of our officers hold ownership interests in two of our required suppliers: (1) Stampede Holdings, LLC., which supplies beef to Panda Express Restaurants; and (2) I/O Controls Corporation, which supplies certain equipment such as warmers and LED light strips to Panda Express Restaurants.

We occasionally negotiate prices with 3<sup>rd</sup> party vendors for various designated equipment and other items, but we don’t have to do so. We and our Affiliates sometimes enter into agreements with the third -party suppliers and food service distributors that provide us or Affiliates marketing or promotional rebates or allowances, volume discounts or other economic benefits based on supplier sales to Panda Express Restaurants. For example, we have negotiated purchase supply agreements with ~~The Sygma Network and with McLane~~nationally recognized food service distributors to supply food and paper goods to Affiliate-owned Panda Express Restaurants and, if geographically feasible, to our licensees. You are not required to use the services of these suppliers for non-proprietary items.

As of the effective date of this Disclosure Document, we will charge you a surcharge of 10% on sales of Proprietary Products for your Restaurants in casinos, universities, military bases, airports and other captive venues. Some licensees operating as of the date of this Disclosure Document will not pay a surcharge or will pay a surcharge in a different amount. We’ve negotiated with some licensees in the past and have sometimes adjusted or eliminated the surcharge for them on a case-by-case basis, as we considered appropriate, and may do so in the future. We also may negotiate in the future with different suppliers or for different



surcharge amounts. You must sign a consent form authorizing suppliers to release to us information about your purchases of products or services for your Restaurant when you sign the Agreement. We do not currently have any purchasing or distribution cooperatives.

During our fiscal year ended December ~~3028~~, 2023~~4~~, our total revenue was ~~\$25,718,800~~~~28,262,859~~, of which ~~\$20,209,342~~~~22,332,786~~ was considered our total domestic revenue. Our revenue related to all licensee purchases or leases of required products and services was ~~\$2,336,303~~~~2,378,044~~, and is included in the preceding total domestic revenue figure. The ~~\$2,336,303~~ ~~(11.58~~~~2,378,044~~ ~~(10.65%~~ % of our total domestic revenue) represents the surcharges received by us in connection with licensee purchases of required products, as noted in the preceding paragraphs.

We also received approximately ~~\$886,866~~~~716,516~~ from U.S. licensees for quarterly promotional materials as well as “pass through” licensee supply purchases and payroll expenses. The ~~\$886,866~~~~716,516~~ is not included as revenue for purposes of our audited statements, which are prepared according to GAAP. These revenues just cover our actual reimbursements, costs, and shipping expenses, as applicable, and we do not make a profit on them. During the same fiscal year, our Affiliate, PRG, received a rebate in the amount of ~~\$322,695~~~~612,286~~ from a soda beverage supplier, 100% of which was then paid in 2024~~5~~ directly to the licensees that made the soda purchases. Our Affiliates retained no revenue from sales or leases of required products and services during 2023~~4~~.

We do not provide you with any material benefit (such as renewals or additional licenses) if you use our recommended or approved suppliers. However, the continuation of the License Agreement depends on your compliance with product and supplier requirements, as well as other terms of the Agreement.

We estimate that substantially all expenditures for products and services used in operating a Restaurant will be for goods and services that must meet our standards or specifications and be obtained from designated suppliers. We estimate that your costs for purchasing goods and services that must meet our standards or specifications and be obtained from designated suppliers will represent at least 85% to 90% of your total purchases in the establishment and operation of your Restaurant.

If any Affiliate of ours sells its existing Panda Express Restaurant to a licensee the Affiliate will receive revenues from the sale as provided in the purchase agreement signed between the Affiliate and the buyer. The buyer will also sign a License Agreement as a condition to the purchase.

**ITEM 9. FRANCHISEE'S OBLIGATIONS**

This table lists your principal obligations under the Agreement and related 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>SECTIONS IN FRANCHISE AGREEMENT ("FA"), ASSET PURCHASE AGREEMENT ("APA"), JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT ("LLCOA"), PROMISSORY NOTE ("PN"), SECURITY AGREEMENT ("SA"), CONTINUING GUARANTEE ("CG"), GIFT CARD PARTICIPATION AGREEMENT ("GCPA")</b>	<b>DISCLOSURE DOCUMENT ITEM</b>
a. Site selection, and acquisition/lease (Client contract)	FA Sections 2.1, 3.1 and 14.3, Exhibit 2.1, 3.1 and Schedule 1 APA Schedule A-1	Item 11
b. Pre-opening purchases/leases	FA Sections 3.1, 3.2 and 4.1 and Exhibit 3.1 APA Schedule A-2	Items 5, 6, 7 and 11
c. Site development and other pre-opening requirements	FA Sections 3.1 – 3.4, 4.1 and 5.1 APA Paragraphs 1, 2 and 7	Items 7 and 11
d. Initial and ongoing training	FA Sections 5.1, 5.2, 10.4, 14.3, and 16.5	Items 6, 7, 11 and 15
e. Opening	FA Sections 3.2 - 3.5	Items 7 and 11
f. Fees	FA Sections 5.1, 5.2, 9.1, 9.2, 9.4, 9.6, 10.1, 10.2, 10.4, 10.7, 10.8, 11.1 13.1, 13.3, 14.3, 15.3, 16.4 and 19.1 APA Preamble LLCOA Section 5.10 PN Section 2 GCPA Section 2	Items 5, 6, 7, 11 and 17 Exhibit K
g. Compliance with standards, policies/operating manual	FA Sections 2.1, 3.1-3.4, 4.1, 5, 7.1, 10, 11.2, 12.2, 13.1, 14.3 and 16 and Exhibit 8.1	Items 8, 11, 12, 13, 14, 15 and 16
h. Trademarks and proprietary information	FA Sections 2.1, 6, 8.1, 10.1, 10.2, 17.1- 17.3 and 19.5 and Exhibit 23.1 APA Paragraphs 3 and 16	Items 13, 14 and 17

<b>OBLIGATION</b>	<b>SECTIONS IN FRANCHISE AGREEMENT (“FA”), ASSET PURCHASE AGREEMENT (“APA”), JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT (“LLCOA”), PROMISSORY NOTE (“PN”), SECURITY AGREEMENT (“SA”), CONTINUING GUARANTEE (“CG”), GIFT CARD PARTICIPATION AGREEMENT (“GCPA”)</b>	<b>DISCLOSURE DOCUMENT ITEM</b>
	LLCOA Section 13.15	
i. Restrictions on products/services offered	FA Sections 2.1-2.2, 10.1 and 10.2 and Exhibits 10.1 and 10.2	Items 8 and 16
j. Warranty and customer service requirements	FA Sections 7.4 and 10.8	Item 7
k. Territorial development and sales quotas	FA Section 16.5	Item 12
l. Ongoing product/service purchases	FA Section 4 and Sections 10.1, 10.2 and 10.8 and Exhibits 10.1, 10.2 and 12.2	Items 6, 7, 8 and 11
m. Maintenance, appearance and remodeling requirements	FA Sections 3.1 – 3.4, 4.1, 10.1, 10.2, 14.3 and 15.3	Items 11 and 17
n. Insurance	FA Section 10.5 LLCOA Section 11.3 SA Section 5.11	Item 7
o. Advertising	FA Section 11	Items 7 and 11
p. Indemnification	FA Sections 7.4, 8.1, 10.3, 14.4, 17.4 and 19.5 APA Paragraphs 9 and 10 LLCOA Sections 11.1, 11.2, 12.9 SA Section 10	Item 17
q. Owner’s participation/management/staffing	FA Section 5 and Sections 7.1, 10.1, 10.4 and 14.3 and Exhibit 8.1 APA Paragraphs 10 and 11	Items 11 and 15
r. Records and reports	FA Section 12 LLCOA Section 9 SA Sections 3, 4.4, 5.2 and 5.3 CG Section 2.08	Items 8, 6 and 11
s. Inspections and audits	FA Sections 10.2 and 13	Items 6 and 12

<b>OBLIGATION</b>	<b>SECTIONS IN FRANCHISE AGREEMENT (“FA”), ASSET PURCHASE AGREEMENT (“APA”), JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT (“LLCOA”), PROMISSORY NOTE (“PN”), SECURITY AGREEMENT (“SA”), CONTINUING GUARANTEE (“CG”), GIFT CARD PARTICIPATION AGREEMENT (“GCPA”)</b>	<b>DISCLOSURE DOCUMENT ITEM</b>
	APA Paragraph 8 SA Section 5.2	
t. Transfer	FA Section 14 APA Paragraphs 4 – 7, 22 and Schedule A-3 LLCOA Section 7 PN Preamble and Section 4 SA Sections 11 and 21.1 CG Sections 3.08 and 3.09 GCPA Section 5	Items 6 and 17
u. Renewal	FA Section 15 PN Section 4 SA Section 20 CG Section 2.09	Items 6 and 17
v. Post-termination obligations	FA Sections 8, 17 and 19 and Sections 7.4, 13.2, 14, 17.4 and 19.5. APA Paragraphs 9, 10 and 20 LLCOA Section 8.6	Item 6 and 17
w. Non-competition covenants	FA Sections 17.4 and 19.5 APA Paragraph 16	Item 17
x. Dispute resolution	FA Section 19 APA Paragraphs 19 and 21 LLCOA Section 13.6 SA Section 24 CG Section 3 PN Section 4	Item 17
y. Contractor and Subcontractor Status	FA Section 19.14	Item 15
z. Vendor requirements for beverages	FA Section 10.1	Item 8
aa. Commingling	FA Addendum (If applicable)	Item 16

OBLIGATION	SECTIONS IN FRANCHISE AGREEMENT ("FA"), ASSET PURCHASE AGREEMENT ("APA"), JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT ("LLCOA"), PROMISSORY NOTE ("PN"), SECURITY AGREEMENT ("SA"), CONTINUING GUARANTEE ("CG"), GIFT CARD PARTICIPATION AGREEMENT ("GCPA")	DISCLOSURE DOCUMENT ITEM
bb. Personal Guaranty	FA Section 19.12 and Exhibit 19.12 CG	Item 15 Exhibit K

## ITEM 10. FINANCING

An Affiliate of ours (PRG or PEI) occasionally may make loans to our Panda Express Restaurant licensees at the Affiliate's sole option and in circumstances it finds appropriate. Most previous loans generally have been related to construction costs and were under \$100,000, but it is possible that an Affiliate may elect to offer financing for other purposes and in other amounts. Historically, these financial assistance arrangements have been infrequent. The charts below are based on the terms of template financing documents for a transaction, although the actual terms of any arrangement are subject to negotiation between the parties and the particular circumstances surrounding the transaction. We expect any loan amounts to vary with the specifics of the transaction. The schedule for repayment will generally correspond to the size of the loan (i.e., larger loan amounts may have longer periods of repayment).

<b>Item Financed</b>	Varies, but most frequently construction/build-out related.
<b>Source of Financing</b>	Our Affiliate(s).
<b>Down Payment</b>	None, but Security Agreement must be signed.
<b>Amount Financed</b>	Varies. Under \$100,000 in the preceding 3 fiscal years.
<b>Term (Years)</b>	Varies. 1 – 2 years in the preceding 3 fiscal years.
<b>Interest Rate</b>	7% (plus an additional 5% on default or other triggering event), as allowed by law; subject to negotiation.
<b>Monthly Payment</b>	Varies with loan amount and term.
<b>Prepay Penalty</b>	None.
<b>Security Required</b>	Continuing Personal Guarantee (if borrower is a business entity, owners having a legal or beneficial interest, directly or indirectly, can be required to sign a personal guaranty. Any guarantor's spouse or domestic partner also can be required to co-sign); Security Agreement (all property of the borrower is collateral on the loan, including current and future, tangible and intangible property).

<b>Item Financed</b>	Varies, but most frequently construction/build-out related.
<b>Late Fees / Liability Upon Default</b>	Late fee of \$500 if payment within 10 days after due date. On default, a) lender can accelerate repayment, with interest, fees & expenses, and rate increases by 5 percentage points, b) possible transfer of collateral, c) Uniform Commercial Code "UCC" liability applies, d) you pay collection costs & attorney's fees and e) lender has power of attorney. Default includes failure to pay on time; any cross-default on related financing documents or your License Agreement; a judgment against you, ordering you to pay more than \$100,000 or adversely affecting your business; failure to timely meet obligations; making material misrepresentations; if any obligation becomes unenforceable or enforceability is challenged; insolvency; abandonment of business; assignment for the benefit of creditors; bankruptcy; acceleration of debts to third parties; transfer or rearrangement of ownership resulting in current owners having less than 50% voting power; sale of all or most of your assets, appointment of receiver/trustee/levy of writ of execution on property; devalued collateral (if not replaced); loss of any license, permit, contract, etc. needed for your business operations.
<b>Loss of Legal Right on Default</b>	Lender has power of attorney, can take any proceeds from the insurance coverage on your collateral, can take, sell, lease or use all collateral. Your franchise can be terminated for a default.
<b>Other Material Terms</b>	<p>You pay all costs and attorney's fees.</p> <p>Waiver of rights of subrogation, full waiver of all legal defenses against payment and of statutory rights/benefits to extent permitted under law, waiver of jury trial and venue objections; no discharge with borrower's bankruptcy; all rights subordinated to lender's rights.</p> <p>Disputes must be resolved by binding arbitration with limited exceptions: disputes for amounts that can be resolved in small claims court must be filed there instead; the arbitration requirement does not limit actions for foreclosure of real property/personal property, setoff or repossession of collateral/proceeds of collateral, replevin, injunctive relief, attachment or the appointment of a receiver; disputes over a loan secured by real property can instead be referred to a referee under California Code of Civil Procedure Section 638 et seq.</p>

Our Affiliates have no plans to sell, assign, or discount the financing arrangement to a third party, though they have the right to do so.

Also, our Affiliate PRG is a minority member in some joint venture companies that we license to operate Panda Express Restaurants. PRG contributes capital to these joint venture company operations as a member of the joint venture.

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

**Except as listed below, Citadel Panda Express, Inc. is not required to provide you with any assistance.**

**Our Pre-Opening Obligations for each Restaurant.**

Before you open a Restaurant for business, we will:

1. Respond to you in writing within 30 days of receiving your request for our consideration of a proposed Restaurant and the complete site submittal package. If you do not receive a notice from us within the 30-day period, then our authorization is withheld. See Section 3.1 of the License Agreement.
2. Provide generic interior layout review assistance for each Restaurant based on standard criteria. We do not provide detailed architectural or construction drawings, design services or any other services associated with the establishment of a Restaurant. See Section 3.2 of the License Agreement.
3. Provide an initial training program for up to 8 attendees per Restaurant as part of the Initial License Fee payable per Restaurant. See Section 5.1 of the License Agreement.
4. If you have an asset purchase agreement with PEI, at closing, the transferred Restaurant will have a sufficient quantity of inventory to carry on business in the usual course.

**Our Obligations During the Operation of each Restaurant.**

During the operation of your Restaurant, we will:

1. Loan you (or allow you electronic or other access to) a copy of available Manuals. See Section 5.3 of the License Agreement. A copy of the table of contents for our Manual is attached as Exhibit D. Our Manual contains a total of 106 pages. Our operating system does not include any personnel policies or procedures or security-related policies or procedures that we (at our option) may make available to you in the Manuals or otherwise for your optional use. You will determine to what extent, if any, these policies and procedures might apply to your operations at your Restaurant. We neither dictate nor control labor or employment matters for franchisees and their employees and we are not responsible for the safety and security of your Restaurant's employees or patrons. You will be required to acknowledge and agree in the License Agreement that we and you are not joint employers of your employees and other personnel. We do not and will not share or codetermine any of your employees' essential terms and conditions of employment. More specifically, in no case do we have any authority to determine or set your employees': (1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and/or (7) working conditions related to the safety and health of employees. You alone have sole authority to determine any or all your employees' essential terms and conditions of employment.

2. Grant you a License to use our Marks and System for the operation of a Restaurant. See Section 6 of the License Agreement.

3. Periodically inspect and/or evaluate your Restaurant operations and provide guidance regarding the operation of your Restaurant. This guidance can be furnished in whatever manner we consider appropriate, including electronically, in writing, orally, telephonically, web-based and other training programs, on-site consultations and other methods we decide on. See Section 5.2 of the License Agreement.

4. Disclose to you Trade Secret and Confidential Information. See Section 8.1 of the License Agreement.

5. Provide guidelines, specifications, and procedures for your purchase of Products and Services. See Section 10.2 of the License Agreement.

6. Engage you in an annual review of your Restaurant operations, including a review of historical and projected performance data, business plans, growth strategies and other relevant information. See Section 12.3 of the License Agreement.

7. Repurchase all unused and usable Products and supplies inventory at your cost for that inventory, if you Terminate (as defined in the Agreement) the Agreement due to our default. In this case, we will bear the de-identification costs. See Section 18.1 of the License Agreement.

We may choose to have certain of our Affiliates provide assistance to you, including marketing, operational, and systems support services, but they are not obligated to do so.

### **Computer System**

Currently, you must maintain computer hardware and software that include an iPad, a temperature probe and a POS system featuring a “non-resettable grand total.” We have the right to full access to your point of sale and computer systems and all information and data these systems contain. You must provide us reports for each Royalty Period on the sales and operation of each of your Restaurant(s). Reports must be in a format we specify or approve.

We are not obligated to upgrade or update any hardware, software or other system. The cost you incur for any optional or required maintenance and any support contracts, upgrades and updates for your systems will be determined by your selected systems’ suppliers. We have approved the ~~Xenia POS software~~ [Xpient Iris](#) on NCR RealPOS ~~XR7CX7~~ or Posiflex ~~XT83815~~ hardware. We estimate it will cost \$2,000 to \$4,000 to purchase the computer software and estimate \$14,000 and \$21,000 to purchase the computer hardware. This system stores data on sales transactions and information for inventory control and financial management. Although we have not approved other systems, we may approve other systems on request if they meet our specifications. An acceptable system is available from numerous manufacturers.

Any system that you do choose must be a Payment Application Data Security Standard approved system, from the Payment Card Industry Security Standards Council. A list of these



applications can be found from the Payment Card Industry Security Standards Council at <http://www.pcisecuritystandards.org/>.

In choosing any system, you must install the system in accordance to the system providers PA-DSS implementation guide, and must at all times adhere to the obligations of the Payment Card Industry Data Security Standard, and provide to us an Attestation of Compliance in meeting that standard. Additional information regarding your obligations for the PCI-DSS can be found at <https://pcisecuritystandards.org/>.

### **Marketing Activities**

We have no formal advertising program for the franchise system and no franchisee advertising council. Instead, franchisees benefit from advertising and promotional programs implemented on behalf of all Panda Express Restaurants. You are not currently required to contribute to any marketing fund. The License Agreement does not grant you any right to have or participate in a marketing fund program or in a local or regional marketing cooperative. Before opening any Restaurant, you must buy an initial supply of Panda Express promotional materials. We specify what materials you have to obtain. These can include interior/exterior signage banners, window/door clings, scrolls, posters, counter cards, sneeze-guard slats/bursts/clings, menu board translites, display cases, crew-wear, training aids and an eLearning module (delivered electronically or via CD). These items are purchased from us or a designated supplier. As noted in Item 6, current promotional materials are bought from our Marketing department and displayed in your Restaurant as campaigns are introduced so we have a consistent brand image.

Your advertising must be conducted in a professional manner and conform to the highest ethical advertising standards and our policies. All advertising, promotional or marketing plans and materials that you use must be either developed by us (with no changes made) or approved by us in writing before use. You establish prices independently. You cannot use disapproved materials. You cannot use or display the Marks on the Internet, World Wide Web or other electronic media without obtaining our prior written consent and meeting our requirements. You also have to follow our policies about Internet key word purchases, social network pages, videos and other publications on the Internet which use the Marks. Neither you nor we are required to honor any coupon, discount or similar promotion undertaken by the other. See Sections 6.2, 11.1 and 11.2 of the License Agreement.

You must participate in any customer survey efforts we request, ask your customers to participate in them if requested to do so and incur the cost of food associated with coupons given to customers for completing the surveys. You also must post at each Restaurant a customer complaint telephone number, web-site address or other reasonable means of customer communication we specify. See Items 6 and 8 of this Disclosure Document and Section 10.8 of the License Agreement.

Under the License Agreement, the Panda gift card program and any loyalty or gift certificate program or any mobile or other payment capability/app/program we introduce can be optional or required, at our choice. You have to comply with the terms of any policies or procedures we establish for any program in which you participate, including payment of related fees. We also can require that you sign a participation agreement for the specific programs. If you choose to participate in our current gift card program, you will sign the participation

agreement attached to this Disclosure Document as Exhibit L. See Section 10.1 C. of the License Agreement.

### **Site Selection**

Site selection, development and any related matters are your sole responsibility. Our acceptance of any location is not a recommendation, approval or endorsement of the location. Our approval is not an indication that the location complies with any regulatory, zoning, environmental or other laws, regulations or requirements of any kind.

Licensees are most likely to locate their Restaurants in captive locations, such as universities, airports, sports arenas, military bases, casinos, travel plazas and similar venues. In approving captive sites we look at a variety of factors, including consumer traffic count and patterns. In more traditional sites, such as stand-alone locations or strip centers, we also consider factors such as population density, average household income, proximity to activity-generating businesses and a strong residential/business balance. If you are a Panda Express Restaurant operator that also operates non-Panda concept restaurants or food service businesses and you have an opportunity during the initial term to replace one of your other Asian concept operations with another Asian concept, you will with our approval, replace it with a Panda Express Restaurant.

You are responsible for identifying a site for the proposed development of each Restaurant. If you and we have agreed on a date by which you must begin looking for a site (a Site Search Implementation Date), it will be specified on Exhibit 2.1 to the License Agreement, and you must have leased an approved site within 210 days of the Site Search Implementation Date. In all events, you must deliver to us written notice of your site approval request at least 90 days prior to your commitment date for your lease or land purchase. You also send required site submittal package materials, which include plans, leases, and architectural drawings. We will advise you in writing whether or not we agree to authorize the proposed location within 30 days of our receipt of the notice and materials. If you do not receive a notice from us, our authorization is considered withheld. We are not required to approve any location. We have the right to approve the terms of the lease/sublease or purchase agreement for your location. We can require that a proposed lease for any Restaurant include terms for the protection of our intellectual property rights and that you sign a collateral assignment of lease agreement. (License Agreement, Section 3.1 C.) The current form of collateral assignment is attached to the license agreement as Exhibit 3.1. If you and we have not identified a Site Search Implementation Date on Exhibit 2.1 of the License Agreement and we have not approved any proposed location by the 2<sup>nd</sup> anniversary of the Effective Date for your License Agreement, your License Agreement will expire. You must not operate any Restaurant, use the Marks or make any commitments regarding a site until you have our written site authorization.

If you purchase an existing Panda Express Restaurant from PEI your authorized location also will be identified on Schedule A-1 to the Asset Purchase Agreement.

### **Contractor and Subcontractor Status**

We are not a contractor or subcontractor, agent, or employee of yours. You are an independent contractor and solely responsible for paying all taxes on payments received. You are required to direct and control your subcontractors and have full responsibility for all work, whether performed by you or your subcontractors. In this regard, you are responsible for the acts, omissions, or negligence of your employees, subcontractors and of all employees or agents of your subcontractors. You also are responsible for your subcontractors' compliance with the requirements of their contract, and with all applicable laws, rules, and regulations. You have exclusive control over the day to day operations of your Restaurant(s), including the right to hire and fire each employee and to make all decisions relating to staffing, scheduling, wages, discipline, safety and security and other terms and conditions of their employment. We are not a joint employer with you and at no time will your employees be our employees or the employees of any Affiliate of ours.

### **Typical Length of Time to Open your Restaurant**

We estimate the typical length of time from our approval of a proposed site to the opening of your Restaurant to be not more than 365 days. Factors affecting this length of time, and which might extend it beyond 365 days, can include availability of leasable space, inventory, equipment and supplies and obtaining all required permits, licenses, authorizations and insurance coverage. Unless you and we have identified a Site Search Implementation Date on Exhibit 2.1 of the License Agreement, there is no time limit for you to submit a written request for a site consideration or for opening of your Restaurant, but the initial term under the Agreement expires if no site is authorized by the second anniversary of the Agreement. You are required to give us an opportunity to review the lease before signing it and also must sign the collateral assignment of lease attached as Exhibit 3.1 of the License Agreement, which gives us the option to take over your lease if you default or your license for that Restaurant is terminated. Either party can cancel the License Agreement before a site is authorized under the Agreement.

### **Training**

The Store Manager(s), Assistant Manager(s), Shift Lead(s), Head Chef(s), Cook(s), Counter Help, and Kitchen Help for each Restaurant must participate in and complete initial training applicable to their positions to our satisfaction. Store Manager(s), Assistant Manager(s) and Head Chef(s)/Cook(s) are required to earn certifications for their respective positions, which requires that testing requirements be met to our satisfaction. Failure to satisfactorily complete initial training can result in termination of your License Agreement without refund.

Licensees shall always maintain on payroll, staffing and training certifications for at least: 1 certified Store Manager/Assistant Manager, 6 certified Panda Express Chefs/Cooks regardless of weekly sales (and 1 more for each increment of \$8,000.00 weekly sales in excess of \$7,000.00 per week), and 3 certified service Associates, regardless of weekly sales (and 1 more for each increment of \$8,000.00 weekly sales in excess of \$7,000.00 per week.(though these numbers can go even higher as a function of rising sales and customer activity or location). Refer to Exhibit D

of this Disclosure Document for current recommended daily staffing levels based on customer activity, which are subject to change.

If/when you have 5 or more open Restaurants, we recommend you hire an Operations Training Leader to oversee training. Each Operations Training leader must complete at least 4 weeks of training in a company-owned Panda Express Restaurant. This training is comparable to a Store Manager training process.

You must schedule your training session no less than three months before your opening and complete your training at least 1 week before your opening. All initial training must be completed before your Restaurant may open. The Initial License Fee covers your initial training program, though we can choose to charge up to \$1,000 per attendee if you have more than 8 attendees per Restaurant, subject to inflation adjustment. As of the date of this Disclosure Document our general practice is not to charge you for additional attendees, but we can modify this practice as we think appropriate. We can also require your Designated Individual to complete Store Manager training and obtain related certifications.

Our current initial training program is typically as described below, but all elements of initial training, ongoing requirements and certification programs/criteria are subject to change by us. Currently a Store Manager, Assistant Manager, and Head Chef each must be certified to successfully complete the program. A “Licensee’s Certified Training Unit” as described in the charts below is an existing Panda Express Restaurant managed by one of our certified and designated trainers. We expect your designated Licensee’s Certified Training Unit or other training location to be in your state, and try to conduct the training at a location within reasonable driving distance from your Restaurant.

The length and content of required training programs are flexible so we can vary them as we find appropriate, but are generally as follows. A “Week” is 5 consecutive, ~~40~~48 hour business days, but we can adjust this on a case by case basis.

**TRAINING PROGRAM**  
**Head of Business\* and Head of Operations\***  
**(11 Weeks)**

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Orientation & Safety	16	0	Panda’s company-owned Panda Express Restaurant(s), Licensee’s Certified Training Unit, or at some other location Panda designates.
Guest Service	8	24	Panda’s company-owned Panda Express Restaurant(s), Licensee’s Certified Training Unit, or at some other location Panda designates.

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Cooking & Serving	40	110	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Operations Management	30	100	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Fundamental Business Skills	24	56	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Professional & Personal Development**	30	0	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.

\* Head of Business training only applies to International Licensees located outside the U.S.

\*\* Head of Business may be exempt from attending Panda-recommended Professional and Personal Development program.

**TRAINING PROGRAM**  
**Certified Operations Training Leader**  
**(4 weeks; The training program is subject to change)**

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON-THE-JOB TRAINING	LOCATION
"Pre-Work" Videos, E-Modules and Reading	10	0	Online
Orientation & Safety	4	8	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
			Panda's company-owned Panda

Training Skills	0	100	Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Training administrative and evaluation	10	10	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Operation standard Management and Panda Culture, Mission and Value	9	9	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.

**TRAINING PROGRAM**  
**Store Manager**  
(8 Weeks in addition to Pre-Work online study noted below)

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
"Pre-Work" Videos, E-Modules and Reading	10	0	Online
Orientation & Safety	4	8	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Cooking	10	100	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Operations Management	4	100	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Practice & Demonstration	0	120	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.

**TRAINING PROGRAM**  
**Assistant Managers & Head Chefs/Cooks**  
(6 Weeks in addition to "Pre-Work" online study noted below)

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
"Pre-Work" Videos, E-Modules and Reading	10	0	Online
Orientation & Safety	4	8	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
			Panda designates.
Preparing & Cleaning	8	30	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Cooking	10	100	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Practice & Demonstration	0	105	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.

**TRAINING PROGRAM**  
**Kitchen Help**  
**(2 Weeks)**

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Orientation & Safety	0	4	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Preparing & Cleaning	8	24	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Practice & Demonstration	0	50	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.



**TRAINING PROGRAM**  
Shift Lead  
(2 Weeks)

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Orientation & Safety	4	8	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Guest Service	3	20	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Food Flow	3	16	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Cleaning	3	8	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Practice and Demonstration	0	15	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.

**TRAINING PROGRAM**  
Counter Help  
(1 Week)

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Orientation & Safety	2	0	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Guest Service	1	10	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Food Flow	1	8	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Cleaning	1	4	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.
Practice and Demonstration	0	13	Panda's company-owned Panda Express Restaurant(s), Licensee's Certified Training Unit, or at some other location Panda designates.

As mentioned above, initial training requires Store Manager(s), Assistant Manager(s) and Head Chef(s)/Cook(s) to pass applicable certification tests. Going forward, on an annual basis, at least 6 Head Chefs and/or Cooks, in any combination, for your Restaurant will be required to obtain updated cooking certifications.

Training programs are offered periodically as needed to meet demand, but not at any specific intervals. You will be responsible for all travel, living, salary, incidental and other expenses for personnel attending the initial training program and any other training programs, seminars or meetings. Classes will be taught by our designated trainers who have had at least 15 months' experience in the field and as Panda Restaurant Store Managers, except that the

“Pre-Work” videos, e-modules and reading will be self-guided. These trainers may be assisted by other Panda Express staff members, depending on the class needs and subject matter. Instructional materials include Manuals along with handouts.

All of your Restaurant employees must have a skill level, training and experience commensurate with the requirements of the position, and consistent with the Panda Express standards for quality products, service and cleanliness.

You are responsible for hiring a sufficient crew to enable crew performance to remain consistent with Panda Express specifications and standards. You are solely responsible for any associated costs including the cost of uniforms for each associate who attends any of our training programs and also for any travel, accommodation and other incidental expenses for all associate while attending training.

Following the opening of each of your Restaurants, you are responsible for crew training. You must maintain proficiency for all positions and maintain on payroll at all times staffing and training certifications meeting our above requirements.

We can require that remedial training be taken if we think it is necessary because System Standards are not sufficiently maintained. Remedial training can involve any combination of training relating to the Designated Individual, Store Manager(s), Assistant Manager(s), Head Chef(s), Cook(s), Shift Lead(s), Counter Help, and Kitchen Help for the applicable Restaurant. Applicable staff will attend the remedial training at times and places we select. We charge a fee for remedial training, which is currently \$500 per each service and travel day for each of our staff members engaged in the remedial training. The charge applies for each whole/partial 8 hour day. You are responsible for our personnel’s expenses incurred in delivering the training, including travel, lodging, food and incidental expenses.

We can require that your staff members sign an approved form of confidentiality and non-disclosure agreement as a condition to participation in any training program or receipt of any materials. You provide us copies on request.

Additional guidance can be furnished in whatever manner we consider appropriate, including electronically, in writing or orally. Assistance can be made available through our selected methods, which can include web-based and other training programs and on-site consultations. We may provide at your request on-site consultations at your Restaurant, if we have advance notice and available personnel. If we do, we require payment of reasonable travel, food, incidental and lodging expenses, as well as our current training fee. The fee is currently \$500 per whole/partial 8-hour day and is applicable to service days and travel days for personnel of ours engaged in the training.

## **ITEM 12.     TERRITORY**

You are not obligated under the License Agreement to open a Restaurant. If you want to establish a Restaurant, you have to obtain our advance written authorization for a specific location. We have the option of whether or not to authorize you to operate one or more your Restaurants under the License Agreement. You are not given any options or rights of refusal on any additional location. When a location is authorized, you will not be awarded any “protected” or “reserved” territorial or other rights. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we or our Affiliates control.

We can locate or consent to the location and operation anywhere of other Panda Express (or any other brand) restaurants or other distribution channels of any type, including grocery outlets. We reserve the right to use other channels of distribution, such as the Internet, catalog sales, telemarketing, or other direct marketing sales, and to make sales of any products or services anywhere using the Marks or other trademarks. We and our Affiliates can develop or become associated with other concepts, including dual branding and other license systems, for any kind of products or services. You do not have any rights with respect to other or related business operations, concepts, products or services in which we or our Affiliates may be involved, now or in the future. We do not have to compensate you for any sales we or our Affiliates may make.

We and our Affiliates can acquire, be acquired by, merge, affiliate with or engage in any transaction with other businesses. These other businesses can compete with Panda Express Restaurants, including your Restaurants, and can have restaurants located anywhere. One of these transactions could require that brand conversions to or from the Marks and System be made by your Restaurants. If this type of conversion occurs, you agree to participate promptly at your expense, including all costs associated with re-branding.

Under our current policy, there are no restrictions on the location of customers you may solicit to patronize your Restaurant. Neither we, nor our Affiliates, nor our licensees are restricted from soliciting customers anywhere.

You are not permitted to market or sell through the Internet, World Wide Web, and other electronic or other means of marketing and distribution of Products and Services, or any channel of distribution other than your Restaurant.

Some of our Affiliates operate Panda Express Restaurants and other restaurant and food service businesses under other names, including Hibachi-San. In addition to the companies noted in Item 1 of this Disclosure Document, Hibachi-San, Inc., is a wholly-owned subsidiary of PEI and has owned and operated “Hibachi-San” restaurants since August 11, 1992. Its principal business address is the same as ours. Hibachi-San restaurants are a chain of limited service, restaurants that offer Japanese menu items similar to those offered by Panda Express Restaurants. As of December 30, 2023, there were 8 “Hibachi-San” restaurants, all of which are owned and operated by Hibachi San, Inc. (through PEI and PRG). As noted in Item 1, we began to license Hibachi-San licensees on a limited basis in 2015 and the first licensed Hibachi-San restaurant was opened in January 2017.

As described above, we and our Affiliates have established, franchised, licensed, and/or own restaurant outlets and can continue to do so anywhere. These outlets can sell products or

services similar to or the same as your Restaurant. These outlets also can sell to customers located anywhere, whether under the Panda Express Marks or a different trade name or trademark, regardless of proximity to your Restaurant.

### **Performance Standards**

You must comply at your sole expense with requirements, standards and operating procedures related to Panda Express Restaurants and the Panda Express brand image. These standards include use of specified Equipment, Products and Services, approved supplier programs and operating systems, signs, logos, designs and advertising/marketing materials and forms, Product preparation and presentation, Product promotion, training and certification programs, and customer service and quality control/assessment programs. We have the right to inspect your Restaurant at any time for purposes of protecting the brand and you have to cooperate with us in permitting entry.

Under the License Agreement, we can choose to implement a correction process described in the License Agreement for a particular Restaurant if it scores less on a Systems Standards evaluation than the then-current average score or less than 90% of the corresponding score achieved by Panda Express Restaurants owned or operated by our Affiliates. However, we have not established a correction process as of the date of this Disclosure Document.

### **Relocation**

You must obtain our written consent before you relocate any Restaurant. We can withhold or provide our written consent in our sole discretion. You may terminate the Operating Term for a specific Restaurant following 90 days' written notice to us if your contract to provide food service at the facility in which your Restaurant is established expires without renewal or is terminated without your default. You can also terminate the Operating Term for a specific Restaurant following 90 days' written notice to us if your food service contractor for that Restaurant requires you to discontinue the operations there, and the discontinuation is not caused by you. If we request it, you must first try to arrange a meeting between the food service contractor and us to discuss the continued operation of your Restaurant. If you terminate an Operating Term for a Restaurant this way, you must pay us the minimum Royalty for a period of 90 days after closing and an amount equivalent to 24 months Royalties.

## **ITEM 13: TRADEMARKS**

We grant you the non-exclusive right to use the trademark "Panda Express®" and associated logos and other marks for the operation of a Panda Express Restaurant at a location we authorize. We may license you to use additional Marks in the future. Our Affiliate, PRG, is the owner of the Panda Express trade name and trademark and has received registrations for the following Marks in the U.S. Patent and Trademark Office ("USPTO"):

REGISTRATION NUMBER	MARK	PRINCIPAL OR SUPPLEMENTAL REGISTER	REGISTRATION DATE
1516769	PANDA EXPRESS	Principal	December 13, 1988 (last renewed August 2, 2018)
1991081	PANDA EXPRESS	Principal	August 6, 1996 (last renewed October 14, 2016)
2501422	PANDA	Principal	October 30, 2001 (last renewed April 26, 2011)
3875490	WOK SMART	Principal	November 16, 2010 (last renewed September 21, 2020)
3757531	SWEETFIRE CHICKEN BREAST	Principal	March 9, 2010 (last renewed on May 18, 2020)
3757558	ORANGE CHICKEN & Design	Principal	March 9, 2010 (last renewed on November 4, 2020)
4177201	BEIJING BEEF	Supplemental	July 17, 2012 (last renewed on January 30, 2023)
3186489	Cropped Bear Design	Principal	December 19, 2006 (last renewed on July 26, 2017)
3340884	PANDA CARD	Principal	November 20, 2007 (last renewed on December 1, 2017)
2661675	PANDA KIDS	Principal	December 17, 2002 (last renewed on January 9, 2024)
4511842	<del>PANDA EXPRESS-GOURMET CHINESE- &amp; Design</del>	Principal	April 8, 2014
4632546	THE BEST OF BOTH WOKS	Principal	November 4, 2014
4729407	FIRECRACKER CHICKEN BREAST	Supplemental	April 28, 2015

4793470	PANDA EXPRESS CHINESE KITCHEN & Design	Principal	August 18, 2015
4919042	PANDA EXPRESS CHINESE KITCHEN & Design	Principal	March 15, 2016
4876079	PANDA EXPRESS & Design (Stacked)	Principal	December 22, 2015
4919308	WHERE GOOD FORTUNE SMILES	Principal	March 15, 2016
4886115	MAKE HAPPY HAPPEN	Principal	January 12, 2016
5078409	LOVE YOUR PLANET	Principal	November 8, 2016
5005155	PANDA EXPRESS & Design (Centered)	Principal	July 19, 2016
5005166	PANDA EXPRESS & Design (Horizontal)	Principal	July 19, 2016
5141868	INSPIRING BETTER LIVES	Principal	February 14, 2017
5146748	PANDA EXPRESS CHINESE KITCHEN FAMILY OWNED EST 1983	Principal	February 21, 2017
54346606	PANDA EXPRESS & Design (Centered)	Principal	November 28, 2017
5262728	THE ORIGINAL ORANGE CHICKEN	Supplemental	August 8, 2017
5375577	PANDA KITCHEN	Principal	January 9, 2018
5905905	PANDA EXPRESS & Design (Horizontal)	Principal	October 30, 2018
5492446	PANDA EXPRESS & Design (Stacked)	Principal	June 12, 2018
5508128	PANDA EXPRESS	Principal	July 3, 2018
5695304	CHINESE INSPIRED. AMERICAN MADE	Principal	March 12, 2019
5741513	GOOD FORTUNE AWAITS	Principal	April 30, 2019

5893121	WOK ON	Principal	October 22, 2019
5937298	PANDA	Principal	December 17, 2019
5944199	PANDA EXPRESS & Design (Broad Logo)	Principal	December 24, 2019
5950241	PANDA (red circle)	Principal	December 31, 2019
5997214	WE WOK THE TALK	Principal	February 25, 2020
6001744	PANDA (Chinese Characters Vertical)	Principal	March 3, 2020
6011051	BEIJING BEEF	Principal	March 17, 2020
6136162	HOW TO PANDA	Principal	August 25, 2020
6163840	PANDA EXPRESS	Principal	September 29, 2020
6227972	WE WOK FOR YOU	Principal	December 22, 2020
6227662	PANDA EXPRESS	Principal	December 22, 2020
6381935	MAKE SOMEONE SMILE TODAY AND FEEL YOUR HEART SMILE TOO	Principal	June 8, 2021
6412404	GIVE GOOD FORTUNE	Principal	July 6, 2021
6445872	THE ORIGINAL ORANGE CHICKEN	Principal	August 10, 2021
6513848	THE ORIGINAL ORANGE CHICKEN (Design)	Principal	October 12, 2021
7044279	CUB MEAL	Principal	May 2, 2023
7243555	GOOD FORTUNE AWAITS (and Design)	Principal	December 12, 2023
7146510	PANDA REWARDS	Principal	August 22, 2023
7146511	PANDA REWARDS (and Design)	Principal	August 22, 2023
7244001	MAKE MEMORIES WITH WIDE SMILES AND FULL STOMACHS	Principal	December 12, 2023



7012336	PANDA CUB MEAL BEAR (and Design)	Principal	March 28, 2023
7030951	PANDA EXPRESS (and Design)	Principal	April 18, 2023
7159376	PANDA POINTS	Principal	September 5, 2023
7225705	GOOD FORTUNE GIFT	Principal	November 21, 2023

**~~All required affidavits and/or renewals have been filed.~~**

<b>SERIAL NUMBER</b>	<b>MARK</b>	<b>PRINCIPAL OR SUPPLEMENTAL REGISTER</b>	<b>APPLICATION DATE</b>
<del>90904074</del> <a href="#">7495844</a>	PANDA CUB MEAL	Principal	<del>August 26, 2024</del> <a href="#">September 3, 2024</a>
<del>90904637</del> <a href="#">7495845</a>	PANDA CUB MEAL (and Design)	Principal	<del>August 26, 2024</del> <a href="#">September 3, 2024</a>
<del>97818605</del> <a href="#">7590596</a>	PANDA CRAFTED BEVERAGES	Principal	<del>March 4, 2024</del> <a href="#">December 3, 2024</a>
<del>97818623</del> <a href="#">7615313</a>	PANDA CRAFTED BEVERAGES (and Design)	Principal	<del>March 4, 2024</del> <a href="#">December 17, 2024</a>
<del>98122792</del> <a href="#">7519606</a>	THE ORIGINAL ORANGE CHICKEN	Principal	<del>August 8, 2024</del> <a href="#">October 1, 2024</a>

**All required affidavits and/or renewals have been filed.**

<u>SERIAL NUMBER</u>	<u>MARK</u>	<u>PRINCIPAL OR SUPPLEMENTAL REGISTER</u>	<u>APPLICATION DATE</u>
98384898	PANDA PAIL	Principal	January 31, 2024

PRG has granted us, through a license agreement, the right to use and to grant licensees for the right to use the above Marks and the System (the “Licensed Assets”), in the United States. The licensing agreement is dated December 26, 1999 (the “IP Licensing Agreement”). The IP Licensing Agreement has a term of 20 years and renews automatically, unless either party gives notice of its desire to terminate the IP Licensing Agreement. We are required to comply with all standards, specifications and instructions of PRG regarding the use of the Licensed Assets. PRG is allowed to enter onto any premises owned, leased or controlled by us to inspect the premises and the operations conducted there. If PRG determines that it is appropriate to change or cease use of any of the Licensed Assets, or to substitute or add

additional Licensed Assets, then our license is changed accordingly. We are obligated to pay PRG a percentage of our gross revenues as a royalty under the IP Licensing Agreement. The IP Licensing Agreement can be terminated by PRG if we, misuse any of the Licensed Assets or use them in a way that threatens their validity or goodwill, attempt an unauthorized transfer, become insolvent or fail to comply with any other provision of the IP Licensing Agreement.

You must follow our rules when you use these Marks. You cannot use a name or Mark as part of a corporate name or with modifying words, designs or symbols except for those which we have licensed to you. You may not use our Marks in connection with the sale of an unauthorized product or service or in a manner we have not approved.

There are currently no effective determinations of the USPTO, Trademark Trial and Appeal Board, the trademark administrator of any state or any court, any pending infringement, opposition or cancellation proceeding or any pending material litigation involving these trademarks, service marks, trade names, logotypes or other commercial symbols which are relevant to their use in this state or the state in which your License is to be located.

Except for the IP Licensing Agreement, we have no agreements presently in effect that would significantly limit our rights to use or license the use of the Marks which are material to you.

You must notify us immediately of any apparent infringement of, or challenge to, your use of any Mark or of any claim to a Mark. We, or PRG, can choose to take whatever action we think is appropriate. We and PRG have the right to control any litigation or other proceeding arising out of any claim relating to any Mark, including the right to direct any settlement of the claims.

You should understand that there is always a possibility that there might be one or more restaurant-type businesses operating in or near the area where you may do business which uses a name, marks or trade dress similar to ours. They may have superior rights to the name or Marks. We strongly urge you to research this possibility, using telephone directories, local filings and other means, before you pay any money, sign any documents or make any binding commitments.

We are not aware of any superior rights or infringing uses that might materially affect licensees' use of the Marks.

You must comply, at your expense, with our directions to modify or otherwise discontinue any use of the Marks or to use a different Mark. We will not have any liability to you if we do so. However, we will indemnify you for costs and expenses you incur because of a finding against us on a third-party infringement claim that results from your proper use of the Marks.

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

PRG holds a utility patent on a wok support ring with devices for imparting a rocking motion to a wok (the wok support ring). As long as this item is required or approved equipment for use in a Panda Express Restaurant under your License Agreement, you can use the wok support ring in your operations. The patent was issued February 16, 2010 under Patent No. US 7,661,421, with a term of 20 years from the filing date of May 20, 2005, plus a maximum Patent Term Adjustment of 637 days. If all applicable Patent Maintenance Fees are timely paid, this Patent could be enforceable until April 26, 2028.

Under the Agreement, we commit to indemnify you for all losses, expenses, damages, costs, settlement amounts, judgments, and attorneys' fees, incurred in connection with any judgment in favor of a third party which arises out of or is based upon any third party claim that finds your use of the Marks or System in accordance with the terms of the Agreement infringes, dilutes or misappropriates the intellectual property rights of such third party.

We claim copyright in our Manuals, construction plans, advertisements, promotional materials and other materials. There currently are no effective determinations of the U.S. Copyright Office, the U.S. Patent and Trademark Office or any court regarding any of our materials. There are no agreements in effect which significantly limit our right to use or license copyrighted materials. Finally, there are no infringing uses actually known to us that could materially affect your use of our copyrighted materials in any state.

In general, our proprietary information includes Confidential Information (as defined in the License Agreement), some of which is contained in our Manual. Our Confidential Information includes: i) manuals, training, techniques, processes, policies, procedures, systems, data, equipment designs and specifications, and know-how regarding the development, marketing, operation and licensing of Panda Express Restaurants, and negotiations regarding the Agreement; ii) our designs, recipes and specifications, and information about Products and Services; and iii) all information regarding the System, costing, potential locations, statistics, pricing, profits, financial data and lists, and other operating data. We disclose to you Confidential Information and trade secrets (including proprietary recipes) for the operation of a Panda Express Restaurant. You may learn additional information during the term of your license. We and our Affiliates have all rights to the Confidential Information. Your only interest in the Confidential Information is the right to use it under the License Agreement.

You cannot disclose any Confidential Information or trade secrets. You cannot reproduce or exhibit any portion of the Manuals or other materials to any person other than your employees, subject to the limitations described below.

You must notify each of your employees or other representatives of their obligations with respect to your confidentiality obligations. You must have each of them sign an approved form of agreement containing substantially the same protections as described in this Item 14. You also must deliver to us copies on request. If you believe that an employee or other representative of yours has violated the confidentiality requirements, you must notify us immediately and cooperate with us if we bring a claim. You must indemnify, defend and hold us harmless for our costs of enforcement against your employee.

We can require that anyone who has access to our Confidential Information or Trade Secrets sign our confidentiality agreement as a condition to receiving our training.

You must notify us immediately of any apparent infringement of, or challenge to, your use of any of our Confidential Information or Trade Secrets. We can choose to take whatever action we think is appropriate. We have the right to control any action about a claim to any of our Trade Secrets or Confidential Information, including the right to direct any settlement of the claims.

On termination or expiration of the License Agreement, you must immediately return to us your Manuals and all other materials containing our Confidential Information and Trade Secrets.

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

You must meet the minimum staff training and certification requirements for each Restaurant. We recommend you have on payroll at all times at least the minimum number of employees discussed in Item 11 of this Disclosure Document, subject to updated recommendations in the Manuals from time to time. In addition to initial certification, at least 6 of the Head Chefs/Cooks must be re-certified annually. A Store Manager must be on site at each Restaurant at all times during operating hours to supervise food preparation and safety at your Restaurant. Any change in Store Manager or Designated Individual requires our prior written approval. Our approval is conditioned on completion of initial training and certification requirements to our satisfaction. You authorize us to deal with the Designated Individual and/or Store Manager regarding routine operations and reporting requirements and the Designated Individual must participate in bi-weekly project updates during the 6 months before opening of your Restaurant. You must ensure we are given, and kept current regarding, the identities of each Store Manager, Head Chef, and Assistant Manager for each Restaurant.

We also recommend that you have one or more Operations Training Leaders if/when you have 5 or more locations to support growth and accommodate the continuous learning and training of associates in a high turn-over environment. Operations Training Leaders are expected to train for 4 weeks in a company-owned Panda Express Restaurant before starting work.

You are solely responsible for the hiring and management of your Restaurant employees, for the terms and conditions of their employment, including scheduling, wages, discipline, their safety and security and termination, and for ensuring their compliance with any training or other employment related requirements. You and your employees will wear then current Panda Express uniforms at your sole cost and expense at all times during your business operations. We may require that your Store Manager(s) be solely dedicated to Panda Express Restaurants and not work in any other food service business you own or operate. All of your employees, must wear a Panda Express uniform while working in your Restaurant and at no time shall the Panda Uniform be worn while your employees work in any other business. You are responsible for paying all taxes on payments received under the License Agreement. We are not a contractor or subcontractor, agent, or employee of yours in any way. You direct and control your subcontractors and are responsible for them and their performance.

You must operate your Restaurant ethically and in compliance with all applicable laws, including privacy and data protection laws, rules and requirements, the Fair Labor Standards Act, the Occupational Safety and Health Act, any state wage and hour or workers compensation act, any state unemployment compensation benefit law or regulation, or any other federal, state or local employment-related or employee benefit requirement. It is your responsibility to identify and obtain all authorizations necessary to your operation. You must notify us immediately of any action taken or proceeding initiated by a government/public agency or department about any Restaurant, including any inspection reports, warnings and citations. You also have to comply with the Payment Card Industry Data Security Standard for merchants accepting payment by credit or debit card and any revision to it adapted by the PCI Security Standards Council, LLC (the "PCI Council").

Each of your managers must sign a confidentiality and non-disclosure agreement as a condition to participation in any training program or meeting. Any member of your staff enrolled in any of the above initial training activities has to satisfactorily complete any required testing.

If Licensee is a business entity, we have the right to require that any or all owners having a legal or beneficial interest, directly or indirectly, in the Licensee sign a personal guaranty. We also have the right to require any guarantor's spouse or domestic partner under local law to co-sign the guaranty. Additionally, you must provide us within 30 days of our request updated information regarding shareholders, members, officers, directors and other key persons, as described in Exhibit 2.1 E to the License Agreement.

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

You must offer and sell only for retail consumption and not for wholesale, bulk or other unauthorized purposes, only those Products and Services expressly authorized by us and obtained from suppliers expressly approved by us. You may not advertise, offer for sale or sell any products or services that we have not approved. You cannot offer or sell any food items through or under any other food service operations/restaurants you may own or manage. We have core and regional menu items that you must offer, some of which are proprietary to us or our Affiliates. You must offer only beverages that we specify or approve. We can add, delete and change menu items that you may or must offer occasionally. We occasionally may choose to permit individual Panda Express Restaurant menu variations or restrict certain menu changes to certain types of captive venue locations, as we consider appropriate. Any changes we permit or specify can require you to purchase additional Equipment or Products. You have the right to set your own prices.

You may not use your License for any purpose other than the operation of a Panda Express Restaurant. You may not, without our prior written consent, operate your Restaurant from any location other than the approved site. You must comply with all products and services purchasing guidelines, specifications and procedures and remain current with suppliers. We can condition your participation in any program, receipt of products and services from us or our Affiliates, or receipt of any other benefits on your being in good standing.

You and your Affiliates must not offer, sell or provide any competing Asian-style food items (including, Chinese, Japanese, Thai, and Korean-style food items) at the facility in which your Restaurant is located (other than at another licensed Panda Express Restaurant or another concept we license to you, if any.) The facility is most likely to be a captive location like an airport, a theme park, a supermarket, a stadium or forum, a military base, a casino, a

shopping mall or a university. You and your Affiliates also must not authorize another, or sublicense the right, to offer, sell or provide any competing Asian-style food items at the facility in which your Restaurant is located.

You must perform ongoing store maintenance activities at your expense to keep your physical Restaurant premises at a “like new” level of cosmetic appearance and in a sound, clean and attractive condition and maintain your Restaurant assets in good repair and operating condition, and as otherwise specified consistent with System Standards. In the 5th year of the Operating Term for each Restaurant you will need to perform at your expense a Brand Refresh, which will require your Restaurant to be upgraded to then current Panda Express design, trade dress, color schemes and brand image requirements. In the 10<sup>th</sup> year of the Operating Term, in addition to the Brand Refresh, we may condition the grant of a successor term for, or our consent to a transfer of, any Restaurant on a complete update, which can require major remodeling, reconstruction, and renovations. You are not required to perform improvements disapproved by your landlord, if the activity requires landlord approval. However, you will use your best efforts to obtain the approval. Timing requirements for accomplishing any specific facility or Restaurant premises change or upgrade may vary with the applicable landlord’s timing restraints and with the anticipated cost of the refurbishment activity.

If your proposed Restaurant is to be located in a shared concept site where multiple brands may use common facilities, such as beverage fountains, we can require that you sign an addendum to the License Agreement before we approve the site. The addendum appears as Schedule 1 to the License Agreement and includes terms for operating and handling your Panda Express activities on a shared concept site. For example, you are required to ensure that Products are not commingled with or held in common storage with another concept’s items. You must provide dedicated Equipment to allow for separation. The head chef of another concept cannot have any access to the back of the house operations for your Restaurant. Additionally, Section 21 of the License Agreement promotes licensing additional Panda Express Restaurants if the licensee has an opportunity to do so.

You must comply with the Client contract’s rules and must sign and comply with any code of conduct or similar form we or the Client contract might provide for your Restaurant. You must do your best to resolve any inconsistency between our System Standards and a Client contract’s rules, so that there is as little deviation from System Standards as possible.

#### **ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**This table lists important provisions of the franchise and related agreements. You should carefully read these provisions in the agreements attached to this Disclosure Document.**

##### **THE FRANCHISE RELATIONSHIP**

<b>LICENSE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
a. Length of the franchise term	Section 2.1	Overall license is for an unlimited term, subject to termination rights. The License Agreement expires after 2 years if no Restaurant location has been authorized, subject to parties’ rights to

<b>LICENSE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
		<p>terminate earlier.</p> <p>Operating term for a specific Restaurant is 10 years from the date on which you open your Restaurant to serve food to the public.</p>
b. Renewal or extension of the term	Section 15.1	When the operating term for your Restaurant expires, you may be eligible for a successor operating term for, a single 5-year period, without any further term.
c. Requirements for you to renew or extend	Sections 15.2 and 15.3	For the applicable Restaurant, a) you must provide advance written notice of election to obtain successor operating term (this written notice must be provided between 6 and 12 months before the expiration of the operating term); b) you must be in Good Standing; c) the Restaurant must comply with then-current standards for new Units, which can require a complete update to the Restaurant and its assets; d) you and any of your Affiliates must have satisfied all monetary obligations; e) you pay \$10,000; f) you sign a general release and any other documents we require; and g) you can be required to sign a written license agreement with materially different terms and conditions from your original license agreement, or a “renewal/extension” amendment to your existing license agreement.
d. Termination by you	Sections 16.1, 16.2, 16.4, 16.7 and 16.13	License Agreement may be terminated by you as follows: (1) upon your and our mutual agreement; (2) with not less than 30 days’ written notice, so long as you are not operating a Restaurant under the License Agreement and you have not received any authorization from us to develop a Restaurant at an approved site; (3) if we commit a material default and fail to cure within specified time; (4) the operating term of your Restaurant may be terminated with 90 days written notice if your Lease Agreement at Facility in which a Restaurant is established expires or is discontinued without default by you and you meet certain conditions.
e. Termination by us without cause	Section 16.1 and 16.2	Subject to applicable state law, License Agreement may be terminated at any time as follows: (1) upon your and our mutual agreement; (2) with 30 days’ written notice so long as you are not operating a Restaurant under the License Agreement and you have not received any authorization from us to develop a Restaurant at

LICENSE AGREEMENT PROVISION	SECTION	SUMMARY
		an approved site; and (3) if our IP licensing agreement with PRG terminates or expires, and PRG does not assume our rights and obligations under the License Agreement.
f. Termination by us with cause	Sections 16.3, 16.4 and 16.5	We may terminate the License Agreement and/or the operating term of your Restaurant if you commit any one of several listed defaults or violations.
g. "Cause" defined – curable defaults	Section 16.3	<p>The License Agreement will automatically terminate 15 days after our delivery of notice of any of the following unless cured: (1) violation of any confidentiality, non-compete and trademark provisions of the License Agreement; (2) failure to report accurately Gross Volume for any Restaurant or failure to submit any other reports or records; (3) failure to pay amounts due us, any Affiliate, any designee of ours, and/or any designated supplier; (4) failure to permit or cooperate in any audit or inspection or failure to produce on request any records required to be maintained by you; (5) failure to meet our insurance requirements or to correct any health or safety condition at a Restaurant (we may require you to immediately cease operations at the applicable Restaurant until condition is remedied); (6) failure to correct or change your operation of your Restaurant that is likely to adversely affect our reputation, brand and/or the goodwill associated with the Marks; or (7) failure to respond to your guest's complaint in a timely manner and within 10 days after receipt of our written notice.</p> <p>Except as stated above or in h., below, the License Agreement will automatically terminate 30 days after our delivery of written notice of your failure to comply with (1) any other provision of the License Agreement, or any other agreement with us and/or any Affiliates; or (2) any specification, standard or operating procedure or rule prescribed in the Manuals or by other writing. If the default(s) cannot be reasonably corrected in 30 days, you are required to make diligent efforts within those 30 days and the default(s) must be cured within 60 days.</p>
h. "Cause" defined – non-curable defaults	Sections 10.9, 16.3, 16.4 and 16.11	The License Agreement automatically terminates after our delivery of notice of termination for any of the following: (1) any material misrepresentation or



LICENSE AGREEMENT PROVISION	SECTION	SUMMARY
	Sections 16.4, 16.5 and 16.6	<p>omission in your application for the license; (2) nonoperation, surrender or abandonment of your Restaurant or failure to begin reconstruction within 60 days after a Force Majeure as provided in Section 10.1; or bankruptcy involving you or any direct or indirect corporate parent, insolvency, or assignment made for the benefit of creditor or receiver appointed; (3) failure to get any required authorization or license, or fraud or criminal misconduct relating to the operation of any Restaurant; (4) felony or crime or offense likely to adversely affect Panda Express Restaurant operations or reputation, or the goodwill associated with the Marks; (5) unauthorized transfer or surrender control of a Restaurant without our prior written approval; (6) understate the Gross Volume of a Restaurant by more than 5% during any reporting period; (7) cross default under other agreements; (8) failure to complete the initial training program to our satisfaction or failure to pass any required testing; (9) your Lease Agreement is terminated for cause or you fail to cure a material default under the Lease Agreement; (10) failure to pay undisputed amount to Client, lessor, lender, supplier or vendor; (11) failure to cure curable default or violation of Agreement; (12) you engage in any catering or delivery activities not expressly authorized by us; (13) you revoke the direct deposit authorization or close the account attached to the agreement without having established a new account or signed a new direct deposit authorization; or (14) unauthorized use of third-party ordering and delivery methods.</p> <p>The Operating Term of a specific Restaurant automatically terminates after our delivery of notice of termination for any of the following: termination or expiration of lease/Client contract without relocation or compliance with Section 16.4 B.; uncorrected failure to meet performance standards or System Standards; termination concurrent with termination of License Agreement.</p> <p>The License Agreement and/or the Operating Term of a specific Restaurant may automatically terminate at our choice upon the occurrence of 3 defaults at the Restaurant within a 12-month</p>

<b>LICENSE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
		period.
i. Your obligations on termination/non-renewal	Sections 16.4, 16.13, 17 and 18	<p>For each transferred/terminated/expired Restaurant, pay all amounts due within 10 days or as soon as amounts can be determined; cancel fictitious name or equivalent registrations within 10 days; and immediately discontinue operations of the Restaurant; stop using and return Intellectual Property, Confidential Information and other aspects of the System; de-identify the Restaurant and business and permit us right to enter to verify/correct; return or destroy all manuals, recipes, forms, materials or any other items relating to Panda Express Restaurants; refrain from identifying yourself or business as a Panda Express Restaurant; refrain from using any proprietary Designated Equipment at a non-Panda Express Restaurant; sell to us at net book value any equipment, Trade Dress, signage and furnishings and fixtures associated w/ a Panda Express Restaurant, using a 5 year amortization schedule; notify phone companies/URLs/directory listings and cooperate with us in de-listing; furnish evidence of compliance with above; continuing indemnification, confidentiality, dispute resolution obligations; we can require you to pay future royalties on default; no payment by us on termination; return unused Inventory, subject to conditions.</p> <p>If we terminate the License Agreement or the Operating Term of any Restaurant due to an uncured default by you, you must pay us a sum equivalent to 24 months of Royalties based on all Royalties paid in the 12 Royalty Periods immediately preceding the Termination date of such Restaurant, plus the Minimum Royalty amount for each Restaurant for a period of 90 days following the closure date, which would otherwise be due if the License for such Restaurant(s) had not been cancelled.</p>
j. Assignment of contract by us	Section 14.1	Fully assignable by us without your consent; we can be sold, sell any assets, go public, engage in private placement, merge, acquire or be merged/acquired with competitors or others.
k. "Transfer" by you – defined	Section 14.2	Includes transfer of any interest of any kind or nature.

<b>LICENSE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
l. Our approval of transfer by you	Section 14.2	<p>Transfers subject to our consent, and transfer of interests/assets of your business must include license.</p> <p>If you are publicly held, you must get our written consent to a) sell or transfer the Agreement or any Restaurant (except to parent company), b) grant security interest, c) transfer assets of you, your operating division and/or your parent, or d) acquire, consolidate, or merge parent into any other entity or you into any other person/entity but parent.</p>
m. Conditions for our approval of transfer	Sections 14.3, 14.4 and 17.3	<p>You and your license operations must be in compliance with the License Agreement, the Manuals, and, any lease/sublease and any other agreements; transferee qualifies and signs then current License Agreement; transferee assumes all obligations; all amounts due must be paid in full; all required reports and documents must be in; payments to suppliers must be met; transferring Restaurant(s) must meet current Restaurant premises standards, which can require a complete update to the Restaurant and its assets; transferee, Designated Individual, managers and Restaurant personnel successfully complete (as determined by us) training; transferee obtains permits, licenses and legal compliance; transferee must not be engaged in a Similar Business (as defined in the License Agreement); the transfer fee will be \$10,000 per Restaurant (up to a maximum of \$30,000 for multiple Restaurants transferred in the same transaction), plus our out of pocket costs, including attorneys' fees and costs (amounts subject to inflation adjustment); no suit/action pending/threatened against the transferring business/ Restaurant; Client gives written consent to the transfer, if required by any Client; we are allowed to discuss related information with proposed transferee; you remain liable for licensed business without express release; business and transfer in compliance with then-current standards; general release signed by you and transferee; compliance with post termination provisions, as applicable to scope of transfer.</p>
n. Our right of first	Section 14.5	You will first offer the transfer to us, which we can

<b>LICENSE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
refusal to acquire your business		accept for ourselves or through an Affiliate or other licensee generally within 30 days. We can pay cash instead of other forms of payment; General Release, Customary Representations, Warranties and Agreements required; we can require escrow; compliance with bulk sales and/or similar laws and insurance policies maintained and can set off amounts due and can pay amounts directly to your creditors; if you breach post termination obligations we can stop payments. If a proposed transfer is subject to Client approval, you will use best efforts to obtain it.
o. Our option to purchase your business	Not applicable; but we can manage your Restaurant(s). Section 16.12	If you don't cure default, we can choose to manage your Restaurant(s) for an additional fee, plus costs. You remain liable for Restaurant obligations.
p. Your death or disability	Not applicable	Not applicable
q. Non-competition covenants during the term of the franchise	Section 8.2	Subject to applicable state law, you may not sell, offer, provide other Asian style food items (or let others do so) at the facility in which your Restaurant is located (such as an airport, hospital, etc.) besides Panda Express items or items sold under a different license from us (if any), except that certain limited catering and other activities might be allowed; additional remedies available to us in the event of breach.
r. Non-competition covenants after the franchise is terminated or expires	Sections 8.2 and 19.5	Subject to applicable state law, non-competition covenants after the franchise is terminated or expires will continue in full force and effect.
s. Modification of the agreement	Section 19.7	Modifications must be in writing and signed by all parties, except Manuals subject to change by us.
t. Integration/merger clause	Section 22 B.	Only the terms of the License Agreement are binding (subject to applicable state law). Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.
u. Dispute resolution by arbitration or	Sections 16.8	Except for a few types of claims such as injunctions or collection of undisputed debts, all

<b>LICENSE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
mediation	and 19	disputes are resolved through mediation, and/or binding arbitration; jury waiver; no class action or multiple plaintiff proceedings; limitation of types of damages and statutes of limitation; subject to applicable state law.
v. Choice of forum	Section 19.1 and 19.2	Mediation, arbitration at a neutral location in the county in which our then-current headquarters is located (currently Los Angeles County), subject to applicable state law. Litigation in the U.S. District Court encompassing our headquarters, if possible.
w. Choice of law	Section 19.11	California law applies, but Federal Arbitration Act and other federal laws, as applicable, preempt. California franchise laws apply only if jurisdictional requirements met independently of Agreement. Noncompetition covenants construed and enforced in accordance with the laws of the State where the breach occurs. Subject to applicable state law.

**NOTES:**

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

The table below lists certain provisions of a sample Asset Purchase Agreement for the sale of a Restaurant owned and operated by an Affiliate of ours. This document is intended to be illustrative of a typical transaction, but the terms of any actual asset purchase agreement will be determined by the buyer and seller in the transaction. You should carefully read these provisions in the documents attached to this Disclosure Document as Exhibit F.

<b>ASSET PURCHASE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
a. Length of the franchise term	Not applicable	Not applicable
b. Renewal or extension of the term	Not applicable	Not applicable
c. Requirements for you to renew or extend	Not applicable	Not applicable
d. Termination by	Paragraphs 5	You can terminate the Asset Purchase

<b>ASSET PURCHASE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
you	and 12	Agreement, and your deposit will be returned to you if you are not assigned the lease for the premises prior to the closing date, or if our Affiliate seller commits a material default, or if there is a material adverse change affecting the lease or the operation of the store with respect to the lease.
e. Termination by us without cause	Not applicable	Not applicable
f. Termination by seller with cause	Paragraphs 5 and 12	Our Affiliate seller may terminate the Asset Purchase Agreement if you commit any one of several listed defaults or violations, or if the lease has not been assigned to you prior to the closing date.
g. "Cause" defined – curable defaults	Paragraph 5	You fail to provide information required to effect the lease assignment.
h. "Cause" defined – non-curable defaults	Paragraph 5	You make false representations and warranties in the Asset Purchase Agreement; you are in material breach of any of the covenants of the Asset Purchase Agreement; you fail to cure curable default within 2 business days.
i. Your obligations on termination/non-renewal	Paragraph 12	Provisions of confidentiality and non-disclosure agreement remain in effect.
j. Assignment of contract by us	Paragraphs 4 - 7 and 22; Schedule A-3	Restaurant premises lease is assigned to you.
k. "Transfer" by you – defined	Not applicable	Not applicable
l. Our approval of transfer by you	Not applicable	Not applicable
m. Conditions for our approval of transfer	Not applicable	Not applicable
n. Our right of first refusal to acquire	Not applicable	Not applicable

<b>ASSET PURCHASE AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
your business		
o. Our option to purchase your business	Not applicable	Not applicable
p. Your death or disability	Not applicable	Not applicable
q. Non-competition covenants during the term of the purchase agreement	Paragraph 16	The confidentiality and non-disclosure agreement is signed when the parties begin their asset purchase discussions.
r. Non-competition covenants after the purchase agreement is terminated or expires	Paragraph 12	Provisions of confidentiality and non-disclosure agreement remain in effect.
s. Modification of the agreement	Not applicable	Not applicable
t. Integration/merger clause	Paragraph 20	Only the terms of the Asset Purchase Agreement are binding (subject to applicable state law). Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.
u. Dispute resolution by arbitration or mediation	Paragraph 19	All disputes are resolved through arbitration, conducted in accordance with the rules of the American Arbitration Association. Subject to applicable state law.
v. Choice of forum	Paragraph 19	Arbitration to be in a mutually agreed location or in a city/state specified in the Agreement, as determined by the parties. Subject to applicable state law.
w. Choice of law		As determined by the parties. Subject to applicable state law.

The table below lists certain provisions of a sample Joint Venture Document Limited Liability Company Operating Agreement involving an Affiliate of ours. This document is intended to be illustrative of a typical arrangement, but the actual operating agreement and other similar governing documents used in any Joint Venture with our Affiliate will be

determined by the owners at the time of formation of the Joint Venture entity. You should carefully read these provisions in the documents attached to this Disclosure Document as Exhibit I.

<b>SAMPLE JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
a. Length of the term	Section 10.1	Dissolution occurs upon judicial dissolution, a vote of at least 75% of the voting interests, the termination or expiration of contracts for applicable Restaurant locations, sale of the assets of the Joint Venture entity.
b. Renewal or extension of term	Not applicable	Not applicable
c. Requirements for you to renew or extend	Not applicable	Not applicable
d. Termination by you	Not applicable	Not applicable
e. Termination by us without cause	Not applicable	Not applicable
f. Termination of member interest with cause	Section 4.4	On transfer of the interest or upon occurrence of Triggering Event under applicable state law.
g. "Cause" defined – curable defaults	Not applicable	Not applicable
h. "Cause" defined – non-curable defaults	Section 1.39	As determined under applicable state law and as agreed by the parties.
i. Your obligations on termination/nonrenewal	Not applicable	Not applicable
j. Assignment of contract by us	Not applicable	Not applicable
k. "Transfer" by you – defined	Section 1.38	Includes transfer of any interest or assets of any kind or nature, whole or partial.
l. Approval of transfer by you	Sections 4.3 and 7	Consent of other members and manager required, with limited exceptions.



<b>SAMPLE JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
m. Conditions for our approval of transfer	Not applicable	Not applicable
n. Our right of first refusal to acquire your business	Not applicable	Not applicable
o. Option to purchase your interest	Section 8	Repurchase of member interest possible on occurrence of Triggering Event; purchase price as agreed among members or, absent an agreement, established by appraisal.
p. Your death or disability	Section 7.4	Transfers of member interest by bequest or in trust.
q. Non-competition covenants during the term of the agreement	Section 5.15(a)	Manager cannot compete with Company.
r. Non-competition covenants after the franchise is terminated or expires	Not applicable	Not applicable
s. Modification of the agreement	Section 13.11	Modifications may be made by an appointed manager, subject to stated exceptions.
t. Integration/merger clause	Section 13.1	Only the terms of the Joint Venture Limited Liability Company Operating Agreement and Articles of Organization are binding (subject to applicable state law). Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.
u. Dispute resolution by arbitration or mediation	Section 13.6	All disputes are resolved through arbitration, conducted in accordance with the American Arbitration Act rules and governed by the federal laws of the United States, including the Federal Arbitration Act. Subject to

<b>SAMPLE JOINT VENTURE LIMITED LIABILITY COMPANY OPERATING AGREEMENT PROVISION</b>	<b>SECTION</b>	<b>SUMMARY</b>
		applicable state law.
v. Choice of forum	Section 13.6	Arbitration to be in a mutually agreed location or in a city/state specified in the Agreement, as determined by the parties. Subject to applicable state law.
w. Choice of law	Section 13.5	As negotiated by the parties. Subject to applicable state law.

The table below lists certain provisions of sample financing documents which may occasionally be used by an Affiliate of ours (the Promissory Note, Security Agreement and Continuing Guarantee). The actual terms will be determined if and when you enter into a financing arrangement with one of our Affiliates. The sample documents are attached to this Disclosure Document as Exhibit K.

<b>SAMPLE PROMISSORY NOTE (“PN”), SECURITY AGREEMENT (“SA”) AND CONTINUING GUARANTEE  (“CG”)</b>	<b>SECTION</b>	<b>SUMMARY</b>
a. Length of the term	PN - Section 1  SA – Section 15  CG – Article 1 and Section 2.02	Maturity date of loan to be determined.  Security Agreement remains in force until loan is paid in full and all obligations under the financing documents are met.  Continues as long as indebtedness is unpaid.
b. Renewal or extension of the term	PN - Section 4 and SA – Section 20  CG – Section 2.09	You consent to renewals and extensions  Guarantor is liable for full debt, even if borrower discharged in bankruptcy
c. Requirements for you to renew or extend	Not applicable	Not applicable
d. Termination by you	PN & SA - Not applicable	

<b>SAMPLE PROMISSORY NOTE (“PN”), SECURITY AGREEMENT (“SA”) AND CONTINUING GUARANTEE (“CG”)</b>	<b>SECTION</b>	<b>SUMMARY</b>
	CG – Section 2.02	You can only terminate the guarantee as to future transactions, and must give written notice to do so, which will be effective at noon on the day after receipt by the lender.
e. Termination by us without cause	Not applicable	Not applicable
f. Termination by us with cause	<p>PN – Section 3</p> <p>SA – Sections 8 and 9</p> <p>CG – Not applicable</p>	<p>Lender can accelerate all payments and obligations, with increased interest rate, for listed defaults.</p> <p>Lender can accelerate payment for listed defaults.</p>
g. “Cause” defined – curable defaults	<p>PN – Section 2</p> <p>SA – Section 8</p> <p>CG – Not applicable</p>	<p>10 days to cure late payments, with late fees.</p> <p>10 days to cure late payments, failure to perform non-monetary obligations, appointment of receiver/trustee or levy of writ of execution on your property; immediate replacement of devalued collateral; 60 days to cure loss of any license, permit, contract, etc. needed for your business operations.</p>
h. “Cause” defined – non-curable defaults	PN – Section 1 and	Failure to cure curable default; cross-defaults under any related financing document or your License Agreement; judgment against you over certain amount or that could have material adverse effect on your business, operations or financial

SAMPLE PROMISSORY NOTE ("PN"), SECURITY AGREEMENT ("SA") AND CONTINUING GUARANTEE ("CG")	SECTION	SUMMARY
	<p>SA – Section 8</p> <p>CG – Not applicable</p>	<p>condition.</p> <p>Failure to timely meet obligations; making material misrepresentation in financing documents; insolvency; abandonment of business; assignment for the benefit of creditors; bankruptcy proceeding; acceleration of debts to third parties; transfer or rearrangement of ownership resulting in current owners having less than 50% voting power; sale of all or most of your assets; if any obligation in financing documents becomes unenforceable or enforceability is challenged.</p>
i. Your obligations on termination/non-renewal	<p>PN – Section 3</p> <p>SA – Sections 5.11, 9 and 10</p> <p>CG – Not applicable</p>	<p>You immediately pay the entire principal balance, together with all interest and applicable fees and expenses.</p> <p>Lender gets any proceeds from insurance; lender can make all your obligations due, gets all rights of a secured party under the UCC, can take, sell, lease or use all collateral by various means listed, gets power of attorney; you pay lender's costs and attorney's fees.</p>
j. Assignment of contract by us	<p>PN – Preamble</p> <p>SA – Section 11 and</p> <p>CG – Section 3.08</p>	<p>You repay the debt to any assignee of the lender.</p> <p>Lender has the right to assign, together with all collateral, obligations and indebtedness.</p>
k. "Transfer" by you – defined	PN – Section 4	Binding upon any successors and assigns; any assignment of Promissory Note without written consent of the lender

<b>SAMPLE PROMISSORY NOTE (“PN”), SECURITY AGREEMENT (“SA”) AND CONTINUING GUARANTEE (“CG”)</b>	<b>SECTION</b>	<b>SUMMARY</b>
	SA – Section 21.1 and CG – Sections 3.08 and 3.09	is void.  Binding upon any heirs, successors, assigns, etc. of the borrower or guarantor.
l. Our approval of transfer by you	PN – Section 4  SA & CG – Not applicable	Must be in writing.
m. Conditions for our approval of transfer	Not applicable	Not applicable
n. Our right of first refusal to acquire your business	Not applicable	Not applicable
o. Our option to purchase your business	Not applicable	Not applicable
p. Your death or disability	Not applicable	Not applicable
q. Non-competition covenants during the term of the franchise	Not applicable	Not applicable
r. Non-competition covenants after the franchise is terminated or expires	Not applicable	Not applicable
s. Modification of the agreement	PN – Section 4 and SA – Section 21.4  CG – Section 2.04	Lender must consent to any changes, which must be in writing.  Lender can make changes to the terms of the indebtedness, take security for payment, or settle, release, compromise

SAMPLE PROMISSORY NOTE ("PN"), SECURITY AGREEMENT ("SA") AND CONTINUING GUARANTEE ("CG")	SECTION	SUMMARY
		with, or substitute any one or more endorsers, guarantors and/or other obligors.
t. Integration/ merger clause	PN – Section 4 SA – Section 21.9  CG – Not applicable	Only the terms of the financing documents are binding (subject to applicable state law). Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.
u. Dispute resolution by arbitration or mediation	PN & CG – Not applicable  SA – Section 24	Not applicable  All disputes must be resolved by binding arbitration, except that arbitration requirement does not limit foreclosure of real property/personal property, setoff or repossession of collateral/proceeds of collateral, replevin, injunctive relief, attachment or the appointment of a receiver. If dispute pertains to loan secured by real property, it can instead be referred to a referee in accordance with California Code of Civil Procedure Section 638 et seq. Disputes for amounts within the jurisdiction of small claims court must be taken to small claims court instead of arbitration. Subject to applicable state law.
v. Choice of forum	PN – Section 4  SA – Sections 20, 22 and 24	State and federal courts in Los Angeles County, or the lender can choose any other court having subject matter jurisdiction.  Waiver of doctrine of forum non conveniens or objection to venue. Waiver of jury trial. Subject to applicable state law.  Arbitration at a location in California

SAMPLE PROMISSORY NOTE ("PN"), SECURITY AGREEMENT ("SA") AND CONTINUING GUARANTEE ("CG")	SECTION	SUMMARY
	CG – Sections 2.05, 2.06, 2.07, 2.09, 2.10 and 3.07	<p>selected by the American Arbitration Association, subject to applicable state law. Judgment upon the arbitrator's decision may be entered in any court having jurisdiction. Waiver of jury trial. Waiver of class action. Full waiver of legal defenses against payment.</p> <p>The courts of the State of California, or any United States District Court of California, or other court chosen by the lender. Waiver of venue objections. Full waiver of all legal defenses against payment and subrogation and of specified statutory rights and benefits.</p>
w. Choice of law	<p>PN – Section 4 and</p> <p>CG – Section 3.06</p> <p>SA – Section 17</p>	<p>California law applies. Subject to state law.</p> <p>The California UCC applies (or the UCC of any other state if necessary for the enforcement of the security interest). For matters not covered by the applicable UCC, California law applies. Subject to applicable state law.</p>

#### ITEM 18. PUBLIC FIGURES

We do not use any public figure to promote our licenses.

#### 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) the franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We are providing you with the following information to assist you in conducting your own investigation for the purchase of a Panda Express franchise. We hope that this information will be helpful to you in preparing your own business and future cash flow estimates; however, it is your sole responsibility to do your own research before purchasing a Panda Express franchise.

Your Restaurant may differ from the Panda Express Restaurants for which results are reported here in significant regards due to differences in markets and locations. These variations include differences in weather, access, traffic flow, local market conditions, proximity of competition, consumer preferences and trends and various other demographics. The economic and business environment in a particular market is also an important factor. Therefore, you cannot assume that the information provided is necessarily directly relevant to your market or any location from which you intend to operate a Panda Express franchise. You should independently verify whether the relevant factors and conditions in your intended area of operation are comparable to those in the areas of the reporting Panda Express Restaurants. You should also research the prices charged by competitors in your prospective market to determine the degree of price competition you will face.

We used information reported to us by our Licensees to prepare this document. We assume the information as supplied by them and their respective operations and Panda Express Restaurant managers to be accurate. The information has not been audited and should be read in conjunction with this document and the notes following the charts below (which form an integral part of the presentation). The information presented is not presented in accordance with generally accepted accounting principles.

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

**Captive Venues - Licensed Panda Express Restaurants Only**  
**Financial Performance Representations for the Full Fiscal Year 2023~~34~~**  
**Occurring ~~January 4~~ December 31, 2023 to December ~~30~~28, 2023~~4~~**

	Airport	Hospital	Military	University	Casino	Travel Plaza	Total
Total Gross Sales	<del>58,349,154</del> <u>5,875,528</u>	<del>1,837,339</del> <u>826,193</u>	<del>65,143,123</del> <u>5,940,332</u>	<del>65,078,562</del> <u>4,053,798</u>	<del>7,325,201</del> <u>538,285</u>	<del>11,480,13</del> <u>112,035,896</u>	<del>209,213,511</del> <u>247,270,032</u>
Average Gross Sales	<del>3,241,620</del> <u>903,433</u>	<del>612,446</del> <u>8,731</u>	<del>1,416,155</del> <u>489,026</u>	<del>891,487</del> <u>636</u>	<del>1,831,300</del> <u>884,571</u>	<del>2,870,033</del> <u>3,008,974</u>	<del>1,413,605</del> <u>85,064</u>
*Minimum Gross Sales	<del>976,490</del>	<del>505,814</del> <u>2,872</u>	<del>418,549</del> <u>353</u>	<del>241,830</del> <u>547</u>	<del>912,068</del> <u>46,308</u>	<del>2,090,233</del> <u>246,547</u>	<del>9246,547</del>
Median Gross Sales	<del>2,960,165</del> <u>580,050</u>	<del>516,989</del> <u>4,206</u>	<del>1,344,794</del> <u>370,147</u>	<del>840,937</del> <u>825</u>	<del>1,779,149</del> <u>747,508</u>	<del>2,933,369</del> <u>824,825</u>	<del>1,127,502</del> <u>86,865</u>
Maximum Gross Sales	<del>8,283,931</del> <u>233,961</u>	<del>814,537</del> <u>9,115</u>	<del>2,983,840</del> <u>984,075</u>	<del>2,310,955</del> <u>514,523</u>	<del>2,854,834</del> <u>896,962</u>	<del>3,523,161</del> <u>2,514,523</u>	<del>8,283,931</del> <u>33,961</u>
Number of Units Exceeding Average Gross Sales	<del>58</del>	1	<del>20</del> <u>23</u>	<del>33</del> <u>30</u>	<del>21</del>	2	<del>61</del> <u>65</u>
Percent of Units Exceeding Average Gross Sales	<del>28</del> <u>36</u> %	33%	<del>43</del> <u>45</u> %	<del>45</del> <u>42</u> %	<del>50</del> <u>25</u> %	50%	<del>41</del> <u>42</u> %
Average Age of Units in Years	<del>6.55</del> <u>5.89</u>	<del>7.8</del> <u>8.7</u>	<del>6.95</del> <u>7.39</u>	<del>6.49</del> <u>7.06</u>	<del>56</del> <u>57</u>	<del>42</del> <u>74</u>	<del>6.52</del> <u>6.91</u>
Number of Units Exceeding Average Age in Years	<del>61</del> <u>10</u>	<del>42</del>	<del>20</del> <u>23</u>	<del>30</del> <u>32</u>	1	1	<del>59</del> <u>69</u>



	Airport	Hospital	Military	University	Casino	Travel Plaza	Total
Percent of Units Exceeding Average Age in Years	<del>33</del> <u>45</u> %	<del>33</del> <u>67</u> %	<del>43</del> <u>45</u> %	<del>41</del> <u>44</u> %	25%	25%	<del>40</del> <u>44</u> %
Median Age of Units in Years	5. <del>7</del> <u>2</u> 6	<del>4.84</del> <u>9.86</u>	<del>6.30</del> <u>6.81</u>	<del>5.96</del> <u>6.39</u>	<del>4.84</del> <u>5.83</u>	<del>4</del> <u>2</u> .54	<del>5.89</del> <u>6.38</u>
Total Number of Units	<del>18</del> <u>22</u>	3	<del>46</del> <u>51</u>	<del>73</del> <u>72</u>	4	4	<del>148</del> <u>156</u>

~~\*In 2023, 1 store (in an airport) was closed temporarily due to COVID-19 but has not opened since then yet. As a result, Minimum Gross Sales for this captive venue was \$0.~~

Some outlets have earned these amounts. Your individual results may differ. There is no assurance that you will earn as much.

#### Count of Venue

State	Airport	Hospital	Military	University	Casino	Travel Plaza	Total
AL	0	0	0	2	0	0	2
AR	0	0	0	<del>2</del> <u>1</u>	0	0	<del>2</del> <u>1</u>
AZ	1	0	0	1	2	0	4
CA	4	1	10	5	0	0	20
<u>CO</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
CT	0	0	0	0	0	1	1
DC	0	0	2	0	0	0	2
DE	0	0	0	0	0	1	1
FL	2	1	<del>2</del> <u>3</u>	<del>6</del> <u>7</u>	0	0	<del>11</del> <u>13</u>
GA	1	0	5	2	0	0	8
GU	0	0	1	0	0	0	1
HI	0	0	<del>2</del> <u>3</u>	0	0	0	<del>2</del> <u>3</u>
ID	0	0	0	1	0	0	1
IL	0	0	2	<del>4</del> <u>0</u>	0	0	<del>3</del> <u>2</u>
IN	0	0	0	1	0	0	1
KS	0	0	<del>0</del> <u>1</u>	1	0	0	<del>1</del> <u>2</u>
KY	0	0	0	4	0	0	4
LA	1	0	1	2	0	0	4
MA	0	0	0	1	0	0	1
MD	0	0	5	<del>0</del> <u>1</u>	0	0	<del>5</del> <u>6</u>
MI	0	0	0	4	0	0	4
MN	2	0	0	3	0	0	5
MO	0	0	1	2	0	0	3
MS	0	0	0	1	0	0	1
NC	1	0	3	<del>5</del> <u>6</u>	1	0	<del>10</del> <u>11</u>
ND	0	0	0	1	0	0	1

State	Airport	Hospital	Military	University	Casino	Travel Plaza	Total
NJ	1	0	0	1	0	2	4
NM	<u>40</u>	0	0	0	1	0	<u>21</u>
NY	0	0	1	1	0	0	2
OH	0	0	0	3	0	0	3
PA	0	0	0	1	0	0	1
SC	0	0	2	2	0	0	4
TN	0	0	0	<u>54</u>	0	0	<u>54</u>
TX	<u>37</u>	0	1	<u>109</u>	0	0	<u>1417</u>
UT	1	0	0	0	0	0	1
VA	0	1	<u>79</u>	2	0	0	<u>1012</u>
WA	0	0	1	2	0	0	3
WY	0	0	0	1	0	0	1
<b>Grand Total</b>	<b><u>1822</u></b>	<b>3</b>	<b><u>4651</u></b>	<b><u>7372</u></b>	<b>4</b>	<b>4</b>	<b><u>148156</u></b>

### NOTES TO CHARTS:

1. The charts above contain unaudited historical gross sales data for calendar year 202334 reported by Panda Express Restaurants operated by Licensees and located exclusively in airports, military facilities, hospitals universities, casinos, and travel plaza (the “captive venues”). The information relates only to 148156 Panda Express Restaurants operating in captive venue locations for a minimum of 52 weeks (although some were subject to seasonal closures specific to the venue, such as for universities and theme parks). 5459 of these Panda Express Restaurants are licensed as joint ventures in which an Affiliate of ours is a minority owner. Refer to Exhibit G for information on joint venture licensed Panda Express Restaurants.

2. Excluded from this chart is data for 15 licensed Panda Express Restaurants that were open less than a year, and for 47 licensed Panda Express Restaurants that closed in 202334 and which had been operating more than a year before closing. We also excluded data for 32 Panda Express Restaurants located in a theme park, and a corporate campus ~~and a street drive-through store~~, respectively, due to privacy considerations because they are the only licensed Panda Express Restaurants in these kinds of venues and their data could not be cumulated with other similarly situated licensees.

3. “Gross Sales” is defined as all charges and/or revenues that are received or earned by you (and/or any Affiliate of yours):

A. by, at or in connection with any Panda Express Restaurant operated by you including beverage sales, whether they are (i) part of a Panda Express combination plate offering, or (ii) being purchased through a Panda Express register and sold under Panda Express Marks or Trade Dress;

B. from sales of Panda Express Products in contravention of this Agreement at locations outside a Restaurant;

- C. from proceeds of any business interruption insurance, less the deductible amount;
- D. from mail, fax, and telephone orders and/or any orders received through other electronic or other means and filled on or from a Restaurant;
- E. from all deposits not refunded to purchasers;
- F. from orders sold under Panda Express Marks or Trade Dress though filled outside a Restaurant;
- G. in connection with any Similar Business operated in violation of this Agreement.

All sales and/or billings, whether collected or not, will be included in Gross Sales, with no deduction for credit card or other charges. Gross Sales does not include sales tax collected and paid when due to the appropriate taxing authority and actual customer refunds, adjustments, credits and employee discounts actually given.

4. Panda Express Restaurants located in geographical areas with multiple operating Panda Express Restaurants and stronger brand recognition tend to outperform Panda Express Restaurants located in less developed areas.

5. Panda Express Restaurants for which results are reported here have limited geographic diversity, with captive venue Panda Express Restaurants being located in ~~37~~<sup>38</sup> states. Climate, local demographics, cultural and other differences in geographical areas can significantly affect results.

A new Licensee's results may be materially different from those described here due to factors such as operating experience.

The financial performance figures shown do not reflect costs of sales, operating expenses or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your Licensed Business. Franchisees or former franchisees listed in the disclosure document may be one source of this information. A list of current licensees in the U.S. is attached as Exhibit G to this Disclosure Document. We recommend that you talk to professional advisors along with other persons in this industry and industry associations to collect information and to compare their experiences with the information that we provide.

~~As of the Issuance Date of this Disclosure Document, the global pandemic involving the novel coronavirus ("COVID-19") is ongoing. Its duration and the economic consequences that may result are uncertain.~~

Other than the preceding financial performance representations, Citadel Panda Express, Inc. does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Monte H. Baier, 1683 Walnut Grove Avenue, Rosemead, California 91770, Telephone: (626) 799-9898, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20.

**OUTLETS AND FRANCHISEE INFORMATION**

**TABLE 1**  
**Systemwide Outlet Summary**  
**For Years 2021~~2~~ to 2023~~4~~**

Outlet Type	Year	Outlets at Start of the Year	Outlets at End of the Year	Net Change
<b>Franchised*</b>	<b>2021</b>	<b>141</b>	<b>146</b>	<b>+7</b>
<b>Franchised*</b>	2022	146	157	+11
	2023	157	165	+8
<b>Company-Owned**</b>	2021 <del>4</del>	<b>2099</b> 165	<b>2153</b> 173	<b>+54</b> +8
<b>Company Owned**</b>	2022	2153	2195	+42
	2023	2195	2249 <del>8</del>	+54
<b>Total</b>	2021 <del>4</del>	<b>2239</b> 2248	<b>2239</b> 2329	<b>+61</b> +81
<b>Total</b>	2022	2230	2353	+53
	2023	2353	2414 <del>3</del>	+61
	2024	2413	2502	+89

\*Of these Panda Express Restaurants, 54~~59~~ are licensed as joint ventures in which an Affiliate of ours is a minority owner. Refer to Exhibit G for the location of these Panda Express Restaurants.

\*\*We do not own or operate any Panda Express Restaurants, but our Affiliates do. For purposes of this Item 20, "Company-Owned", refers to Panda Express Units owned and operated by an Affiliate of ours.

**TABLE 2**  
**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)**  
**For Years 2021~~2~~ to 2023~~4~~**

State	Year	Number of Transfers
<u>Arkansas</u>	<u>2022</u>	<u>0</u>
	<u>2023</u>	<u>0</u>
<del>Delaware</del>	2021 <del>4</del>	1
<u>Florida</u>	2022	0 <del>2</del>
	2023	0
<del>Florida</del>	2021 <del>4</del>	0
<u>Idaho</u>	2022	2 <del>1</del>
	2023	0
<del>Idaho</del>	2021 <del>4</del>	0
<u>Illinois</u>	2022	4 <del>0</del>
	2023	0

State	Year	Number of Transfers
<u>Arkansas</u>	<u>2022</u>	<u>0</u>
	<u>2023</u>	<u>0</u>
<del>Delaware</del>	202 <del>4</del>	1
<del>Maryland</del>	202 <del>4</del>	<del>0</del> <u>1</u>
<u>Maryland</u>	2022	0
	2023	1
<del>Minnesota</del>	202 <del>4</del>	0
<u>Minnesota</u>	2022	2
	2023	0
<del>Texas</del>	202 <del>4</del>	<del>4</del> <u>0</u>
<u>Texas</u>	2022	0
	2023	4
<del>Total</del>	202 <del>4</del>	<del>2</del> <u>1</u>
<u>Total</u>	2022	5
	2023	5
	<u>2024</u>	<u>3</u>

**TABLE 3**  
**Status of Franchised Outlets**  
**For Years 202~~12~~ to 202~~34~~**

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewal	Reacquired by Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
<del>AL</del>	<del>2024</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
<u>AL</u>	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<del>AR</del>	202 <del>4</del>	2	0	0	0	0	0	2
<u>AR</u>	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<del>AZ</del>	202 <del>4</del>	<del>4</del> <u>2</u>	0	0	0	0	0	<del>4</del> <u>2</u>
<u>AZ</u>	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<del>CA</del>	202 <del>4</del>	<del>20</del> <u>4</u>	0	0	0	0	0	<del>20</del> <u>4</u>
<u>CA*</u>	2022	20	1	0	0	0	0	21
	2023	21	0	0	0	0	0	21

<del>CO*</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>21</u>	<del>0</del> <u>1</u>	0	0	0	0	<del>4</del> <u>22</u>
<u>CO</u>	2022	1	0	0	0	1	0	0
	2023	0	1	0	0	0	0	1
<del>CT</del>	202 <sup>4</sup> <u>4</u>	<del>0</del> <u>1</u>	<del>0</del> <u>1</u>	0	0	0	0	<del>—</del> <u>02</u>
<u>CT</u>	2022	0	1	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>DE</del>	202 <sup>4</sup> <u>4</u>	1	0	0	0	0	0	1
<u>DE</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>DC</del>	202 <sup>4</sup> <u>4</u>	<del>2</del> <u>1</u>	0	0	0	0	0	<del>2</del> <u>1</u>
<u>DC</u>	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<del>FL</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>12</u>	0	0	0	0	0	<del>4</del> <u>12</u>
<u>FL</u>	2022	11	0	0	0	0	0	11
	2023	11	2	0	0	0	0	13
<del>GA</del>	202 <sup>4</sup> <u>4</u>	<del>6</del> <u>13</u>	1	0	0	0	0	<del>7</del> <u>14</u>
<u>GA**</u>	2022	7	1	0	0	0	0	8
	2023	8	1	0	0	0	0	9
<del>GU</del>	202 <sup>4</sup> <u>4</u>	<del>0</del> <u>9</u>	<del>4</del> <u>0</u>	0	0	<del>0</del> <u>1</u>	0	<del>4</del> <u>8</u>
<u>GU</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>HI</del>	202 <sup>4</sup> <u>4</u>	<del>2</del> <u>1</u>	0	0	0	0	0	<del>2</del> <u>1</u>
<u>HI</u>	2022	2	1	0	0	0	0	3
	2023	3	0	0	0	0	0	3
<del>ID</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>3</u>	0	0	0	0	0	<del>4</del> <u>3</u>
<u>ID</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>IL</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>1</u>	0	0	0	0	0	<del>4</del> <u>1</u>
<u>IL</u>	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<del>IN</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>4</u>	0	0	0	0	0	<del>4</del> <u>4</u>
<u>IN</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>KS</del>	202 <sup>4</sup> <u>4</u>	1	0	0	0	0	0	1
<u>KS</u>	2022	1	0	0	0	0	0	1
	2023	1	1	0	0	0	0	2

<del>KY</del>	202 <sup>4</sup> 4	<del>4</del> <u>2</u>	0	0	0	0	<del>4</del> <u>0</u>	<del>3</del> <u>2</u>
<u>KY</u>	2022	3	1	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<del>LA</del>	202 <sup>4</sup> 4	4	0	0	0	0	0	4
<u>LA</u>	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<del>MD</del>	202 <sup>4</sup> 4	<del>6</del> <u>4</u>	0	0	0	0	0	<del>6</del> <u>4</u>
<u>MD</u>	2022	6	0	0	0	0	0	6
	2023	6	0	0	0	0	0	6
<del>MA</del>	202 <sup>4</sup> 4	<del>4</del> <u>6</u>	0	0	0	0	0	<del>4</del> <u>6</u>
<u>MA</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>MI</del>	202 <sup>4</sup> 4	<del>4</del> <u>1</u>	0	0	0	0	0	<del>4</del> <u>1</u>
<u>MI</u>	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<del>MN</del>	202 <sup>4</sup> 4	<del>5</del> <u>4</u>	0	0	0	0	0	<del>5</del> <u>4</u>
<u>MN</u>	2022	5	0	0	0	0	0	5
	2023	5	0	0	0	0	0	5
<del>MS</del>	202 <sup>4</sup> 4	<del>4</del> <u>5</u>	0	0	0	0	0	<del>4</del> <u>5</u>
<u>MS</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>MO</del>	202 <sup>4</sup> 4	<del>2</del> <u>1</u>	<del>0</del> <u>1</u>	0	0	0	0	2
<u>MO</u>	2022	2	1	0	0	0	0	3
	2023	3	0	0	0	0	0	3
<del>NJ</del>	202 <sup>4</sup> 4	<del>2</del> <u>3</u>	0	0	0	0	0	<del>2</del> <u>3</u>
<u>NJ</u>	2022	2	2	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<del>NM</del>	202 <sup>4</sup> 4	<del>2</del> <u>4</u>	0	0	0	0	0	<del>2</del> <u>4</u>
<u>NM</u>	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<del>NY</del>	202 <sup>4</sup> 4	<del>4</del> <u>2</u>	<del>4</del> <u>0</u>	0	0	0	0	2
<u>NY</u>	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<del>NC</del>	202 <sup>4</sup> 4	<del>8</del> <u>2</u>	<del>0</del> <u>2</u>	0	0	0	0	<del>8</del> <u>4</u>
<u>NC</u>	2022	8	2	0	0	0	0	10
	2023	10	1	0	0	0	0	11
<del>ND</del>	202 <sup>4</sup>	<del>0</del> <u>11</u>	<del>4</del> <u>0</u>	0	0	0	0	<del>4</del> <u>11</u>

	<u>4</u>							
<u>ND</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>OH</del>	202 <sup>4</sup> <u>4</u>	<del>2</del> <u>1</u>	<del>4</del> <u>0</u>	0	0	0	0	<del>3</del> <u>1</u>
<u>OH</u>	2022	3	0	0	0	0	0	3
	2023	3	1	0	0	0	0	4
<del>PA</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>4</u>	<del>0</del> <u>2</u>	<del>0</del> <u>1</u>	0	0	0	<del>4</del> <u>5</u>
<u>PA</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>SG</del>	202 <sup>4</sup> <u>4</u>	<del>2</del> <u>1</u>	0	0	0	0	0	<del>2</del> <u>1</u>
<u>SC</u>	2022	2	3	0	0	0	1	4
	2023	4	0	0	0	0	0	4
<del>SD</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>4</u>	0	0	0	0	0	<del>4</del> <u>4</u>
<u>SD</u>	2022	1	0	0	0	0	1	0
	2023	0	0	0	0	0	0	0
<del>TN</del>	202 <sup>4</sup> <u>4</u>	<del>5</del> <u>0</u>	0	0	0	0	0	<del>5</del> <u>0</u>
<u>TN</u>	2022	5	0	0	0	0	0	5
	2023	5	0	0	0	0	0	5
<del>TX</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>7</u> <u>5</u>	1	0	0	0	0	<del>4</del> <u>8</u> <u>4</u>
<u>TX</u>	2022	18	2	0	0	0	2	18
	202 <sup>2</sup>	18	0	0	0	0	0	18
<del>UT</del>	202 <sup>4</sup> <u>4</u>	<del>0</del> <u>1</u> <u>8</u>	<del>4</del> <u>3</u>	0	0	0	0	<del>4</del> <u>2</u> <u>1</u>
<u>UT</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>VA</del>	202 <sup>4</sup> <u>4</u>	<del>9</del> <u>1</u>	<del>4</del> <u>0</u>	0	0	0	0	<del>4</del> <u>0</u> <u>1</u>
<u>VA</u>	2022	10	0	0	0	0	0	10
	2023	10	2	0	0	0	0	12
<del>WA</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>1</u> <u>2</u>	0	0	0	0	0	<del>4</del> <u>1</u> <u>2</u>
<u>WA</u>	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	1	3
<del>WY</del>	202 <sup>4</sup> <u>4</u>	<del>4</del> <u>3</u>	0	0	0	0	0	<del>4</del> <u>3</u>
<u>WY</u>	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<del>Total</del>	202 <sup>4</sup> <u>4</u>	<del>1</del> <u>3</u> <u>9</u> <u>1</u>	<del>8</del> <u>0</u>	0	0	0	<del>4</del> <u>0</u>	<del>1</del> <u>4</u> <u>6</u> <u>1</u>
<u>Total</u>	2022	146	15	0	0	0	4	157
	2023	157	9	0	0	0	1	165
	<u>2024</u>	<u>165</u>	<u>11</u>	<u>2</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>173</u>



\*This is an existing non-licensed restaurant in ~~Colorado~~California that transitioned to a licensed restaurant in 202~~3~~4.

\*\*This is an existing licensed restaurant that transitioned to a company-owned restaurant in 2024.

**TABLE 4**  
**Status of Company-Owned\* Outlets**  
**For Years 202~~1~~2 to 202~~3~~4**

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
<del>AL</del>	202 <del>1</del> <u>4</u>	<del>25</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>25</del>
<u>AL</u>	2022	25	2	0	0	0	27
	2023	27	0	0	0	0	27
<del>AK</del>	202 <del>1</del> <u>4</u>	<del>427</del>	<del>10</del>	0	0	0	<del>527</del>
<u>AK</u>	2022	5	0	0	0	0	5
	2023	5	1	0	0	0	6
<del>AZ</del>	202 <del>1</del> <u>4</u>	<del>1066</del>	<del>20</del>	0	0	0	<del>1086</del>
<u>AZ</u>	2022	108	0	0	0	0	108
	2023	108	3	0	0	0	111
<del>AR</del>	202 <del>1</del> <u>4</u>	<del>8111</del>	<del>02</del>	0	0	0	<del>8113</del>
<u>AR</u>	2022	8	1	0	0	0	9
	2023	9	0	0	0	0	9
<del>CA</del>	202 <del>1</del> <u>4</u>	<del>5689</del>	<del>81</del>	0	<del>80</del>	0	<del>56810</del>
<u>CA</u>	2022	568	12	0	3	0	577
	2023	577	16	0	7	0	586
<del>CO</del>	202 <del>1</del> <u>4</u>	<del>49586</del>	<del>214</del>	0	<del>03</del>	0	<del>54597</del>
<u>CO</u>	2022	51	0	0	0	0	51
	2023	51	3	0	0	0	54
<del>CT</del>	202 <del>1</del> <u>4</u>	<del>254</del>	<del>01</del>	0	0	0	<del>255</del>
<u>CT</u>	2022	2	0	0	1	0	1
	2023	1	0	0	0	0	1
<del>DE</del>	202 <del>1</del> <u>4</u>	<del>51</del>	0	0	0	0	<del>51</del>
<u>DE</u>	<del>20022</del> 022	5	0	0	0	0	5
	20 <del>0</del> 23	5	0	0	0	0	5
<del>DC</del>	202 <del>1</del> <u>4</u>	<del>35</del>	0	0	0	0	<del>35</del>
<u>DC</u>	2022	3	0	0	0	0	3
	2023	3	0	0	0	0	3
<del>FL</del>	202 <del>1</del> <u>4</u>	<del>893</del>	<del>40</del>	0	0	0	<del>933</del>
<u>FL</u>	2022	93	8	0	0	0	101
	2023	101	5	0	0	0	106
<del>GA</del>	202 <del>1</del> <u>4</u>	<del>60106</del>	<del>17</del>	0	0	0	<del>61113</del>

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
<u>GA</u>	2022	61	3	0	2	0	62
	2023	62	0	0	0	0	62
<del>GU</del>	202 <del>4</del>	<del>3</del> <u>62</u>	<del>0</del> <u>3</u>	0	0	0	<del>3</del> <u>65</u>
<u>GU</u>	2022	3	0	0	0	0	3
	2023	3	0	0	0	0	3
	<u>2024</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
HI	202 <del>4</del> <u>2</u>	32	0	0	0	0	32
	<del>2022</del>	<del>32</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>32</del>
	2023	32	0	0	0	0	32
<del>ID</del>	202 <del>4</del>	<del>32</del> <u>3</u>	0	0	0	0	<del>32</del> <u>3</u>
<u>ID</u>	2022	23	0	0	0	0	23
	2023	23	0	0	0	0	23
<del>IL</del>	202 <del>4</del>	<del>109</del> <u>23</u>	<del>20</del>	0	<del>30</del>	0	<del>108</del> <u>23</u>
<u>IL</u>	2022	108	2	0	1	0	109
	2023	109	3	0	4	0	108
<del>IN</del>	202 <del>4</del>	<del>36</del> <u>108</u>	<del>43</del>	0	0	0	<del>40</del> <u>111</u>
<u>IN</u>	2022	40	1	0	0	0	41
	2023	41	1	0	1	0	41
<del>IA</del>	202 <del>4</del>	<del>17</del> <u>41</u>	<del>0</del> <u>5</u>	0	0	0	<del>17</del> <u>46</u>
<u>IA</u>	2022	17	0	0	1	0	16
	2023	16	0	0	0	0	16
<del>KS</del>	202 <del>4</del>	<del>18</del> <u>16</u>	0	0	0	0	<del>18</del> <u>16</u>
<u>KS</u>	2022	18	1	0	0	0	19
	2023	19	2	0	0	0	21
<del>KY</del>	202 <del>4</del>	<del>12</del> <u>21</u>	1	0	0	0	<del>12</del> <u>22</u>
<u>KY</u>	2022	12	0	0	0	0	12
	2023	12	0	0	0	0	12
<del>LA</del>	202 <del>4</del>	<del>10</del> <u>12</u>	0	0	0	0	<del>10</del> <u>12</u>
<u>LA</u>	2022	10	1	0	0	0	11
	2023	11	0	0	0	0	11
<del>ME</del>	202 <del>4</del>	<del>1</del> <u>11</u>	<del>0</del> <u>2</u>	0	0	0	<del>1</del> <u>13</u>
<u>ME</u>	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
<del>MD</del>	202 <del>4</del>	<del>34</del> <u>1</u>	0	0	<del>40</del>	0	<del>30</del> <u>1</u>
<u>MD</u>	2022	30	4	0	0	0	34
	2023	34	2	0	0	0	36
<del>MA</del>	202 <del>4</del>	<del>5</del> <u>36</u>	0	0	0	0	<del>5</del> <u>36</u>
<u>MA</u>	2022	5	0	0	0	0	5
	2023	5	0	0	0	0	5

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
<del>MI</del>	202 <del>4</del>	<del>36</del> <u>5</u>	<del>3</del> <u>0</u>	0	<del>0</del> <u>1</u>	0	<del>39</del> <u>4</u>
<u>MI</u>	2022	39	1	0	0	0	40
	2023	40	2	0	0	0	42
<del>MN</del>	202 <del>4</del>	<del>18</del> <u>42</u>	<del>0</del> <u>3</u>	0	0	0	<del>18</del> <u>45</u>
<u>MN</u>	2022	18	1	0	0	0	19
	2023	19	2	0	0	0	21
<del>MS</del>	202 <del>4</del>	<del>6</del> <u>21</u>	0	0	0	0	<del>6</del> <u>21</u>
<u>MS</u>	2022	6	0	0	0	0	6
	2023	6	0	0	0	0	6
<del>MO</del>	202 <del>4</del>	<del>40</del> <u>6</u>	<del>2</del> <u>0</u>	0	0	0	<del>42</del> <u>6</u>
<u>MO*</u>	2022	42	3	0	1	0	44
	2023	44	1	0	<del>4</del> <u>2</u>	0	<del>44</del> <u>43</u>
<del>MT</del>	202 <del>4</del>	<del>7</del> <u>43</u>	0	0	0	0	<del>7</del> <u>43</u>
<u>MT</u>	2022	7	0	0	0	0	7
	2023	7	0	0	0	0	7
<del>NE</del>	202 <del>4</del>	<del>13</del> <u>7</u>	<del>0</del> <u>2</u>	0	0	0	<del>13</del> <u>9</u>
<u>NE</u>	2022	13	0	0	1	0	12
	2023	12	0	0	0	0	12
<del>NV</del>	202 <del>4</del>	<del>74</del> <u>12</u>	<del>0</del> <u>2</u>	0	0	0	<del>74</del> <u>14</u>
<u>NV</u>	2022	74	0	0	2	0	72
	2023	72	0	0	4	0	68
<del>NH</del>	202 <del>4</del>	<del>1</del> <u>68</u>	<del>0</del> <u>1</u>	0	<del>0</del> <u>1</u>	0	<del>1</del> <u>68</u>
<u>NH</u>	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
<del>NJ</del>	202 <del>4</del>	<del>14</del> <u>1</u>	<del>3</del> <u>0</u>	0	0	0	<del>14</del> <u>1</u>
<u>NJ</u>	2022	14	0	0	0	0	14
	2023	14	4	0	0	0	18
<del>NM</del>	202 <del>4</del>	<del>21</del> <u>18</u>	<del>0</del> <u>3</u>	0	0	0	21
<u>NM</u>	2022	21	0	0	0	0	21
	2023	21	0	0	0	0	21
<del>NY</del>	202 <del>4</del>	<del>13</del> <u>21</u>	<del>0</del> <u>1</u>	0	0	0	<del>13</del> <u>22</u>
<u>NY</u>	2022	13	0	0	0	0	13
	2023	13	3	0	0	0	16
<del>NC</del>	202 <del>4</del>	<del>15</del> <u>16</u>	<del>1</del> <u>2</u>	0	0	0	<del>15</del> <u>18</u>
<u>NC</u>	2022	15	1	0	1	0	15
	2023	15	2	0	1	0	16
<del>ND</del>	202 <del>4</del>	<del>3</del> <u>16</u>	<del>0</del> <u>3</u>	0	0	0	<del>3</del> <u>19</u>
<u>ND</u>	2022	3	1	0	0	0	4
	2023	4	0	0	0	0	4
<del>OH</del>	202 <del>4</del>	<del>40</del> <u>4</u>	<del>3</del> <u>0</u>	0	0	0	<del>43</del> <u>4</u>

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
<u>OH</u>	2022	43	0	0	0	0	43
	2023	43	5	0	0	0	48
<del>OK</del>	202 <del>4</del>	<del>28</del> <u>48</u>	<del>0</del> <u>7</u>	0	0	0	<del>28</del> <u>55</u>
<u>OK</u>	2022	28	0	0	0	0	28
	2023	28	0	0	0	0	28
<del>OR</del>	202 <del>4</del>	<del>47</del> <u>28</u>	<del>0</del> <u>4</u>	0	<del>0</del> <u>10</u>	0	<del>47</del> <u>32</u>
<u>OR</u>	2022	47	0	0	0	0	47
	2023	47	1	0	0	0	48
<del>PA</del>	202 <del>4</del>	<del>16</del> <u>48</u>	<del>0</del> <u>2</u>	0	0	0	<del>16</del> <u>50</u>
<u>PA</u>	2022	16	0	0	1	0	15
	2023	15	1	0	0	0	16
<del>PR</del> Puerto Rico	202 <del>4</del>	<del>19</del> <u>16</u>	0	0	<del>1</del> <u>1</u>	0	<del>19</del> <u>15</u>
<u>PR</u> Puerto Rico	2022	19	0	0	1	0	18
	2023	18	0	0	0	0	18
<del>RI</del>	202 <del>4</del>	<del>1</del> <u>18</u>	0	0	0	0	<del>1</del> <u>18</u>
<u>RI</u>	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
<del>SC</del>	202 <del>4</del>	<del>9</del> <u>1</u>	0	0	0	0	<del>9</del> <u>1</u>
<u>SC</u>	2022	9	2	0	0	0	11
	2023	11	1	0	0	0	12
<del>SD</del>	202 <del>4</del>	<del>2</del> <u>12</u>	<del>0</del> <u>3</u>	0	0	0	<del>2</del> <u>15</u>
<u>SD</u>	2022	2	0	0	0	0	2
	2023	2	0	0	0	0	2
<del>TN</del>	202 <del>4</del>	<del>39</del> <u>42</u>	<del>1</del> <u>0</u>	0	0	0	<del>39</del> <u>2</u>
<u>TN</u>	2022	39	1	0	0	0	40
	2023	40	3	0	1	0	42
<del>TX</del>	202 <del>4</del>	<del>280</del> <u>42</u>	<del>6</del> <u>2</u>	0	<del>0</del> <u>10</u>	0	<del>280</del> <u>44</u>
<u>TX</u>	2022	280	6	0	0	0	286
	2023	286	9	0	0	0	295
<del>UT</del>	202 <del>4</del>	<del>44</del> <u>295</u>	<del>1</del> <u>6</u>	0	0	0	<del>44</del> <u>301</u>
<u>UT</u>	2022	44	1	0	0	0	45
	2023	45	1	0	0	0	46
<del>VA</del>	202 <del>4</del>	<del>40</del> <u>46</u>	<del>4</del> <u>1</u>	0	0	0	<del>40</del> <u>47</u>
<u>VA</u>	2022	40	4	0	0	0	44
	2023	44	1	0	1	0	44
<del>WA</del>	202 <del>4</del>	<del>64</del> <u>44</u>	<del>1</del> <u>1</u>	0	0	0	<del>64</del> <u>45</u>
<u>WA</u>	2022	64	1	0	0	0	65
	2023	65	2	0	1	0	66

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
<del>WV</del>	202 <del>4</del>	<del>266</del>	<del>44</del>	0	0	0	<del>370</del>
<del>WV</del>	2022	3	0	0	0	0	3
<del>WV</del>	2023	3	0	0	0	0	3
<del>WI</del>	202 <del>4</del>	<del>223</del>	<del>40</del>	0	0	0	<del>233</del>
<del>WI</del>	2022	23	0	0	0	0	23
<del>WI</del>	2023	23	1	0	0	0	24
<del>WY</del>	202 <del>4</del>	<del>424</del>	<del>01</del>	0	0	0	<del>425</del>
<del>WY</del>	2022	1	0	0	0	0	1
<del>WY</del>	2023	1	0	0	0	0	1
<del>WY</del>	2024	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
TOTAL	2021	2099	68	0	14	0	2153
	2022	2153	57	0	15	0	2195
	2023	2195	75	0	21	0	224 <del>98</del>
	2024	<u>2248</u>	<u>87</u>	<u>0</u>	<u>6</u>	<u>0</u>	<u>2329</u>

\* There is 1 store that stopped operating in 2023 and were later officially closed in 2024.

**TABLE 5**  
**Projected Openings as of December ~~30~~28, 2023~~4~~, for 2025**  
**(United States)**

State	Franchise Agreements Signed but Outlets Not Opened (as of <del>42/30/23</del> 12/28/24)	Projected New Franchised Outlets in Next Fiscal Year (202 <del>4</del> 5)	Projected New Company-Owned Outlets in the Next Fiscal Year (202 <del>4</del> 5)
AK	0	0	<del>01</del>
AL	0	0	0
AR	0	0	<del>03</del>
AZ	0	0	<del>43</del>
CA	<del>01</del>	<del>01</del>	<del>4210</del>
CO	1	<del>01</del>	2
CT	0	0	0
DC	<del>01</del>	<del>01</del>	0
DE	0	0	0
FL	0	<del>40</del>	<del>615</del>
GA	<del>01</del>	0	<del>36</del>
GUAM	0	0	0
HI	<del>02</del>	<del>02</del>	0
IA	0	0	<del>01</del>
ID	0	0	<del>01</del>
IL	<del>40</del>	0	<del>47</del>
IN	<del>01</del>	<del>01</del>	<del>41</del>
KA	0	0	<del>40</del>
KS	0	0	1

State	Franchise Agreements Signed but Outlets Not Opened (as of <del>12/30/23</del> 12/28/24)	Projected New Franchised Outlets in Next Fiscal Year (202 <del>4</del> 5)	Projected New Company-Owned Outlets in the Next Fiscal Year (202 <del>4</del> 5)
KY	1	<del>0</del> 1	<del>0</del> 3
LA	0	0	<del>2</del> 5
MA	0	0	0
MD	0	0	<del>4</del> 2
MI	0	0	<del>3</del> 2
MN	0	0	<del>0</del> 1
MO	0	0	0
MS	0	0	<del>0</del> 1
MT	0	0	<del>4</del> 0
NC	<del>4</del> 2	<del>4</del> 2	<del>3</del> 4
ND	0	0	0
NE	0	0	<del>2</del> 1
NJ	<del>0</del> 1	<del>0</del> 1	2
NM	0	0	2
NV	<del>0</del> 1	<del>0</del> 1	<del>2</del> 3
NY	<del>3</del> 2	<del>3</del> 2	<del>2</del> 1
OH	<del>4</del> 0	0	<del>6</del> 3
OK	0	0	<del>5</del> 2
OR	0	0	<del>2</del> 0
PA	0	0	<del>2</del> 4
SC	0	0	<del>4</del> 3
SD	0	0	0
TN	0	0	<del>6</del> 5
TX	<del>4</del> 1	<del>4</del> 1	<del>4</del> 3 <del>1</del> 5
UT	0	0	<del>4</del> 0
VA	0	0	<del>4</del> 8
WA	0	0	4
WI	0	0	1
WV	0	0	0
TOTAL	<del>4</del> 2 <del>1</del> 5	<del>9</del> 1 <del>4</del>	<del>9</del> 5 <del>1</del> 23

Attached to this Disclosure Document as Exhibit G is a list of our U.S. licensees and their Panda Express Restaurants as of the fiscal year ending December ~~30~~28, 202~~3~~4.

Exhibit G lists the contact information for U.S. licensees whose licenses have been terminated, canceled, or not renewed, or who otherwise voluntarily or involuntarily ceased to do business during the most recently completed fiscal year, or who have not communicated with us within 10 weeks of the date of this Disclosure Document, if any.

If you buy this license, your contact information may be disclosed to other buyers when you leave the license system.

In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the Panda Express franchise system. You may wish to speak with current and former licensees, but be aware that not all of those licensees will be able to communicate with you.

There are no trademark-specific licensee organizations associated with the Panda Express franchise system that have been created, sponsored or endorsed by us, or that have been incorporated under state law and have asked to be included in this Disclosure Document.

#### **ITEM 21. FINANCIAL STATEMENTS**

Attached as Exhibit B are the audited Citadel Panda Express, Inc. financial statements as of December ~~25, 2021, December~~ 31, 2022 ~~and~~, December 30, 2023, and December 28, 2024.

#### **ITEM 22. CONTRACTS**

The following agreements and other documents are attached as exhibits to this Disclosure Document:

Exhibit A	License Agreement and Exhibits
Exhibit C	Statement of Prospective Licensee
Exhibit F	Sample Asset Purchase Agreement
Exhibit H	Prospective Licensee Confidentiality and Non-Disclosure Agreement
Exhibit I	Sample Affiliate Joint Venture Limited Liability Company Operating Agreement
Exhibit J	State Addenda
Exhibit K	Sample Loan Agreements
Exhibit L	Sample Gift Card Participation Agreement

#### **ITEM 23. RECEIPT**

Two copies of a Receipt of this Disclosure Document are attached as Exhibit N.

**EXHIBIT A TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**LICENSE AGREEMENT**



**CITADEL PANDA EXPRESS, INC.  
LICENSE AGREEMENT**



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**EXHIBITS**

Exhibit 2.1	AUTHORIZED RESTAURANTS AND DESIGNATED INDIVIDUAL
Exhibit 2.1 E.	ORGANIZATIONAL AND OWNERSHIP INFORMATION
Exhibit 3.1	COLLATERAL ASSIGNMENT OF LEASE
Exhibit 3.3	ADA AND RELATED CERTIFICATIONS
Exhibit 8.1	EMPLOYEE CONFIDENTIALITY AGREEMENT
Exhibit 10.3	EXECUTIVE ORDER 13224 AND RELATED CERTIFICATIONS
Exhibit 12.2	CONSENT TO SUPPLIERS' RELEASE OF INFORMATION
Exhibit 19.12	GUARANTY AND ASSUMPTION OF OBLIGATIONS
Exhibit 23.1	TRADEMARKS REGISTERED BY PANDA RESTAURANT GROUP
Exhibit 23.2	SAMPLE FORM GENERAL RELEASE

Schedule 1 ADDENDUM FOR MULTIPLE CONCEPTS IN THE SAME FACILITY



**CITADEL PANDA EXPRESS, INC.  
LICENSE AGREEMENT**

Date of this Agreement: \_\_\_\_\_ (the "Effective Date")

Licensor: Citadel Panda Express, Inc., a California Corporation

Licensee: \_\_\_\_\_, a \_\_\_\_\_

**1. INTRODUCTION AND DEFINITIONS.**

**1.1 Introduction.**

A. Citadel Panda Express, Inc. and/or its affiliated companies have designed and developed methods of operating restaurants that offer, under the Panda Express name, on-premises dining and carry-out of gourmet Chinese food items, beverages and other related menu items. These restaurant businesses are generally called "Panda Express® Restaurants".

B. Licensee ("you", "your" or "Licensee") and Citadel Panda Express, Inc. ("we", "us", "our" or "Licensor") have chosen to enter into this License Agreement for the purpose of granting you the right to operate one or more Panda Express Restaurants at locations authorized by us from time to time in shopping malls, airports, universities, colleges, event arenas and other commercial venues in the United States (each such authorized Panda Express Restaurant is referred to as a "Restaurant"), subject to the terms and conditions of this Agreement.

C. Certain capitalized terms used in this Agreement are defined in Section 23, below. Capitalized terms that are not defined in Section 23 are defined in the section where they first appear.

**2. AWARD OF LICENSE.**

**2.1 Award of License; Restaurant Operating Term.**

A. Subject to the terms and conditions of this Agreement, we hereby grant you a non-exclusive License to use the Marks and System for each Panda Express Restaurant authorized by us to be developed and operated by you as a Restaurant, with each such authorized Restaurant identified on the attached Exhibit 2.1. This Agreement is formed and effective as of the Effective Date stated above.

B. The period during which you are licensed to operate a Restaurant at an authorized Restaurant (the "Operating Term") shall be ten (10) years, beginning on the date that you open such Restaurant to serve food to the public, unless Terminated at an earlier date as provided in Section 16. If you and we have selected a date upon which you must begin to implement a definitive site search for a Restaurant (a "Site Search Implementation Date"), which may be the Effective Date of this Agreement, such date is identified on Exhibit 2.1 of this Agreement. The parties agree to exchange an executed revised Exhibit 2.1: i) within five (5) days of your receipt of our written authorization for each proposed Restaurant as provided in Section 9.1 A., below, and ii) promptly upon the opening of each Restaurant, which amended Exhibit 2.1 shall include the opening and expiration date for such Restaurant. This Agreement shall remain in effect for so long as any Restaurant subject to this Agreement shall remain authorized to operate under this Agreement, unless sooner Terminated as permitted in this Agreement.

C. The License awarded to you by this Agreement is to develop and operate each Restaurant identified on the attached Exhibit 2.1 and to use the Marks and the System only for purposes of conducting business in accordance with the provisions of this Agreement, the Manuals and Panda Express standards and specifications. You agree not to conduct the business of Panda Express Restaurant(s), use the Marks and/or distribute the Products/Services from any location other than the Restaurant(s), or for any purpose other than those approved by us in writing. You agree not to conduct any activities from the Restaurant(s) other than the operation of your Restaurant(s) without our prior written consent. You agree to use reasonable commercial efforts to maximize the Gross Volume of your Restaurant(s).

D. Notwithstanding any other provisions of this Agreement, this Agreement shall expire by its own terms on the second (2<sup>nd</sup>) anniversary of the Effective Date, if no Restaurant is specified on Exhibit 2.1 by such date and if not sooner Terminated according to the terms of this Agreement.

E. If Licensee is a Business Entity, you and your Designated Individual represent, warrant and agree that:

- i. you are duly formed and validly existing under the laws of the state of your organization, in good standing and are duly qualified to transact business in the state in which your Restaurant locates;
- ii. you have the authority to execute and deliver this Agreement and to perform your obligations hereunder;
- iii. true and complete copies of the articles or certificate of incorporation, partnership agreement, bylaws, subscription agreements, buy-sell agreements, voting trust agreements and all other documents and amendments thereto relating to your ownership, organization, capitalization, management and control have been reviewed and have been found acceptable by us prior to execution thereof;
- iv. upon full execution of this Agreement, you have provided us with such documentation as we have requested to evidence the foregoing, including but not limited to a certificate of good standing, financial statements certified by your chief financial officer, and a certificate of insurance naming us as additional insured, and you and your Designated Individual represent, warrant and agree that the attached Exhibit 2.1 E is current, complete and accurate. You agree that we may request updated copies of Exhibit 2.1 E at any time and you will furnish the same to us within thirty (30) days of such request, so that Exhibit 2.1 E (as so revised and signed by you) is at all times current, complete and accurate.

## **2.2 Scope of License Award, No Exclusive Territory, Our Retained Rights.**

A. You acknowledge and agree that the License granted to you is non-exclusive and that you have not been awarded an “exclusive territory” or any “exclusive,” “protected” or “reserved” territorial rights. No such rights are granted or will be inferred. The License does not grant you any rights with respect to other and/or related businesses, products and/or services, in which we or any Affiliate of ours may be involved, now or in the future. We and our Affiliates reserve all rights not expressly granted to you under this Agreement. Licensee shall not offer or sell any Panda Express food items through or under any other food service operations/restaurants Licensee may operate, own or manage, except for approved Licensee catering.

B. We and those we appoint have the right to locate and/or consent to the location and operation anywhere of other Panda Express Restaurants (or any other brand restaurants) and/or other businesses and/or other distribution channels of any type, including but not limited to grocery outlets and the Internet, whether or not using the Marks or System. You have no rights to exclude any such businesses regardless of their proximity to you. We and the Licensor-Related Persons/Entities can develop or become associated with other concepts, including dual branding and/or other license/franchise systems, for any kind of products and/or services, whether or not using the Panda Express System and/or the Marks, in our sole and absolute discretion.

C. We and our Affiliates can acquire, be acquired by, merge, affiliate with or engage in any transaction with other businesses, whether competitive or not, with restaurants or other businesses located anywhere. Such transactions may include, but are not limited to, arrangements involving competing outlets and brand conversions to or from the Panda Express Marks and System. You agree promptly to participate at your expense in any such conversion, provided that we shall not require you to undertake conversion expenses at a particular Restaurant for which you would be required to spend Fifty Thousand Dollars (\$50,000) or more, unless we determine that the same would be commercially reasonable considering the remaining term of your contract to provide food service at such Restaurant or such changes are being rolled out or implemented on a nationwide basis for all of our or our affiliate-owned Panda Express locations.

### **3. DEVELOPMENT AND OPENING OF RESTAURANTS.**

#### **3.1 Site Selection.**

A. You are solely responsible for identifying a site for the proposed development of a Restaurant. You agree to deliver to us at least ninety (90) days in advance of selecting a site a written notice of your site approval request along with our then current site submittal package materials, which may include, but are not limited to, plans, leases, and architectural drawings. We agree to advise you in writing within thirty (30) days of our receipt of notice and of the complete site submittal package whether or not we agree to authorize the proposed location. If you do not receive such a notice from us within such thirty (30)-day period, then our authorization shall be deemed to have been withheld. We have sole and absolute discretion regarding the authorization of a site. You must not operate any Restaurant, use any of the Marks from or at any location, or make any commitments regarding a site until you have our written site authorization and we also have mutually signed copies of the Exhibit 2.1 applicable to the Restaurant, as provided in Section 2.1 A, above. We make no representations or warranties as to the success of any site or as to any other matter of any kind relating to the site.

B. All matters related in any way to your site, its development, construction and equipment, and its compliance with all applicable legal/governmental requirements are your sole responsibility, including related costs and expenses.

C. We have the right to approve the terms of any lease, sublease or purchase agreement for each Restaurant, and you agree to deliver a copy to us before you sign it. You agree that any lease or sublease for a Restaurant must, in form and substance, be satisfactory to us and comply with any requirements set forth in our System Standard. You may not execute a lease, sublease, purchase agreement or any modification thereof without our approval, which will be granted or denied within thirty (30) days in writing after we receive a complete copy of the lease, sublease, purchase agreement or modification thereof along with any related materials we may reasonably request. You must lease, sublease or execute a purchase agreement for the Restaurant, execute the Collateral Assignment of Lease and obtain the landlord's approval in the form attached to this Agreement as Exhibit 3.1 within two

hundred and ten (210) days after any applicable Site Search Implementation Date stated on Exhibit 2.1 of this Agreement, unless we agree in writing to an extended timeframe.

D. Our approval of the lease, sublease or purchase agreement does not constitute a warranty or representation of any kind, express or implied, as to its fairness or suitability or as to your ability to comply with its terms. We do not, by virtue of approving the lease, sublease or purchase agreement, assume any liability or responsibility to you or to any third parties. Such approval indicates only that we believe that the Restaurant and certain terms of the lease, sublease or purchase agreement satisfy the standards we have established as of the time of our approval. You further acknowledge that we have advised you to seek legal counsel to review and evaluate the lease, sublease or purchase agreement, as applicable. You must deliver a copy of the fully signed lease, sublease or purchase agreement to us within five (5) days after its execution.

### **3.2 Restaurant Design Standards and Layout Assistance.**

A. Construction and furnishing of each Restaurant shall be at your sole expense. Construction and installation of furnishings, fixtures and equipment shall be in compliance with standards, specifications and other requirements that we furnish you for design, decoration, layout, equipment, furniture, fixtures, signs and other items for your Restaurant (the "Design Standards"). Any proposed revisions to plans provided by or approved by us must be submitted to us for prior written authorization as they pertain to the Restaurant. We acknowledge that your ability to adopt the Design Standards may be subject to the approval of your Client. If a matter is subject to approval by your Client, you agree to use best efforts to obtain approval of Design Standards. If modifications are required by your Client, we shall have the right to suggest and to reasonably approve an alternative to any Design Standard. Your compliance with the Design Standards and/or any layout assistance we provide under Section 3.2 B, below, does not release you from your obligation to ensure that your Restaurant is designed, constructed and operated in compliance with all local, state, and federal laws, including, without limitation, the Americans with Disabilities Act, as amended ("ADA"). You agree to execute and deliver to us an ADA Certification in the form attached to this Agreement as Exhibit 3.3 before you open your Restaurant to confirm and certify that your Restaurant and any proposed renovations comply with the ADA and other requirements.

B. We shall provide generic interior layout assistance for each Restaurant, based on plans, specifications and criteria established by us in accordance with our Restaurant premises standards and business practices. The License Fee covers only interior layout review services. We shall not be responsible for detailed architectural or construction drawings, design services or any other services associated with the establishment of a Restaurant. You shall obtain our prior written approval of site specific drawings/plans and provide us with the as-build plan before beginning construction. Within 30 days after the Opening of the Restaurant, you shall provide us with the full and complete build out cost.

### **3.3 Construction Process and Inspection.**

The Designated Individual, or such other person as may be designated by you in writing, shall be our contact and the coordinator for all construction-related issues and matters between you and us. You agree to provide to us on a weekly basis or as provided by your Client's architect, if applicable, a written construction project timeline with respect to each Restaurant under construction until you have written authorization from us to open such Restaurant. You further agree to cooperate with and permit us or our designees to enter the Restaurant during normal business hours, with prior notice to Client and you, without causing any undue interruption, to inspect and evaluate any Restaurant construction for compliance with Design Standards and other License requirements. We or our designee will give you notice of any deficiencies, and you agree to correct them promptly at your expense, subject to the terms and conditions of this Agreement. The foregoing notwithstanding, if the lessor or the operations manager

of the Facility at which a Restaurant is established restricts access for purposes of inspection, you agree to diligently attempt to obtain such third party's consent to our access in the same manner as you would to obtain such a consent for purposes of gaining access for your employees and agents.

### **3.4 Restaurant Opening.**

You agree to notify us in writing promptly when a Restaurant is fully developed and ready to operate and you have received from the health department or other applicable government authority a written authorization to open your Restaurant to the public. We will give to you a written authorization to open when: i) all of your pre-opening obligations have been fulfilled; ii) pre-opening training of applicable Restaurant staff has been completed; iii) all Initial License Fees and other amounts due us (and/or any Affiliate) have been paid; iv) all of the Panda Express Design Standards and other Facility and Restaurant premises requirements are met, subject to the terms and conditions of this Agreement; v) the Restaurant is fully staffed to the minimum levels required in the Manuals; and vi) we have received copies of all insurance policies and other documents required under this Agreement, including, but not limited to, executed versions of any or all of the following exhibits, as we require: Exhibits 2.1, 2.1 E., 3.1, 3.3, 8.1, 10.3, and 19.12, as well as Schedule 1.

### **3.5 Relocation of Restaurant.**

Any relocation of a Restaurant requires our advance written authorization, which we may withhold or provide in our sole and absolute discretion. The foregoing notwithstanding, if a proposed relocation is to another site within the Facility in which the applicable Restaurant then operates, our authorization to such relocation will not be unreasonably withheld.

## **4. EQUIPMENT, FIXTURES, AND SYSTEMS.**

You agree to use and maintain in each Restaurant such equipment, furniture, fixtures, computers, hardware, software, and systems as may be required by us in the Manuals, under System Standards or in other written specifications. You are solely responsible for the operation, maintenance and upgrading of all such items and systems in each Restaurant. [Licensee must participate in programs and/or adhere to any then current policies or specifications Licensor develops, maintains or requires from time to time with respect to the use of Artificial Intelligence in connection with the development and operation of Restaurants generally or the Restaurants.](#)

## **5. TRAINING AND GUIDANCE.**

### **5.1 Training.**

A. The assistance and training which Licensee and Licensee's employees will require will vary according to the ability, experience and motivation of the individuals involved. You must schedule your training session no less than ninety (90) days before your opening and complete your training at least three (3) weeks before your opening. To enable sustainable, top-quality execution from the first day of operation, it is imperative that management, Front of House Staff (FOH) and Back of House Staff (BOH) are properly trained in Panda Express procedures. Therefore, prior to opening a Restaurant, management, FOH and BOH must successfully complete their applicable initial training program, inclusive of any applicable pre-work instruction requirements, at your sole expense and pass any applicable position certification test. We may require or recommend to you in the Manual or other written publication minimum staffing levels based on quality service standards and our Affiliate's operational experience, but you are solely responsible for ensuring appropriate staffing levels are met to capably and efficiently maintain Restaurant operations consistent with Panda Express standards and specifications. We reserve



the right to require the Designated Individual to complete Store Manager training and obtain related certifications.

B. The length and content of required training programs shall be flexible to enable us to vary them as we find appropriate, but we may set minimum days of training at one or more company-owned Panda Express Restaurant(s), Licensee's Certified Training Restaurant, or at some other location we designate, for your Designated Individual, Head of Operations, Store Manager, Assistant Manager, Head Chefs and Cooks, Shift Lead and Kitchen Help and Counter Help. Each trainee must be fully engaged and attend all the assigned training. Each staff member must meet any then current certification requirements applicable to the position held.

C. Each employee shall have a skill level, training and experience commensurate with the requirements of the position, and consistent with the Panda Express standards for quality products, service and cleanliness. If you or any member of your staff enrolled in any of the above initial training activities fails to complete the applicable program to our satisfaction or to satisfactorily complete any required testing, we may terminate this License Agreement or require additional or remedial training at your expense, in our sole discretion. You are not entitled to any refund if we terminate this License Agreement in accordance with this provision.

D. We will provide the initial training programs at one or more company-owned Restaurant(s) and/or a training site and/or other location designated by us. We will not charge a fee for the first 8 (eight) attendees for each Restaurant, but reserve the right to charge a fee for materials and participation for all other attendees. Any such initial training fee will not exceed One Thousand Dollars (\$1,000), per attendee, subject to inflation adjustment as provided in Section 9.6, below. You will be required to purchase uniforms from us for each attendee and must pay all salaries and all travel, living and other expenses incurred by each of your employees while attending the training.

E. Following the opening of each of your Restaurants, you will be responsible for ongoing training. You will utilize Panda's training tools and processes to sustain capability at all positions. You shall maintain proficiency for all positions at all times. You shall maintain on payroll at all times staffing and training certifications meeting our then current requirements. As of the Effective Date of this Agreement, at least six (6) of your Head Chefs and/or Cooks, in any combination, must obtain an updated cooking certification on an annual basis, but we can change this policy in our discretion.

F. You are solely responsible for hiring sufficient numbers of employees to adequately staff each Restaurant and to provide training on an ongoing basis such as may be required to enable crew performance to remain consistent with Panda Express specifications and standards. Subject to the terms of Section 5.1 D., above, we reserve the right to charge a training fee for any training programs we sponsor or conduct, and you agree to pay to us any such training fees, as well as any training costs, materials fees and related expenses for each employee who attends.

G. If you are not in Good Standing and/or are engaged in a Correction Process pursuant to Section 16.6, or if any Restaurant is not performing according to System Standards, we reserve the right to require that remedial training be performed to the extent we deem necessary. We can require any combination of remedial training activities involving the Designated Individual, Store Manager and other staff members for that Restaurant to correct, improve, update and/or enhance your operations. We charge a fee for remedial training, which is currently Five Hundred Dollars (\$500) per whole/partial 8-hour day, subject to adjustment under Section 9.6, below, and which is applicable to service days and travel days for our staff engaged in such remedial training. You shall be responsible for any expenses incurred by our personnel in delivering such training, including travel, lodging, food and incidental expenses.



H. We have the right to require that any staff member of yours execute a confidentiality and non-disclosure agreement as a condition to participation in any training program or meeting and/or receipt of any materials. Any such agreement shall be in a form approved in advance by us. You shall deliver a copy of each such signed agreement to us upon request.

I. You must send a Store Manager, a Head Chef, and an Assistant Manager for each new Restaurant to the next available semi-annual Panda leadership conference ("PLC"). If you have more than one Restaurant, you agree (i) to have semi-annual Restaurant portfolio reviews; one at your headquarters and one at our headquarters at such times as we determine to be mutually convenient, and (ii) you agree to designate the person in charge of your Asian dining segment to promote the Panda Express concept and to uphold Panda Express quality standards and brand image.

J. If you have more than five (5) Restaurants, you may elect to create and develop a certified training facility at your sole cost and expense and based upon a schedule and set of conditions as approved by us within our reasonable discretion (the "**Certified Training Unit**"). We will support you with assistance in the design, coordination of obtaining signage and marketing elements in order to support the establishment of the Certified Training Unit. On an annual basis, the Certified Training Unit must pass certain recertification requirements related to the quality of the Certified Training Unit and a review of your employees that have been trained at the Certified Training Unit.

K. If the Certified Training Unit has been established and approved by us, you may obtain certification from us to train subsequent Store Managers, other managers and associates yourself at the Certified Training Unit and to provide opening assistance with respect to new Restaurants. Except for instructors and materials, you will be responsible for all of our reasonable costs in certifying you and your trainers to perform initial training and opening assistance for the Restaurants.

## **5.2 Guidance and Assistance.**

A. We will provide guidance regarding the operation of your Restaurant. This guidance can be furnished in whatever manner we consider appropriate, including electronically, in writing or telephonically, through web-based and other training programs, and/or on-site consultations, among other methods. Each Panda Express will receive an evaluation every four (4) or five (5) weeks, at our discretion, and subject to temporary delays due to resource availability and other factors such as opening schedules, academic calendars and seasonal closures. We may provide at your request on-site consultations at your Restaurant, based on notice, availability of our personnel and your payment of reasonable travel, food, incidental and lodging expenses. We charge a fee for training provided to you and/or your personnel at your request. Such fee is currently Five Hundred Dollars (\$500) per whole/partial 8-hour day, subject to adjustment under Section 9.6, below. The fee is charged for service days and travel days for the persons engaged in such training.

B. Notwithstanding any training we may provide, we are not responsible for the quality of any products you give to your customers, except for Products we (or any Licensor-Related Person/Entity) manufacture and deliver to you, if any.

C. In addition to the required initial training as stated in Section 5.1, if we deem appropriate, we will provide you with opening operational assistance for the opening of your Restaurant, including on-site opening assistance for a time period to be determined by us based on your experience and availability of trained personnel. Should we determine that such opening assistance is required, you shall pay our then-current rate for any services provided and be responsible for payment of reasonable travel, food, incidental and lodging expenses of our personnel.

### **5.3     Manuals.**

During the term of the License, we will loan you (or allow you electronic or other access to) one copy of the Manuals. We have the continuing right to revise the Manuals upon not less than thirty (30) days written notice to you. Mandatory specifications, standards and operating procedures prescribed from time to time by us in the Manuals, or otherwise communicated to you in writing, electronically or otherwise, are a part of this Agreement. At our option, we may post the Manuals on our System website or another restricted website to which you will have access. If we do so, you must periodically monitor the website for any updates to the Manual or System Standards. Any passwords or other digital identifications necessary to access the Manual on such a website will be deemed to be part of Confidential Information (defined in Section 8.1). You agree to comply with all mandatory provisions of, and reasonable additions/deletions/changes to, the Manuals. Any such additions/deletions/changes will take precedence over all prior communications. In the event of a dispute, the master Manuals maintained at our office will control. The Manuals and the information and data that they contain are Confidential Information and will at all times remain our sole and exclusive property. You acknowledge and agree that any personnel and security-related policies or procedures in the Manuals are for your optional use and are not mandatory provisions. It is your sole responsibility to determine to what extent, if any, any personnel and security-related policies and procedures described in the Manuals or otherwise by us might be applicable to your operations at the Restaurant. You and we acknowledge and agree that we neither dictate nor control labor or employment matters for you and your employees. You and we agree that neither of us are, or shall be deemed to be, a joint employer with the other. More specifically, you agree that we and you are not joint employers of your employees and other personnel. We do not and will not share or codetermine any of your employees' essential terms and conditions of employment. More specifically, in no case do we have any authority to determine or set your employees': (1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and/or (7) working conditions related to the safety and health of employees. You alone have sole authority to determine any or all your employees' essential terms and conditions of employment.

## **6.     MARKS.**

### **6.1     Goodwill and Ownership of Marks.**

Our Affiliate developed and owns the System and is the federally registered owner of the Marks in the United States. We are licensed to grant to you, and you are hereby granted, a non-exclusive right to use the Marks and System as expressly authorized by us under this Agreement. You acknowledge and agree that nothing in this Agreement grants you any right, title, or interest in the Marks, and that we and our Affiliates have all rights in and to the Marks. All goodwill related to the Marks belongs exclusively to us or our applicable Affiliate and any use of the Marks by you inures to our/their benefit. You agree not to oppose, or engage in any acts or omissions inconsistent with this Agreement or our/our Affiliate's rights in and to the Marks. This Agreement applies to all trademarks, service marks and other commercial symbols that we may authorize you to use under this Agreement throughout its term.

### **6.2     Limitations and Use of Marks.**

You agree to use the Panda Express Mark as the sole identification for your Restaurant without any accompanying words or symbols, other than as may be specified by us. You will not use any Mark, or modified version or derivative of a Mark, as part of any business or trade name. You shall not have any business or trade name phonetically or visually similar to any Marks. You shall give such trademark and

other notices, including notices of independent ownership, as we direct and to obtain fictitious or assumed name registrations as may be required under law. You will display the Marks in compliance with our requirements and will not use the Marks so as to negatively affect their goodwill. You agree not to use any Mark in connection with the performance or sale of any unauthorized services or products or at any location or in any other manner not expressly authorized in writing by us. If you request or require a special use license for a use of the Marks outside of the ordinary scope of this Agreement and the routine operation of a Restaurant, consideration of any such special use shall be subject to our sole discretion and we can require you to sign an independent license agreement specific to the requested use, the terms of which may vary. You agree not to use any Mark on or in connection with any web site/page, domain name, site directory, e-mail address or other electronic display/use, without our express written consent, which may be withheld in our sole and absolute discretion. You will comply with all policies and requirements established by us regarding Internet key word purchases, social network pages, videos or any other publication on the Internet in which the Marks are used or mentioned. Upon termination or expiration of this Agreement, you will cease all use of the System and all use of the Marks in all media, including, but not limited to, web-sites, web pages and social media. You will instruct in writing all online directories, search engines, and other advertising publishers as necessary to take down and remove any directory listings and advertisements for you containing the Marks and will not use or authorize the use of links or similar reference devices associated with any use of the Marks. You will deliver copies of such instructions to us within three (3) days of the termination or expiration of this Agreement. These requirements survive the termination or expiration of this Agreement. You agree that electronic commerce is a rapidly developing field and that we can impose conditions and requirements in addition to the provisions of this Section 6.2 and may establish and modify policies concerning use of the Internet and you will comply with all such policies.

### **6.3 Notification of Infringements and Claims.**

You agree not to take any action that jeopardizes our interests in, or the validity or enforceability of, the Marks. You agree to immediately notify us of any apparent or actual infringement of, or of any challenge to your use of, the Marks. We will take such action as we deem appropriate in our sole and absolute discretion. As owner of the Marks, we have the exclusive right to control any settlement, litigation or proceeding arising out of or related to any such matters, and we shall be entitled to all damages awarded based on infringement of any Mark.

### **6.4 Changes in Marks.**

If we discontinue, modify, substitute or add any Mark and require licensees to do the same, you will comply at your expense within thirty (30) days of receipt of notice thereof; provided, that any such change must also be required to be adopted at substantially all other Panda Express Restaurants, including those operated by us and/or an Affiliate of ours. We cannot and do not guaranty that a modification, discontinuance or other change may not be required for any reason. We will not have any liability or obligation to you for any modification, discontinuance, substitution, change or otherwise, except as provided in Section 7.4 C., below.

## **7. RELATIONSHIP OF THE PARTIES; INDEMNIFICATION.**

### **7.1 Independent Contractor.**

You are an independent contractor and will always identify yourself to all persons and in all your Restaurant dealings as an independent owner under a Panda Express License, clearly indicating that your Licensed Business is separate and distinct from our business. You will include notices of independent ownership on such forms, business cards, stationery, advertising, signs and other materials as we require from time to time in the Manuals and otherwise. Subject to the requirements of this Agreement and the Manuals, which are included for the protection of the brand and the goodwill associated therewith, you shall have complete operational control of your business and its day to day operations, including the right to hire and fire each employee and to make all decisions relating to staffing, scheduling, wages, discipline and other terms and conditions of their employment. Nothing in this Agreement or in your and our course of conduct is intended or shall be construed to create, state or imply an employer-employee, co-employer or joint employer relationship, partnership, joint venture, agency or fiduciary or special relationship between you and us or between you and any Affiliate of ours. At no time will your employees be, or be deemed to be, our employees or the employees of any Affiliate of ours.

### **7.2 No Liability for Acts of Other Party.**

Neither you nor we will represent that your and our relationship is anything other than that of independent Licensor and Licensee. Neither you nor we will have any liability under any acts, omissions, agreements or representations made by the other which are not expressly authorized in writing.

### **7.3 Taxes.**

Payment of all taxes related to your Licensed Business is your sole responsibility. We have no liability for any taxes on the sales made and/or business conducted by you. You agree to pay to us an amount equal to all sales taxes, excise taxes, use taxes, withholding taxes, and similar taxes imposed by taxing authorities on the fees or other amounts you pay us and on goods or services we furnish to you, unless the tax is an income tax assessed on us for doing business in the state(s) in which your Restaurant(s) is/are located. Notwithstanding any other term of this Agreement, if any amount or fee of any kind that you owe us under this Agreement is subject to any gross receipts taxes, value added taxes, sales taxes, use taxes, personal property taxes or similar taxes imposed on or required to be collected or paid by us, we reserve the right to require you to pay us an additional amount so that the amount of the payment we actually receive from you after such deduction, payment or withholding is taken is equal to the full amount due from you under this Agreement. If you are legally required to withhold tax on any payments that you must make to us, then you must timely remit to the appropriate authorities all withholding and/or other such amounts due. You will deliver to us proof of payment within five (5) days of the date made. You also will take such other steps as may be reasonably required to enable us to obtain any available tax credit. You agree to pay us all amounts that we may advance, pay, or become obliged to pay on your behalf for any reason.

### **7.4 Responsibility, Indemnity.**

A. You will indemnify, defend and hold us and all of the Licensor-Related Persons/Entities harmless from all fines, suits, proceedings, claims, demands, actions, losses, loss of reputation, damages, costs, (including attorneys' fees and related expenses) and/or any other liability of any kind or nature, which shall include, without limitation, all losses, expenses, damages, costs, settlement amounts, judgments, and attorneys' fees, incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or

action has been instituted) ("Claim") which arises out of or is otherwise connected with and/or related to and/or based upon i) the business conducted by you, or ii) any act, error and/or omission of yours, including, but not limited to, your ownership, development and/or management of any Restaurant and/or any transfer of any interest in this Agreement, or iii) any negligent acts or breach of contract, regulation or duty imposed by law by you or any of your agents, servants, employees, contractors, partners, Affiliates or representatives, or (iv) any actual or alleged claim that we and you are joint employers of any of your employees or personnel, except to the extent of any injury to or death of persons or damage to or destruction of property is due solely to our gross negligence and/or our breach of the terms of this Agreement. You acknowledge that this obligation to indemnify, defend and hold harmless Licensor-Related Persons/Entities for costs and expenses, as described above, also expressly applies to any Claim from persons employed by or providing services to you involving allegations of a violation of the Fair Labor Standards Act, the Occupational Safety and Health Act, any state workers compensation act, any state wage and hour or unemployment compensation benefit law or regulation, or any other federal, state or local employment or employee benefit law or regulation, and regardless of the basis of alleged liability, whether joint employer, ostensible agency, vicarious liability or otherwise. We shall have the right to control all litigation, and select defense counsel and/or settle any claim, against and/or including us and/or the Licensor-Related Persons/Entities, or affecting our and/or their interests, in such manner as we deem appropriate in our sole and absolute discretion, without affecting indemnification rights under this Agreement. This indemnification obligation shall survive the Termination or expiration of this Agreement.

B. In the case where notice has been given solely to us, the above indemnification by you is predicated upon you being informed of any Claim after receipt of same by us and our providing reasonable assistance and cooperation to enable you to defend the Claim, subject to indemnification hereunder. At your sole but reasonable cost, we may undertake the defense of any Claim or demand, subject to indemnification hereunder, and supervise all settlement negotiations related thereto. If a proposed settlement were to result in liability or financial contribution by you, we shall not settle the Claim, demand or proceeding without your prior written approval, which approval will not be unreasonably withheld, delayed or conditioned. You acknowledge that our election to undertake the defense or settlement of a Claim or demand subject to indemnification hereunder will in no way be construed as diminishing or extinguishing your obligation to indemnify and hold us harmless. This obligation is in addition to your obligation to purchase insurance as provided in Section 10.5.

C. We shall have the right, in such manner as we deem appropriate in our sole and absolute discretion, to control all litigation, and defend and/or settle any claim, against and/or including you and/or your Affiliates which arises out of or is based upon any third party claim that your use of the Marks or System in accordance with the terms of the Agreement infringes, dilutes or misappropriates the intellectual property rights of such third party. You agree to give us prompt notice of any such claim and reasonably cooperate with us in responding to and resolving any such claim. You agree that our sole liability to you for such third party claim is that we shall indemnify, defend and hold harmless you, your Affiliates, successors and assigns and the respective directors, officers, employees, agents and representatives of each (collectively, the "Licensee-Related Persons/Entities"), from all losses and expenses, which shall include, without limitation, all losses, expenses, damages, costs, settlement amounts, judgments, and attorneys' fees, incurred in connection with any judgment in favor of a third party which arises out of or is based upon any third party claim that finds your use of the Marks or System in accordance with the terms of the Agreement infringes, dilutes or misappropriates the intellectual property rights of such third party. We shall have the right to control all litigation, and defend and/or settle any claim, against and/or including you and/or your Affiliates and for which we indemnify you under this paragraph, in such manner as we deem appropriate in our sole and absolute discretion. The foregoing notwithstanding, if any such judgment is due to your willful acts or misappropriate or unapproved use of the Marks or Systems, our defense shall be at your sole cost and expense and we shall have no indemnification obligations to you under this Section 7.4 C.

D. Regardless of whether the defense of any Claim is being undertaken by the parties jointly or by either of them alone as provided in Section 7.4 B. and Section 7.4 C., the parties each agree with the other to aid in the conduct of such defense to any reasonable extent, including furnishing each other with records or documents related to the Claim, permitting employees connected with the Claim to testify at depositions or in court, and complying with any other reasonable request made by the other party in furtherance of the defense of the Claim, as long as this Agreement to jointly participate in the defense does not prejudice either party's rights under the law.

E. Unless a specific written warranty is expressly provided to you in connection with a particular good or service, any goods and/or services we and/or the Licensor-Related Persons/Entities provide are without any warranties, express or implied, **THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE BEING EXPRESSLY DISCLAIMED.**

## **8. CONFIDENTIAL INFORMATION; EXCLUSIVE RELATIONSHIP.**

### **8.1 Confidential Information - Non-Disclosure and Non-Use.**

A. "Confidential Information" includes in any form current and future:

- 1) Manuals, training, techniques, processes, policies, procedures, systems, data, equipment designs and specifications, and know how regarding the development, marketing, operation and licensing of Panda Express Restaurants;
- 2) Panda Express designs, recipes and specifications, and information about Products and Services; and
- 3) all information regarding the System, costing, potential locations, statistics, pricing, profits, financial data and lists, and other operating data.

"Confidential Information" is not intended to include any information that:

- 1) is or subsequently becomes publicly available other than by breach of any obligation owed to us;
- 2) became known to you prior to our disclosure of such information to you;
- 3) became known to you from a source other than through a breach by you of an obligation of confidentiality owed to us; or
- 4) is independently developed by you.

Your only interest in any of our, or of any Licensor-Related Person/Entity's, Confidential Information or in any Trade Secret, as defined in 8.1 B., below, is the right to use it pursuant to this Agreement.

B. "Trade Secret" is information that is proprietary to us and/or our Affiliates, including a formula, procedure, pattern, compilation, program, device, discovery, invention, method, technique or process, that derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use and/or is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.



C. Both during and after the term of this Agreement, you agree: 1) to use the Confidential Information and any Trade Secret only for the operation of each Restaurant under this Agreement; 2) to maintain the confidentiality of the Confidential Information and Trade Secret; 3) not to make or distribute, or permit to be made or distributed, any unauthorized copies of any portion of the Confidential Information and/or Trade Secret; 4) not to alter, appropriate, use and/or distribute any Panda Express recipes or Product specifications or any Trade Secret; and 5) to implement all procedures we reasonably prescribe for prevention of unauthorized use or disclosure of the Confidential Information and any Trade Secret, including without limitation any privacy policies we reasonably require from time to time.

D. You agree to notify each of your Store Managers and Designated Individuals of their obligations with respect to the confidentiality provisions as are set forth in this Section 8. Notwithstanding the foregoing, to the extent permitted by law, you agree to cause each of your Store Managers and Designated Individuals to sign a form of confidentiality agreement containing substantially the same provisions as are set forth in this Section 8 and in a form as may be reasonably approved by us. A proposed form is attached as Exhibit 8.1. You will provide us copies of all such confidentiality agreements upon our request. You agree to take such measures to guard our Confidential Information and Trade Secrets against misuse or misappropriation as you do for your own confidential information, but no less than reasonable measures.

E. You agree to notify or allow us to notify each of your employees assigned to a Restaurant of the confidential nature of the Confidential Information and Trade Secrets and the obligation not to disclose such information. Furthermore, you agree that we can require anyone who has access to Confidential Information or Trade Secrets on your behalf to sign a Confidentiality Agreement substantially in the form as attached as Exhibit 8.1 as a condition to receiving training from us. If you have reason to believe that any employee has violated such confidentiality provisions, you shall promptly notify us of the same and will cooperate with us in such action as we reasonably deem necessary or appropriate. You shall indemnify us for any and all costs and expenses, including reasonable attorneys' fees and costs, incurred by us and/or Licensor-Related Persons/Entities in connection with any claim or enforcement action brought against such an employee.

F. If any court of competent jurisdiction should deem the non-disclosure requirements of this Section 8.1 overbroad, you will comply with clauses 1 through 5 of paragraph 8.1 C., inclusive, with respect to any such Confidential Information during and for a period of five (5) years following the term of this Agreement.

G. You agree not to disclose information regarding negotiations involved in, or the substance of, this Agreement, except as may be required to obtain any applicable governmental permit or license, or by lawful order of any court or governmental agency, or with our prior written consent. You and we agree to cooperate regarding any press release and/or other public communication regarding the formation of, or any other matter relating to, this Agreement.

H. While you and your employees and contractors do not perform any work for us as an employer or otherwise, the following notice is provided pursuant to the Defend Trade Secrets Act of 2016 to the extent it is determined or construed to be required for us or our Affiliates to enforce our/their full rights under such Act or any other law:

"An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law. An individual shall not be held criminally or civilly liable under any

federal or state trade secret law for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding if the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

I. For the avoidance of doubt, Licensee is not precluded by this Agreement from contacting or otherwise engaging with governmental authorities regarding the franchise. However, if/when Licensee receives a valid legal order or is otherwise required by Applicable Laws to disclose any of Licensor's Confidential Information or Trade Secrets to any Governmental Agency or court, Licensee should promptly notify Licensor in writing regarding such receipt of the request and provide a copy of the request and all relevant information regarding the request as it pertains to Licensor's Confidential Information or Trade Secrets, including any specific required date for dissemination. Before complying with the request, subject to any specific disclosure deadline in the request, Licensee should provide Licensor at least 14 days' time to review the request and, at Licensor's election and cost, permit Licensor to seek a protective order or other remedy with the requesting party. Licensee must provide Licensor with reasonable assistance with any such action Licensor elects to undertake. If Licensor elects not to contest the request or if Licensor is unsuccessful with its efforts and Licensee remains legally compelled to make such disclosure, then Licensee may do so, but Licensee should: (a) only disclose that portion of the Confidential Information or Trade Secrets that it is required to disclose; (b) use reasonable efforts to ensure that such Confidential Information or Trade Secrets is afforded confidential treatment; and (c) concurrently provide Licensor a copy of all information provided to the governmental authority.

## **8.2. Exclusivity.**

A. During the term of this Agreement, the Operating Term of any Restaurant, and any successor Operating Term authorized by us pursuant to this Agreement, neither you nor any Affiliate of yours shall offer, sell or provide (or permit, authorize or grant a sublease to any other person or entity to offer, sell or provide), any Asian-style food items at any location within the Facility (including without limitation, Chinese, Japanese, Thai, and Korean-style food items), except for i) Panda Express brand Asian-style food items in accordance with this Agreement or any other Panda Express license agreement, and ii) any other restaurant or food service business located within the Facility that we license to serve Asian-style food items (if any). The foregoing notwithstanding, if the Facility includes residence/employee dining services or you or an Affiliate of yours are independently engaged in providing catering services at a restaurant or food service business location within the Facility, then you are authorized to serve Asian-style food items in connection with such dining services or catering activities so long as i) the items served are not similar to or appear to be modeled after any Panda Express signature dishes, such as Orange Chicken, Beijing Beef, or Honey Walnut Shrimp; and ii) such Asian-style food items account for less than five percent (5%) of food sales from such dining services or catering services on a monthly basis.

B. If you breach this provision, our remedies will include, but not be limited to, the right to receive all profits generated in connection with the breach until the date you comply.

## **8.3 Equitable Relief.**

You and we acknowledge and agree that any violation of this Section 8 will cause the non-breaching party immediate and irreparable harm, which monetary damages cannot adequately remedy. A party's exercise of its rights hereunder to obtain equitable relief pursuant to Section 19 of this



Agreement is additional to and does not limit the availability of any other remedy we may have in law or equity.

## **9. FEES.**

### **9.1 Initial License Fee, Releases.**

A. The Initial License Fee shall be Twenty Five Thousand Dollars (\$25,000). The Initial License Fee is due for each Restaurant to be developed hereunder. Each Initial License Fee is fully earned and due within five (5) days of your receipt of our written authorization for a Restaurant, along with the signed, amended Exhibit 2.1, as provided in Section 2.1 B., above. The Initial License Fee is entirely nonrefundable.

B. We may elect to condition an authorization to you to operate a Restaurant under this Agreement at a proposed second or additional Restaurant, the award of a successor Operating Term, or our consent to a proposed transfer by you upon a General Release by you and your Affiliates against us and Licensor-Related Persons/Entities. Our current form of General Release is attached to this Agreement as Exhibit 23.2 and is subject to change by us.

### **9.2 Royalty - Percentage and Minimum, Payment Dates.**

A. For each Restaurant you shall pay us the greater of the minimum royalty amount (the "Minimum Royalty") or a specified percentage of "Gross Volume" received or earned by you at such Restaurant during the preceding Royalty Period. The percentage of Gross Volume applicable to a specific Restaurant shall be 8% or as otherwise established on Exhibit 2.1

The current Minimum Royalty amount is Four Thousand Dollars (\$4,000) per Royalty Period and is subject to the inflation adjustment formula described in Section 9.6, below, and prorated based on a Permitted Closing. The foregoing notwithstanding, if all Royalty payments to us are timely and the annual cumulative amount of such Royalty payments for a Restaurant exceed the applicable percentage of Gross Volume earned or received at such Restaurant for any calendar year period, we will credit the excess amount against future Royalties owed by you for such Restaurant. No Minimum Royalty shall be due for any Royalty Period if the Restaurant is closed during such Royalty Period due to Force Majeure. The Minimum Royalty shall be prorated if the Restaurant is only open for a portion of the Royalty Period due to approved holidays or other required or mutually agreed upon closures, each a "Permitted Closing."

B. We reserve the right to adjust the percentage Royalties and the Minimum Royalty amount on a Restaurant basis for any proposed Restaurants. We will notify you of any change to the Royalty percentage and/or Minimum Royalty amount stated in Section 9.2 A., above, to be applied to a particular proposed Restaurant along with our written authorization for such proposed location, as provided in Section 3.1, above.

C. Royalties are to be paid by the fifteenth (15<sup>th</sup>) day after each month for all Royalty Periods completed during such month and are non-refundable. Royalty payments are due for each Restaurant commencing with the Royalty Period in which you begin Restaurant operations at such location. The current Royalty Period is a four (4) week period, but we can change the Royalty Period as we find reasonably appropriate. If we change the Royalty Period, any amounts that are paid based on or calculated in relation to it will be appropriately adjusted, as will the due dates of any reports to be provided in connection with such Royalty Periods.

D. In addition to the foregoing Royalties/Minimum Royalty amounts, we have the right to charge you a markup on Proprietary Products, as provided in Section 10.2, below and/or in our Manuals.

### **9.3 Payment/Reporting Program.**

Amounts due to us hereunder are payable by ACH, wire transfer or by such other method or in such manner as we may specify in the Manuals, or as may be authorized by us in writing from time to time. Payments shall be received by us or credited to our account, as applicable, by end of business on the date due.

### **9.4 Interest on Late Payments.**

All amounts owed to us under this Agreement and not paid when due will begin accruing Interest on the first day following the applicable due date and will continue accruing Interest until the past due amount is paid in full at the rate of ten percent (10%) per annum, or, if lower, the maximum lawful rate. If you fail to provide a report as required by Section 12 for the applicable Royalty Period, then we may base the amount due for that Royalty Period on your Gross Volume during the most recent prior Royalty Period for which you reported Gross Volume. If Gross Volume information for the applicable period is subsequently received and reflects (i) that the actual amount due was more than the amount of the payment, then we will be entitled to debit your account for additional funds representing the amount of the difference plus Interest, or (ii) that the actual amount due was less than the amount of the payment, then we will credit the excess amount to the payment of your future obligations, as applicable. You will be responsible for any transfer fee or similar charge imposed by the processing bank and for the amount of the payment due (plus any service charge) should any ACH not be honored for any reason.

You acknowledge that this Section 9.4 does not constitute our agreement to accept any payments after they are due or our commitment to extend credit to, or otherwise finance your operation of, the Restaurant. Our right to receive Interest payments under this Section 9.4 is in addition to, and not in lieu of, any other rights and remedies available to us, including our right to terminate this Agreement in accordance with Section 16.

### **9.5 Application of Payments, Set-Offs etc.**

As to you and/or any Affiliate of yours, we can:

- A. apply any payments received to any indebtedness of yours in our sole and absolute discretion, no matter how payment is designated by you;
- B. set off from any amounts that may be owed by us, any amount owed to us; and
- C. keep any amounts received for your account, whether rebates from suppliers or otherwise, as a payment against any amounts owed to us.

We can exercise any of the foregoing rights in connection with amounts owed to or from us and/or any Affiliate of ours.

### **9.6 Inflation Adjustments.**

Amounts subject to inflation adjustment under this Agreement may be adjusted by us annually in our sole and absolute discretion in proportion to the changes in the Consumer Price Index (U.S. Average,

all items) maintained by the U.S. Department of Labor (or any successor index) as compared to the previous year. We will notify you of any such adjustment.

## **9.7 Designated Bank Account.**

A. All payments of Royalty (and any other payments due to us hereunder during the Term) will be made by an Automated Clearing House or other electronic transfer system approved by Franchisor ("ACH") or by bank-wire transfer upon telephone or electronic confirmation with the receiving bank or by such other means we designate.

B. You agree that we may withdraw funds from your Designated Bank Account, as described in Exhibit 9.7 to this Agreement, by Electronic funds transfers (also known as EFTs) that are transacted through ACH in the amount of the Royalty, or any other amounts due to us or our affiliates in accordance with this Agreement and/or any other agreement(s) between you and our affiliates. We acknowledge that our authorization to withdraw funds from your Designated Bank Account is limited to those amounts necessary to satisfy your obligations under this Agreement, the Asset Purchase Agreement, or other agreement(s) between you and us or our affiliates. We will make each ACH withdrawal of the payment on the date such payment is due. Any other payments owed to us pursuant to, or in connection with, this Agreement or any other agreement between you and us or our affiliates may be withdrawn from your Designated Bank Account in accordance with this section. The amount of withdrawals for the Royalty, and any other fees constituting a percentage of Gross Volume will be based on the Gross Volume report submitted by you for the applicable Royalty Period pursuant to Section 9.2.C.

C. At all times during the Term you will maintain in your Designated Bank Account an amount sufficient to pay the ongoing monthly amounts owed to us, but in no event will the account balance fall below a minimum of Fifteen Thousand Dollars (\$15,000). You acknowledge and agree that you are obligated to pay all amounts owed to us in accordance with the terms of this Agreement without regard to your minimum account balance. The establishment of such minimum balance does not constitute a warranty or representation of any kind, express or implied, as to the monthly amounts that may be owed by you in connection with operating your Restaurant.

D. You will, upon execution of this Agreement, execute a document granting to us the authority to process ACHs from your Designated Bank Account and shall provide a copy of voided or cancelled check(s) of the Designated Bank Account. From time-to-time at our request, you will execute any additional documents necessary to confirm or update this authority. You will be responsible for any ACH transfer fee or similar charge imposed by your bank, and for any service charges incurred by you and/or imposed by your bank should any ACH not be honored by your bank for any reason.

## **10. YOUR RESTAURANT — IMAGE AND OPERATION.**

### **10.1 System Compliance, Facility Refurbishment, Equipment Replacement, Operations.**

A. You agree to operate your Restaurant in full compliance with the then-current Panda Express System, System Standards and the Manuals subject to the terms and conditions of this Agreement. You agree to promptly comply at your expense with all then-current requirements, standards and operating procedures related to the Restaurants and the Panda Express brand image, including but not limited to use of specified Designated Equipment, Products and Services; approved supplier programs and operating systems; signs, logos, designs and advertising/marketing materials and forms; Product preparation and presentation; Product promotion, training and certification programs; and customer service and quality control programs, all subject to the terms and conditions of this Agreement. You acknowledge and agree that operating and maintaining each Restaurant according to System Standards

and the mandatory provisions of the Manuals, as they may sometimes be modified and/or supplemented, is important to you and to us and to the preservation of the good will associated with the Marks. Without limiting the System Standards and other contents of the Manuals, you agree as follows:

1) to maintain at your expense the physical facilities at each Restaurant at a “like new” level of cosmetic appearance and in a sound, clean, attractive condition and the Restaurant assets in good repair and consistent with the System (collectively, “Store Maintenance Activities”). You shall replace all worn, obsolete or unrepairable assets with those meeting any then current System Standards. We shall have the right to notify you that, in our judgment, a Restaurant’s general appearance, Equipment or other assets do not meet System Standards and to require you to correct the deficiency(s). You shall take all steps needed to correct each deficiency within the timeframe(s) then required by us;

a) in addition to such ongoing Store Maintenance Activities and at your expense, you shall renovate, update, remodel and otherwise conform each Restaurant to meet then current Restaurant Trade Dress, design, appearance and other image standards, as we require (collectively, a “Brand Refresh”) in the fifth (5<sup>th</sup>) year of the Operating Term of each Restaurant; and

b) in addition to Store Maintenance Activities and a Brand Refresh and at your expense, we can require you to perform a complete Restaurant update (a “Complete Update”) as a condition to our award of a successor term for a Restaurant or our consent to a transfer of a Restaurant, as provided in Sections 15.3 and 14.3, respectively, such that the Restaurant and its operations meet all specifications and standards then-applicable for new Panda Express Restaurants and as provided in the Manuals, which can involve major remodeling, renovations and improvements to each applicable Restaurant, as we may require.

We will give you written notice of Brand Refresh and Complete Update requirement(s) and of the time period in which they must be met, which will be reasonably established by us. You shall have no more than a ten (10) day period to replace items costing Ten Thousand Dollars (\$10,000) or less, a twenty (20) day period to replace items costing One Hundred Thousand Dollars (\$100,000) or less, and, for items costing more than One Hundred Thousand Dollars (\$100,000), we and you shall mutually agree upon a replacement time period, which shall in no event be more than forty five (45) days. Drawings and plans for the completion of major remodeling updates must be approved by us in writing prior to start of work and we may require you to use our preferred contractor to perform any Brand Refresh and/or a Complete Update. You will not alter your Restaurant or its appearance as originally approved by us without our prior written approval. Notwithstanding the foregoing, we acknowledge that the timing of remodeling, renovations, maintenance and repairs may be subject to Client restraints, including the possible necessity of scheduling such activities in accordance with venue specific timeframes, such as semester breaks on school campuses.

If your Restaurant is damaged or destroyed by an event of Force Majeure, which shall include but not be limited to damage and destruction due to fire and water, you must initiate within sixty (60) days (and continue diligently until completion) all repairs or reconstruction necessary to restore your Restaurant to its original condition. If necessary, you may request approval to relocate your Restaurant to another location; however, any request to relocate and the time period for such relocation will be subject to our reasonable approval.

2) to obtain from approved sources and maintain all Designated Equipment and other fixtures and items specified for your use in the operation of your Restaurants and to replace the same from time to time including, but not limited to, promotional items, menu boards and internal displays and display structures. You are required to replace items that are obsolete, impaired or require

replacement according to any replacement schedule published in the Manuals or otherwise provided to you, or as reasonably determined by us to maintain Panda Express brand image.

3) to maintain sufficient inventories, adequately staff each shift with qualified employees and use your reasonable commercial efforts to operate each Restaurant at its maximum capacity and efficiency during operating hours, which shall not be less than that of any other restaurant operation in the Facility. You shall reasonably determine the days and hours of operation for each Restaurant, subject to our written acceptance, which shall not be unreasonably withheld. You need not operate the Restaurant during holiday or other breaks when the Facility in which the Restaurant is located is closed. You agree at your sole expense that employees working at the Restaurant will wear the then-current Panda Express uniform and will be neat, clean, courteous and competent in servicing customers at each Restaurant.

4) to offer and sell at the Restaurants, only for retail consumption and not for resale, only Products and Services authorized by us and obtained from suppliers approved by us. You further agree always to offer and sell the “core menu” Products in each Restaurant, except to the extent of any physical limitations at the Facility or contractual limitations imposed by the Client. You also shall always sell “regional menu items” described in our then current System Standards. In addition to the “core menu” items, you will select two to three (2 - 3) of the “regional menu items” identified in our then current System Standards for service in each Restaurant. Any deviation from such required core/regional menu items must be authorized in advance by us in writing, which authorization will not be unreasonably withheld or delayed. We reserve the right to amend in our then current System Standards ~~based-on~~ System menu item changes for Panda Express Restaurants in similar venues. You acknowledge our unrestricted right to add, modify or delete authorized Products in the Manuals.

5) to operate each Restaurant in compliance with the current System Standards and requirements relating to food preparation, customer service and cleanliness and to use and/or participate in the quality and service methods, materials and programs then in effect, including any specified quality control and testing services for evaluating compliance with such Systems Standards and requirements.

6) not to alter, add to or delete from any part of the System, Marks, Confidential Information or Panda Express Products, or the Panda Express menu without our express prior written consent, which may be granted or withheld in our sole discretion.

7) to promptly pay when due all suppliers related to your Restaurant operations, including but not limited to, any Affiliate of ours; any and all taxes of every kind and nature; lease obligations and any other payment obligation of any kind incurred in connection with your Restaurant operations and not contested in good faith by you; and to comply with all other leasehold obligations and covenants with respect to each of your Restaurants.

8) to only sell beverage products that are specified or otherwise approved by us, including any sole supplier for one or more beverage products. You understand that we may be subject to certain agreements with our beverage suppliers that require your participation. You will undertake to participate in any such beverage programs in the manner we may require from time to time, including to enable us to comply with our then current beverage agreements.

9) to comply with any applicable Client’s rules and to sign and comply with any code of conduct or other such form provided by the Client or us in connection with the Restaurant. If there is any inconsistency or conflict between the Panda Express System Standards and requirements and a Client’s rules, you shall use your best efforts to coordinate and cooperate with us to fashion a resolution of

such conflict/inconsistency with the Client which requires as little deviation from System Standards and requirements as possible.

B. We shall have the right, but not an obligation, to permit in our sole and absolute discretion and without liability variations in System Standards, the Manuals and other requirements regarding any Restaurant, whether or not operated by you, due to particular site characteristics, building configuration, existing business practices, testing programs or other relevant details.

C. You agree not to implement any gift card, gift certificate, customer loyalty or similar rewards program or any mobile or other payment capability/app/program without our prior written approval or as may be authorized in any Manual. We may elect to implement from time to time gift card, gift certificate or customer loyalty programs or a mobile or other payment capability/app/program. In such an event, we may offer you an opportunity or require you to participate in such programs. In that event, you agree to comply at your expense with the terms of any gift card, gift certificate or loyalty or other rewards program and any mobile or other payment capability/app/program, including without limitation all policies and procedures relating to sales, issuance and redemption and payment of related fees and costs. You will honor all gift cards in the form we provide or approve, if so required by us and regardless of whether issued directly or indirectly by you, us or another Panda Express Restaurant, and will timely make any payments due to us or a designee for gift cards you have sold. You must comply with processes for requests for reimbursement for goods and services sold in exchange for gift cards, and you may be required to sign a participation agreement as a condition to your involvement in any gift card, gift certificate or customer loyalty programs. You are solely responsible for and agree to indemnify us and Licensor-Related Persons/Entities in connection with any and all claims, losses, costs, expenses, liabilities, compliance costs, and damages incurred by or resulting from any breach of electronic personal information caused by you, your system or your processes in connection with any gift card, gift certificate or customer loyalty programs or by any mobile or other payment capability/app/program used in connection with your Restaurant(s).

D. You acknowledge the importance of operating the Restaurant in full compliance with this Agreement and the System Standards, and that any deviation from any contractual requirement, including any Brand Standard, is a violation of this Agreement and will trigger incalculable administrative and management costs for us to address the violation (separate and apart from any damages your violation might cause to the System, Franchisor's business opportunities, or the goodwill associated with the Marks). Therefore, you agree to be pay Non-Compliance Fees to us as and when applicable, which Non-Compliance Fees are a reasonable estimate of our administrative and management costs and not a penalty. We need not give you a cure opportunity before charging the Non-Compliance Fees, and charging the Non-Compliance Fee does not prevent us from seeking to recover damages to the System, our business opportunities, or the goodwill associated with the Marks due to your violation, seeking injunctive relief to restrain any subsequent or continuing violation, and/or formally defaulting you and terminating this Agreement in accordance with its terms.

## **10.2 Designated Equipment, Products, Services and/or Suppliers.**

A. You agree to purchase, use and offer such Designated Equipment, Products and Services, as are specified by us in the System Standards from time to time, but is subject to change.

B. You and we acknowledge and agree uniform and quality Products, Services and Panda Express brand image are important to you, us and the good will associated with the System. Therefore, you agree to purchase all goods, products and supplies used in your Restaurant(s) exclusively from us, our Affiliates, or suppliers designated by us in our sole discretion, unless otherwise authorized by us in writing. Such an authorization will not be unreasonably withheld if you have a contractual relationship with



a vendor of a non-Proprietary Product that pre-dates the Effective Date of this Agreement, but any such authorization may be limited to the current term of any pre-existing contract.

C. We may designate a single or multiple suppliers for any given item or service in our sole and absolute discretion. You can request the approval of an item, service or supplier by notifying us in writing and submitting such information and/or materials and/or samples as we may request. We may require you to pre-pay any reasonable charges connected with our review and evaluation of any proposal. We'll notify you of our decision within a reasonable time after our receipt of all required information/materials/samples. We may approve, or revoke or deny approval, of particular items or suppliers in our sole and absolute discretion. Designation of a supplier may be conditioned on factors, including without limitation, performance relating to frequency of delivery, standards of service, product quality, and payment or other consideration to us or designees. Additionally, we have an unrestricted right to designate exclusive suppliers for products and services we deem essential to uniform quality, Trade Dress and image associated with the Panda Express Marks and to deny approval of alternative sources of supply for such products and services. Suppliers designated by us as exclusive suppliers for certain products and services associated with the development and operation of a Restaurant as of the Effective Date of this Agreement are identified in our then current System Standards, but are subject to change by us.

D. You agree to purchase only from us or our designated suppliers, and will use, offer and/or promote, and maintain branded items in stock at the Restaurants in such quantities as are needed to meet reasonably anticipated consumer demand, including packaging and serving materials (e.g., bags, bowls, cups, etc.), as well as certain proprietary spice mixes, seasonings, flavorings, menu items, sauces and marinades manufactured in accordance with Panda Express System proprietary recipes, specifications and/or formulas (collectively, "Proprietary Products"). Notwithstanding any other provision of this Agreement, we shall not be required to reveal such recipes, specifications and/or formulas for Proprietary Products to you, non-designated suppliers, or any other third parties. Current Proprietary Products are specified in the Manuals or otherwise in writing by us. We have the right to adjust the number and type of Proprietary Products from time to time. You understand and agree that i) we have a right to receive a markup on sales of Proprietary Products to licensees; and ii) we may elect to adjust and/or eliminate the markup in connection with a particular license/Restaurant on a case-by-case basis, as we consider appropriate and as permitted by law. As of the Effective Date of this Agreement, the markup on Proprietary Products is ten percent (10%).

E. Any Proprietary Products purchased from us or any of our Affiliates shall be purchased according to the then current order, delivery and payment policies and procedures then in effect and as may be established from time to time. If we or our Affiliates manufacture and/or sell any Products/Services to you, we and/or our Affiliates shall be entitled to a reasonable return comparable to other suppliers in the industry. We and our Affiliates reserve the right to change prices and terms in connection with Products/Services we or our Affiliates sell or manufacture, and to discontinue the manufacture and/or sale of any such Products/Services in our sole discretion.

F. We and our Affiliates reserve the right to derive revenues and to receive discounts, commissions, rebates, promotional allowances and other economic benefits as a result of purchases by licensees of Designated Products and Services from us, from an Affiliate or from any other designated supplier. We and/or an Affiliate of ours may be party to agreements with suppliers that provide for marketing or promotional rebates or allowances, volume discounts or other economic benefits. All rebates, discounts, allowances or other benefits earned under these agreements as a result of your purchases of that supplier's products or otherwise may be kept and used by us or an Affiliate of ours in our/their sole discretion.

G. Neither we nor our Affiliates shall be liable for any delays in shipment, receipt, delivery, or otherwise in connection with Products and Services, including but not limited to Proprietary Products.

H. Licensee agrees that we and our Affiliates and each of our respective personnel and agents will have the right to enter the Restaurant for reasonable business purposes. Licensee hereby agrees not to interfere with or prevent such entry by Licensor or a Licensor Affiliate or by their respective personnel and agents. Further, if the lessor or the operations manager of the Facility at which a Restaurant is established restricts access for purposes of such inspection, product delivery or other business purpose, you shall diligently and with best efforts attempt to obtain such third party's consent to immediate access, including without limitation access for approved suppliers/distributors. You are solely responsible for ensuring the timely and efficient delivery of approved products to the Restaurant and for coordinating arrangements of the same between the lessor or operations manager and the distributor/supplier.

### **10.3 Compliance with Laws and Ethical Business Practices.**

A. It is your sole responsibility to identify and obtain all authorizations necessary to your Restaurant operation. While we may from time to time provide information about various laws, regulations and ordinances, and safety or legal guidelines, you are solely responsible for identifying and complying with all those laws, regulations and ordinances applicable to the Restaurants and the Licensed Business, including without limitation and to the extent applicable, privacy and data protection laws, rules and requirements, the Fair Labor Standards Act, the Occupational Safety and Health Act, any state wage and hour or workers compensation act, any state unemployment compensation benefit law or regulation, or any other federal, state or local employment-related or employee benefit requirement. You agree to obtain and to maintain all licenses, permits, certificates, registrations and other authorizations required in connection with each Restaurant and to operate in compliance with all applicable laws, ordinances and regulations. You agree to conduct your Restaurant operations in an ethical manner. You shall notify us in writing within five (5) days of the commencement of any action or proceeding and/or of the issuance of any governmental or public agency or department order, decree or other action pertaining to your Restaurant(s), and of any notice of violation of any law, ordinance or regulation relating to a Restaurant, including without limitation any inspection reports, warnings, notices and citations. In addition to any reporting requirements otherwise required in this Agreement, you agree to provide us information we reasonably request relating to your compliance with any applicable data and cybersecurity requirements.

B. You agree to comply and/or assist us in our compliance efforts, as applicable, with any and all laws, regulations, Executive Orders or otherwise relating to antiterrorist activities, including without limitation the U.S. Patriot Act, Executive Order 13224, and related U.S. Treasury and/or other regulations. In connection with such compliance efforts, you agree not to enter into any prohibited transactions and to properly perform any currency reporting and other activities relating to your Licensed Business as may be required by us or by law. You are solely responsible for ascertaining what actions must be taken by you to comply with all such laws, orders and/or regulations, and specifically acknowledge and agree that your indemnification responsibilities as provided in Section 7.4 pertain to your obligations hereunder. You agree to sign and deliver to us along with a signed copy of this Agreement the attached Exhibit 10.3, "EXECUTIVE ORDER 13224 AND RELATED CERTIFICATIONS".

C. You must comply with the then-current Payment Card Industry Data Security Standard and any revision to it adapted by the PCI Security Standards Council, LLC (the "PCI Council") or any successor organization and any standards we may specify. You shall implement enhancements and security requirements and other requirements established by the PCI Council for merchants accepting payment by credit or debit cards.



#### **10.4 Management and Personnel of Your Restaurant, Training.**

A. A Store Manager who has successfully completed initial training and met then-current standards will be exclusively designated to manage each of your Restaurants and must be on site at each Restaurant during all operating hours. Any change in the Store Manager or Designated Individual requires the proposed individual to attend and successfully complete the next available, initial training program for Store Managers, including certification requirements. You shall notify us of such change in the Store Manager or Designated Individual.

B. You are solely responsible for the hiring and management of your Restaurant employees, for the terms of their employment and for ensuring their compliance with any training or other System requirements established by us from time to time in our sole and absolute discretion. We may require that a Store Manager, Assistant Manager and/or Head Chef working in your Restaurants be solely dedicated to Panda Express Restaurants and not work in any other business owned or operated by you.

C. We are authorized by you to deal with the Designated Individual and your Store Manager(s) regarding routine operations and reporting requirements. You will use commercially reasonable measures to ensure that we are given, and kept current regarding, the identities of each Store Manager, Head Chef, and/or Assistant Manager for each Restaurant.

D. Excluding any training services provided under Sections 5.1 and 5.2, above, if any agent or employee of ours works at any of your Restaurants on your behalf, whether as a management or a crew member, you agree to compensate such person at our then current compensation rate for comparable employees/agents of ours. You shall also be responsible for any related out of pocket expenses incurred by any such person, including, but not limited to, any applicable travel, lodging, and food costs.

E. All employees, including managers, must wear the Panda Uniform while working in a Restaurant and at no time shall the Panda Uniform be worn while working in any other business.

F. In order to maintain compliance with System Standards and customer satisfaction, Licensee must obtain and maintain a sufficient number of fully-trained staff members to operate the Restaurant at all times in accordance with System Standards. Licensor reserves the right to notify Licensee that Licensee's compliance with System Standards and/or customer satisfaction, and in such case Licensee will timely act to cure such deficiencies. Licensee must notify Licensor within 10 days of any departure or any new hire with respect to the Store Manager or Head Chef for the Location. Failure to timely notify Licensor of any such departure or hiring may be deemed a default for purposes of Section 16.3 of the Agreement, which provides that for a formal default if Licensee had caused two or more defaults to occur in any consecutive 12 month period. If Licensee fails to have an Assistant Manager and a Store Manager on the payroll to manage the Restaurant on a daily basis, Licensor, at its sole discretion, may place its manager at the Licensee's Restaurant to ensure compliance of the System Standards temporarily until Licensee is able to hire a substitute Store Manager.

G. We recommend that you have Operations Training Leader(s) if you have five (5) or more locations to support growth and accommodate the continuous learning and training of associates in a high turn-over environment. The Operations Training Leader(s) is responsible for providing the necessary training to the new and existing Licensee's associates including Store Managers, Assistant Managers In Training and/or Store Managers In Training and to keep the pipeline of future quality store managers filled.

H. Each Operations Training Leader (if Licensee elects to have this position) must be working with you as a Store Manager for your Panda Express Restaurant at least two (2) years and must successfully complete the Operations Training Leader training in a company-owned Panda Express Restaurant as required under the Brand Standards. The Operations Training Leaders are expected to know and be able to train other associates in the Panda Express System Standards. The Operations Training Leader's ability to train others will be measured by the success of the associates they train in the existing stores and new store openings. If three (3) trained associates consecutively fail our certification process or the Operations Training Leader has three (3) associates who failed the certification process in one (1) year, then that Operations Training Leader will be deemed ineffective and will be required to attend remedial training as further detailed in the System Standards, at the Licensee's sole cost and expense.

I. If you have more than five (5) Unit Locations, we may require you to have a Head of Operations to oversee the Restaurants. The Head of Operations is accountable for ensuring that operations of the stores meet or exceed Panda Express Restaurant Brand Standards including ensuring compliance with Panda Express' team composition and structure necessary to operate all existing and new stores at Brand Standards. The Head of Operations works on strengthening the connection between operations, support team and Licensor in propelling the development of your Panda Express Restaurants. The Head of Operations must complete the necessary training as required by our Standards to our satisfactory prior to the opening of your sixth (6) Restaurants. We may condition our authorization to allow the opening of your sixth (6) Restaurant based on successful completion of the training of your Head of Operations.

J. Your Restaurant must reflect the team composition and structure as identified in the Manuals to the extent appropriate for your size and developments and must be approved by us prior to your implementation or making any modifications to the structure. We may require you to reasonably modify your team composition and structure from time to time to reflect our then-current team composition and structure. Our current team composition and structure, as identified in the Manuals, is subject to change from time to time.

## **10.5 Insurance.**

A. You agree to maintain in force throughout the term of this Agreement and the Operating Term of each of your Restaurants, policies of insurance issued by carriers with ratings of at least A- and category VII in Best's Insurance Reports and licensed to do business in the jurisdiction in which the covered Restaurant is located. Such insurance shall meet the terms of any applicable lease or occupancy agreement covering a Restaurant and as required by law and the types and amounts of coverage required by us. We may require different and/or additional kinds of insurance from time to time, with commercially reasonable adjustments made by us in the Manuals or otherwise. We will give to you at least thirty (30) days advance written notice of any change in the current insurance requirements. Our current minimum insurance requirements are provided in Section 10.5 C., below. Each insurance policy/certificate of coverage must: i) name us, our Affiliates, shareholders, officers and directors each as additional insured as your interest may appear and you shall give us at least thirty (30) calendar days prior written notice of a material change in or cancellation of such insurance; ii) contain waivers of subrogation in favor of us and our Affiliates (which shall be operative only so long as available in the state having jurisdiction over an affected claim and provided further that no policy of insurance is invalidated thereby); iii) be written as primary policies which provide that any insurance that we may carry is strictly excess, secondary and non-contributing with any insurance you carry; iv) contain a provision that we, although listed as additional insured shall nevertheless be entitled to recovery under the policy for any loss occasioned to us, our agents and/or employees by reason of your negligence, or the negligence of your employees or agents; v)

be endorsed as needed to provide cross-liability coverage for you and us; and vi) provide for severability of interests.

B. These insurance policies must be in effect throughout any applicable Restaurant construction and on or prior to the date that you receive possession of the Restaurant. You agree to give to us within ten (10) days of the execution of this Agreement and prior to opening any Restaurant an insurance certificate and any applicable endorsements evidencing the coverage required hereunder, and to provide a certificate evidencing the renewal of applicable coverage annually, and as we may request from time to time. The insurance requirements are independent of, and shall not be construed to limit, restrict or modify, your indemnification or other obligations under this Agreement. We make no warranty or representation that any insurance coverage requirements set by us are adequate to fully protect your interests.

C. You agree to meet on an ongoing basis our then current minimum insurance coverage and other requirements as provided in this Section 10.5. Our minimum insurance coverage requirements as of the Effective Date of this Agreement are as follows:

1) Worker's Compensation Insurance in accordance with the statutory requirements, including Employer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per employee, per accident or disease.

2) Commercial General Liability insurance with limits not less than Ten Million Dollars (\$10,000,000.00) per occurrence for bodily injury and property damage, products/completed operations, personal and advertising injury (which policy shall contain a contractual liability endorsement specifically deleting any contractual liability exclusion for personal injury and shall not have a deductible in excess of Ten Thousand Dollars \$10,000). These requirements can be met with a combination of general liability and umbrella/excess liability policies. Terms and Conditions of umbrella/excess insurance must be as broad as underlying policies or greater. The insurance must be written on an occurrence basis only.

3) Automobile Liability insurance with a limit of not less than Three Million Dollars (\$3,000,000.00) per accident, bodily injury and property damage, for any owned, hired or non-owned vehicle used by you while performing under this Agreement ~~and shall not have a deductible in excess of \_\_\_\_\_~~ (the auto liability shall also be scheduled as underlying on the umbrella/excess policy referenced above for additional limits).

4) Cyber Insurance coverage with an aggregate minimum limit of Ten Million Dollars (\$10,000,000.00). This insurance coverage shall include, without limitation, Network Security Liability, Employee Privacy Liability and Electronic Media Liability. This insurance coverage shall be a worldwide coverage ~~and shall not have a deductible in excess of \_\_\_\_\_~~.

5) Property All Risk Insurance valued at replacement cost, including business interruption insurance providing for continued payment of all amounts due us and/or any Affiliate of ours under this Agreement.

6) In the event that we and you shall have duplicate insurance coverage, your insurance coverage shall be considered as the primary coverage and there shall be no right of subrogation against our insurance.

7) You shall be responsible for all Occupational Safety and Health Administration (OSHA) training required of your employees and you shall only utilize your tools and equipment in performing the Services.

8) In addition to the above, you will also satisfy any insurance requirements required by the applicable laws.

If you fail to maintain required insurance coverage, we may, but are not required to, obtain such insurance coverage on your behalf. You will pay us on demand any costs and premiums we incur. We may also elect, at our option, to secure such insurance as will satisfy the requirements and withhold an amount equal to the cost of that insurance and the cost of obtaining that insurance from any and all sums due you. We will notify you of any insurance default and you will have fifteen (15) days to cure. We may require you to immediately cease all operations at the applicable Restaurant until any such default is fully cured.

D. If you have and maintain a self-insurance program you may, with our prior written consent, self-insure the obligations described in this Section 10, provided that you give us evidence reasonably satisfactory to us of comparable coverage and such other related documentation as we may request from time to time. Any such consent by us will not be unreasonably withheld, provided that you maintain a minimum net worth of One Hundred and Fifty Million Dollars (\$1050,000,000), which shall be verified by audited financial statements that you must submit to us annually. Notwithstanding anything to the contrary contained herein, you shall comply with all relevant insurance legislation and have the necessary financial reserves to meet statutory requirements.

E. You must provide evidence of insurance in place, or written consent for self insurance, on an annual basis and prior to signing the License Agreement. Except for self insurance, we must be specifically named as Certificate Holder and Additional Insured status granted for commercial general liability, automobile liability, and umbrella/excess insurance. Your insurance in place must be primary and our insurance shall be non-contributory. You shall waive all your rights of subrogation against us and notify your insurer of such.

F. All contractors and agents acting on your behalf shall maintain the same insurance requirements required hereinabove or you shall assume the risk.

#### **10.6 Program Participation.**

We may condition your participation in any program, receipt of any Products or Services, or receipt of any other Panda Express System benefits on your being in Good Standing.

#### **10.7 Payments During Closure.**

You agree to immediately notify us of any non-routine closure of any of your Restaurants. All financial obligations of yours under this Agreement will remain in effect during such closure period, unless we agree otherwise and in writing and in our sole discretion. Any such closure not authorized and/or excused by us shall be a default of this Agreement, entitling us to all remedies available hereunder, at law and in equity.

#### **10.8 Customer Satisfaction, Quality Controls, etc.**

We may institute various programs for auditing customer satisfaction, test marketing and product evaluation, Facility and Restaurant operational assessments, and quality control measures. We may require you to pay program costs applicable to the participation of your Restaurant(s). Current programs and their related costs are included in the Manuals or as otherwise specified by us in writing, and are subject to change by us and/or any applicable suppliers. You agree to participate in any Panda Express customer survey efforts and to request your customers to participate in any such surveys to the same

extent and in the same manner as then required for similar Restaurants owned by us or our Affiliates. You shall use survey forms or other evaluation means and materials we prescribe from time to time. You agree to post at each Restaurant, or at such other point(s) we specify, a customer complaint telephone number, web site address or other means of customer communication as reasonably requested by us.

Further, upon the occurrence of a Crisis Management Event, you must immediately inform us by telephone or electronic means, must cooperate fully with us with respect to our response to the Crisis Management Event, and must implement such remediation plan as may be instituted by us, which may include us requiring a temporary closure of the Restaurant as part of the Crisis Management Event remediation plan (whether or not all or other Panda Express Restaurants are required to temporarily close).

## **10.9 Third-Party Ordering and Delivery Methods.**

You agree not to utilize any third-party ordering and delivery services without our prior written approval. Third-party ordering and delivery services shall include but is not limited to any third-party food ordering and deliver services platform and ordering methods such as Amazon Echo, Google Home, Apple HomePod and smart speaker or similar sound, light or other sensory based technology devices. We may designate a third-party ordering and delivery service in our sole and absolute discretion. You can request the approval of a third-party ordering and delivery service by notifying us in writing and submitting such information and the draft agreement with such third-party ordering and delivery service as we may request. We may require you to pre-pay any reasonable charges connected with our review and evaluation of any proposal. We'll notify you of our decision within a reasonable time after our receipt of all required information and the third-party ordering and delivery service agreement. We may approve, or revoke or deny approval, of any third-party ordering and delivery service in our sole and absolute discretion. Designation of a third-party ordering and delivery service may be conditioned on factors, including without limitation, our right to obtain and verify gross sales placed through the third-party ordering and delivery service platform and amount of service charges paid to the third-party ordering and delivery service, the third-party ordering and delivery service standard for handling food, order and delivery. If we deem appropriate, you shall include us as a party or third-party beneficiary to the ordering and delivery service agreement between the third-party ordering and delivery service and you. Failure to get our approval shall be a default under this Agreement for which we may terminate this Agreement or charge liquidated damages equal to 8% of two times of any amount not being reported for the calculation of Royalty including any third-party delivery service fee. In such event, we have the right to conduct a full audit of your sales. Notwithstanding the foregoing, nothing in the foregoing will be construed to require us to approve any particular third-party ordering and delivery service, and to the extent permissible under then applicable law, we will have the right to designate a single approved third-party food service or limit the number of approved third-party food service for Panda Express Restaurants, as we deem appropriate, and contract for rebates, discounts, allowances or other benefits with any such sole third-party ordering and delivery service or other approved third-party delivery service.

## **11. MARKETING.**

### **11.1 In-Store Promotional Materials.**

A. You agree to purchase before the opening of any Restaurant from us and/or our designated supplier(s) an initial supply of Panda Express promotional materials customarily used/displayed in a Restaurant and specified by us, including but not limited to banners, sneeze guard slats/bursts, counter cards, menu boards, display cases and windows, and translights, subject to any required Client approval. You and we will mutually agree to a signage package prior to commencement of operations. Subject to any applicable Client's required approval, you agree to maintain a supply of

promotional materials for prominent display on site as are then customarily displayed in Panda Express Restaurants we or an Affiliate of ours own and as may be required by us to be consistent with Panda Express brand image. If we or an Affiliate of ours supply any of these materials, we can require you to purchase them at cost, plus shipping expenses, and reserve the right to charge a commercially reasonable markup to cover processing, handling and other related expenses.

B. Neither party is required to honor any coupon, discount or similar promotion undertaken by the other party or the other party's Affiliates and/or Restaurant(s), subject to our rights reserved under Section 11.2, below.

## **11.2 Advertising by You.**

All advertising for your Restaurants must be conducted by you in a professional manner and must conform to the highest ethical advertising standards and to policies prescribed by us. All advertising, promotional, or marketing plans and materials that you use in connection with the Restaurants shall be developed by us or require our prior written approval before use, which we may grant or withhold in our sole discretion. You have the right to establish prices independently, subject to our rights to require you to honor promotional, coupon and discount programs that we may implement from time to time and to follow minimum and maximum pricing policies we may establish, to the fullest extent permitted under applicable law. You agree not to use any materials or programs disapproved by us. You agree that you shall not use or display the Marks in connection with any use of the Internet, World Wide Web or other electronic media without obtaining our prior written consent and complying with any System standards and/or specifications established from time to time in connection therewith, whether in the Manuals or otherwise.

## **12. RESTAURANT RECORDS, REPORTING AND ANNUAL REVIEW.**

### **12.1 Accounting and Records.**

A. You agree to establish and maintain record keeping and accounting systems, and to furnish us reports and provide us financial, accounting and/or other records related to the operation of your Restaurants, including bank statements, cash register tapes and general ledger sales reports as may be required by us to verify Gross Volume. You further agree to preserve such records for five (5) years from the dates of their preparation and for such additional time period as required by law, all as specified by us in the Manuals or other written instruction, or as reasonably requested by us. Duplicate copies of all electronic records will be kept on a computer system that will be available in the event the primary records are erased or otherwise destroyed.

B. You must record all sales on computer-based cash registers which are fully compatible with our computer system and which include an information interface capability to communicate electronically with our computer system. At your expense, if directed by us, you shall purchase, install, and use any point-of-sale hardware, software, and electronic connection designated by us for the operation of each Restaurant, and shall update, upgrade, and maintain that system as directed by us. If we designated or authorized a specific point-of-sale system, then you must ensure that we have continuous access to that system and the data contained therein, and we are authorized to view or retrieve data from that system at any time. You agree to provide such assistance as may be required to connect your point-of-sale system with our computer system, and you shall submit any data or reports from the system as requested by us. For the avoidance of doubt, you are not required to use our designated point-of-sale system for any sales that are outside of and unrelated to a Panda Express Restaurant, and we shall not have the right to view or retrieve data related to such other sales.



C. In view of the contemplated interconnection of computer systems and point-of-sale system and the necessity that such systems be compatible with each other, you agree that you will comply strictly with our System Standards, including any computer network architecture specifications we may require, for all items associated with your computer systems. To ensure full operational efficiency and optimum communication capability among computer systems, you agree, at your expense, to keep your computer systems in good maintenance and repair, and to promptly install such additions, changes, modifications, substitutions or replacements to hardware, software, telephone and power lines, and other computer-related facilities.

## **12.2 Reports and Financial Statements.**

A. You agree to transmit sales report directly from the point-of-sale system to our system and provide us reports for each Royalty Period regarding the sales and operation of each of your Restaurants in a format specified by us including in digital medium or authorized by us in writing. Such reports may include, but are not limited to, Gross Volume information, transaction reports, cash register records/data, general ledger sales reports, inventory, and sales tax returns. Sales and operations reports for each Royalty Period are due within four (4) days after the closing of the preceding Royalty Period. Additionally, Licensee shall submit each quarter a financial statement prepared according to Generally Accepted Accounting Principles ("GAAP") for the preceding quarter within fifteen (15) days of the end of such preceding quarter. You agree to report unaudited sales in our Sales Royalty Portal at <https://pandarg.service-now.com/srp> once a Royalty Period on the dates specified by us.

B. You agree to give to us within forty-five (45) days after the end of each of your fiscal years, an unaudited fiscal year-end balance sheet and income statement for each Restaurant, prepared in accordance with GAAP, and verified and signed by you.

C. You agree to provide such other data, information and supporting records for your Restaurants as we reasonably may request from time to time. You authorize us to receive, and our designated suppliers to provide, information about your purchases for your Restaurants. We have the right to have full access to your point of sale and computer systems and retrieve all information and data they contain relating to your Restaurants as often as we deem appropriate, including on a daily basis. You will fully cooperate with such efforts to access the cash register/point-of-sale system, camera systems and other computer systems that you are required to maintain in connection with the operation of your Restaurant and to retrieve all information relating to the sales and operation of the Restaurant.

## **12.3 Annual Review.**

You and we will engage in an annual review of your Panda Express operations, including a review of historical and projected performance data, business plans, growth strategies and other relevant information. Such review will be in a manner and at a time and place we reasonably select, and may be conducted in person, telephonically, or by such other means we consider appropriate for such purposes.

## **13. INSPECTIONS AND AUDITS.**

### **13.1 Inspections.**

A. To ensure you are meeting Panda Express operations standards, you agree to permit us and/or our agents/representatives at any time during business hours and without prior notice to you, subject to the notification and security requirements of your Client, if any, to i) inspect each Restaurant licensed to you, its condition, operating equipment and assets, and related activities and items and to record and/or photograph the same, including any "mystery shopping" activities; ii) remove samples for

testing and analysis; iii) interview personnel; iv) interview and/or survey customers; v) inspect store, review operations processes and sample food quality; and vi) conduct inventories and other activities for the purpose of determining your compliance with this Agreement. We and/or our designees or companies employed by us will conduct inspections for the purpose of evaluating the operations of each Restaurant with respect to the current System Standards for quality, service and cleanliness, among other requirements. You must pay any costs or fees charged in connection with evaluations conducted by independent third parties. Such costs or fees may be billed by the third parties to us or our Affiliate for all Restaurants, in which case you will reimburse us or our Affiliate as applicable for your portion of the related cost. The frequency and cost of such evaluations shall be the same for your Restaurant(s) as for Panda Express Restaurants owned and operated by us and/or any Affiliate of ours. You agree to cooperate fully in connection with any such activities. If a third party lessor or Facility operations manager for a Restaurant restricts access for purposes of any of the activities contemplated by this Section 13, you agree to diligently attempt to obtain such third party's consent to our access in the same manner as you would to obtain such a consent for purposes of gaining access for your employees and agents.

B. Panda Express quality control programs as of the Effective Date of this Agreement are set forth in our Manual or otherwise by us in writing and are subject to change.

C. In order to maintain the Brand, you shall make available to us the right to enter any Facility and Restaurant premises at any time to inspect the Restaurant premises and review the food safety documentation that shall be maintained on the Restaurant premises (e.g., temperature logs, etc.); provided that such entry shall not materially and adversely interfere with your business operations in the Facility, and we shall provide you with a list of authorized representatives (with updates from time to time) of individuals who are authorized to conduct such entry. If a Client, third party lessor or Facility operations manager for a Restaurant restricts access for purposes of any of the activities contemplated by this Section 13, you agree to diligently attempt to obtain such third party's consent to our access in the same manner as you would to obtain such a consent for purposes of gaining access for your employees and agents.

### **13.2 Audit.**

We and/or our agents will have the right at any time during business hours, and without prior notice to you, to inspect and/or audit business records, in electronic format or otherwise, for any Restaurant, including, without limitation, cash reports and tapes for each register in such Restaurant, sales receipts, general ledger and inventory reports. Our right to audit includes the right to access all cash registers, computers and other equipment by electronic means. You agree to cooperate fully with such an audit.

### **13.3 Gross Volume Understatements.**

If any inspection or audit discloses an understatement of Gross Volume, you will pay to us the Royalties due on the understated amount, plus interest as provided in Section 9.4, from the date originally due until the date of payment. If Gross Volume at your Restaurant is understated for the period audited by more than three percent (3%), we have the right to require you to reimburse us for the reasonable cost of the inspection or audit, including, without limitation, the charges of any independent accountants, and related travel and per diem charges for our and their employees in addition to all other remedies and rights we have under this Agreement or under law, including termination of this Agreement.

## **14. TRANSFER.**



#### 14.1 Transfers by Us.

This Agreement, and any or all of our rights and/or obligations under it, are fully transferable by us in our sole and absolute discretion, in whole or in part, without your consent; provided, that any such transferee shall appear to us at the time of the transfer to have financial resources sufficient to fulfill its obligations under this Agreement. For the purposes of this Section 14.1, we shall be entitled to rely upon financial statements provided to us by the transferee. You acknowledge and agree that we may be sold and/or sell any or all of our Intellectual Property and/or other assets, go public, merge, or acquire other entities, whether or not competitive to us.

#### 14.2 Transfers by You.

A. You agree that, except as expressly permitted in this Agreement and subject to our rights as provided under Section 14.5, below, you, this Agreement, any of your Restaurants, and/or your Restaurant(s)' business assets shall not be transferred, including a transfer for security, without our prior written consent, which we may grant or deny in our sole discretion. You further agree as follows:

1) If you are a publicly-held corporation (*i.e.*, a corporation that has a class of securities traded on a recognized securities exchange) or a wholly-owned subsidiary or division of a publicly-held corporation, neither you nor any successor to any of your interest in this Agreement, nor any individual, partnership, corporation or other Business Entity, which directly or indirectly has an interest in you, may undertake any of the following transfers without our prior written consent:

a) The sale, assignment or other transfer of this Agreement or any interest in this Agreement or any Restaurants to any person or entity other than your direct or indirect corporate parent, or the grant of any lien, security interest or other encumbrance on this Agreement. You may with ten (10) days advance written notice to us assign all of your rights and obligations under this Agreement to your parent company or to any subsidiary wholly-owned by such parent company so long as the parent company delivers to us along with such written notice an unconditional guarantee in a form acceptable to us of the full and timely performance of each of your obligations under this Agreement and any other agreement with us and/or any Affiliates.

b) The sale or transfer of all or substantially all of your assets, the assets of any unincorporated division that operates any Restaurants or the assets of a direct or indirect parent company.

c) The acquisition, consolidation or merger of your direct or indirect parent company by or into any other person or entity, or the consolidation or merger of you into any other person or entity other than your parent company, or to any subsidiary wholly-owned by such parent company.

2) If you are not a publicly-held corporation, neither you nor any successor to any interest in this Agreement, nor any individual, partnership, corporation or other entity which directly or indirectly has an interest in you, may transfer any interest in you, this Agreement, the License granted by this Agreement or any Restaurant without our prior written approval. The term "Transfer" includes (but is not limited to) any voluntary or involuntary assignment, sale, gift, pledge or any grant of any security or other interest (whether partial or whole, or direct or indirect). A transfer also includes the following events: i) any transfer of ownership of capital stock or any partnership or similar interest; ii) any merger, consolidation or issuance of additional securities representing an ownership interest in the you; iii) any sale of your voting stock or of any security convertible to voting stock; iv) any transfer in a corporate or partnership dissolution, divorce, insolvency proceeding or otherwise by operation of law; v) any transfer of any interest in any revenues, profits, or assets of any of your Restaurants which is not in the ordinary course of business; or vi) any transfer to a Business Entity and/or a trust or similar entity. A transfer of ownership, possession or

control of a Restaurant, or of its assets, may only be made with a transfer of this Agreement, unless we otherwise agree in writing and in our sole discretion.

3) Under no circumstances may Licensee transfer or attempt to transfer the Restaurant or all or substantially all of the assets associated with the Restaurant to a third-party who will operate a competitive business or other similar business but not under the System and the Marks, and not under a franchise agreement with Licensor.

#### **14.3 Conditions for Approval of Any Transfer.**

A. Without in any way limiting the generality of the foregoing rights reserved by us, all of the following conditions must be met prior to any approval/disapproval of a proposed transfer by us. We may waive any condition in our sole and absolute discretion.

1) You must be in compliance with this Agreement, the Manuals, all other agreements between you and us (including any of our respective Affiliates), and all leases/subleases with any party, and the transferee must expressly assume all such obligations for the transferred Restaurant(s); and

2) The transferee and its owners must meet our then-current requirements for new Licensees, including but not limited to business experience, aptitude, financial resources and any Client criteria; ~~and~~ provided that Licensor may, in its sole discretion, set limits from time to time as to the number of Restaurants any licensee or its affiliates (or prospective transferee and its affiliates) may own and operate at any given time, may prohibit or condition sale leaseback transactions and/or may withhold its consent to the proposed sale of all then Licensee or affiliate-owned Restaurants to a single prospective transferee via one or more transfer transactions; and

3) You must meet all payment and reporting obligations under the License Agreement and any other agreements between you and us (and any of our respective Affiliates); and

4) All obligations to third parties in connection with any Restaurant(s) to be transferred must be satisfied or assumed by the transferee; and

5) Any Restaurant proposed to be transferred and its operations must have been brought into full compliance with the Manuals and specifications and standards then-applicable for new Panda Express Restaurants, which can include a Brand Refresh or a Complete Update, as we require; and

6) The transferee, its Designated Individual, Store Manager, and other Restaurant personnel for the transferred Restaurants must successfully complete the applicable training program, as we then require; and

7) The transferee must execute our then-current form of License Agreement and ancillary documents (including guarantees) as are then customarily used by us in the grant of Licenses; the term of such new License Agreement shall, at our option, be either for the balance of the term of this Agreement or for the full term generally awarded to new Licensees as of the time of the transfer. The current approved form of Continuing Personal Guaranty is attached as Exhibit 19.12 to this Agreement; and

8) The transfer must be completed in compliance with the terms of any applicable leases and other agreements and with all applicable laws, including, but not limited to, franchising and operations-related laws and/or laws governing license/franchise sales; and

9) You or the transferee must pay us with your application for a transfer a non-refundable transfer fee of Ten Thousand Dollars (\$10,000) per transferred Restaurant, subject to inflation adjustment as provided in Section 9.6 and to a maximum cumulative transfer fee of Thirty Thousand Dollars (\$30,000) per transaction, if multiple Restaurants are transferred. You or the transferee also must reimburse us for our out of pocket costs associated with such transfer, including our Attorneys' fees and costs; and

10) You and the transferee (and each owner and/or Affiliate of a non-publicly held transferee), must sign a General Release, but excluding any claims for which a release is prohibited by applicable law and any disclaimer of representations made in any Franchise Disclosure Document we deliver to the transferee; and

11) You must comply with the Post Termination Provisions of this Agreement; and

12) No action, suit or proceeding shall be pending against you with respect to any of Restaurants proposed to be transferred, and no such action, suit or proceeding shall be threatened to the best of your knowledge; and

13) The proposed transferee must not be engaged in a Similar Business to the extent provided in Section 8.2, above; and

14) The Client shall have given its written consent to the transfer, to the extent so required by any such Client.

B. You agree that we may, but are not required to, discuss with you and/or the proposed transferee any factual information related to any transfer and/or proposed transfer without liability, including performance of a Restaurant. You expressly consent to any such discussions.

C. Neither you nor any transferee shall rely on us to assist in the evaluation of the terms of any proposed transfer. You acknowledge and agree that an approval of a proposed transfer shall not be deemed to be an approval of the terms, nor any indication as to any likelihood of success or economic viability.

#### **14.4 Effect of Consent to Transfer.**

Our consent to a transfer is not a waiver of any claims we may have against you, and you are not relieved of any obligations to us or any Licensor-Related Persons/Entities (including any defaults) unless you have an express written release signed by us. You acknowledge and agree that your obligations under the Post Termination Provisions will survive any transfer of this Agreement. Any dispute regarding any proposed or completed transfer will be resolved through the dispute resolution provisions of this Agreement.

#### **14.5 Our Right-of-First-Refusal.**

A. We have a right-of-first-refusal regarding any proposed Transfer subject to this Agreement and Section 14.5 C., below, excluding those Transfers which are to a Business Entity wholly-owned by you. With each proposed Transfer, you agree to provide us with a true and complete copy of the offer received and any ancillary agreements and to comply with the conditions to transfer described in Sections 14.2 and 14.3, as applicable. The offer, the price and the terms of purchase must apply only to the Transfer of an interest in this Agreement, the applicable Restaurant(s) and related assets

and the Licensee, if applicable. You shall comply with any notice requirements regarding any such offer as may be provided under applicable law. Any value attributable to the goodwill of the Marks, System elements, Confidential Information or other of Panda Express intellectual property will be excluded from the purchase price, but goodwill related solely to the value of your Franchise as a going business may be included. We can exercise our rights under this Section 14.5 by accepting the terms of purchase directly by ourselves, or indirectly, through the acceptance of such terms by an Affiliate or other Panda Express licensee of ours (our "Designated Purchaser"). If we elect to exercise our rights through a Designated Purchaser, such Designated Purchaser shall have the same rights and privileges in connection with the purchase as are afforded us under this Section 14.5.

B. We will give you written notice of our decision to exercise our right of first refusal within thirty (30) days from the date of our receipt of the offer and ancillary documents. If you are in default, we can require that any defaults be cured before the 30-day period begins. We can choose to substitute cash for any form of payment and are entitled to a General Release from you, your owners and Affiliates and to all Customary Representations, Warranties and Agreements. We can require that the closing of the sale be through an escrow. You and we will comply with any applicable bulk sales and/or similar laws, and insurance policies must be maintained until the date of closing. We have the right to set off against any amount of money payable by us, all amounts due from you and/or your Affiliates to us and/or our Affiliates. We also have the right to pay any amount otherwise due to you directly to your creditors in satisfaction of your obligations. We will not be obligated to pay any amount otherwise payable to you if you breach a post termination obligation under this Agreement. If there is a material change in the terms of a proposed sale, we have an additional right-of-first-refusal on the same terms and conditions as are applicable to the initial right-of-first-refusal.

C. We acknowledge that our ability to exercise our right of first refusal ourselves or indirectly through our designee, as provided above, may be subject to your Client's approval. If a proposed Transfer is subject to Client approval, you agree to use best efforts to seek and obtain such approval.

## **15. SUCCESSOR RIGHTS.**

### **15.1 Your Rights.**

Unless this Agreement has expired as provided in Section 2.1 D. or been earlier Terminated according to its terms, at the expiration of the Operating Term of each of the Restaurants licensed to you hereunder, you may be eligible to continue operating the applicable Restaurant for a successor term, subject to the terms and conditions of Sections 15.2 and 15.3, below. The successor term will be a single five (5) year period (renewal option), without any further term or rights to additional Licenses or rights of renewal, notwithstanding the terms and conditions of any successor License Agreement, unless otherwise expressly agreed in a mutually signed amendment to such successor License Agreement.

### **15.2 Notice of Election.**

A. You must give us written notice of your election to obtain a successor term License for a specific Restaurant not less than six (6) months, but not more than twelve (12) months, before the expiration of the initial Operating Term for such Restaurant. Within thirty (30) days after our receipt of the notice, we will give to you in writing:

1) any reasons which could cause us to not award the successor License, including any training, operational, Restaurant premises or other deficiencies requiring correction; and

2) our then-current requirements relating to the image, appearance, decoration, furnishing, equipping, stocking and programs for a Panda Express Restaurant (collectively, the “specifications and standards then-applicable for new Panda Express Restaurants or otherwise contained in the Manuals”).

B. If such Restaurant is subject to a Correction Process under Section 16.6 when i) you provide us with notice of your intent to obtain a successor License for such Restaurant, or ii) the successor License would be awarded, then we may choose in our sole and absolute discretion to defer the award of any successor License for such Restaurant until you have successfully complied with the applicable Panda Express System Standards.

C. If your written notice of election is not received by us in accordance with Section 15.2 A., above, and within the time frame specified therein, the Operating Term for the applicable Restaurant will expire as of the applicable expiration date.

### **15.3 Conditions to the Award of a Successor License.**

You acknowledge and agree that the following are conditions precedent to the award of any successor License for any Restaurant of yours:

A. You must be in Good Standing;

B. The Restaurant for which you desire to be granted a successor License and its operations must fully comply with all mandatory specifications and standards then-applicable for new Panda Express Restaurants or otherwise contained in the Manuals, which can require a Complete Update, as provided in Section 10.1, above, by the expiration of its Operating Term, or such other time that we may consent to in writing and in our sole discretion;

C. You and each Affiliate of yours must have paid all amounts owed to us, to any applicable Client and to any Licensor-Related Persons/Entities;

D. You must have executed for such Restaurant our then-current form of License Agreement (or an applicable extension/renewal amendment to this Agreement, at our option) and such related documents as are then customarily used by us, with appropriate modifications to reflect the fact that such Restaurant shall be operating under a successor term. You will not be required to pay the then-current Initial License Fee, and we will not be required to provide you any site location, initial training or other “start-up” services in connection with the award of any successor license;

E. You must have executed a General Release, except for any claims exclusively related to the award of the successor License, for any claims which cannot be waived under local law, and for any claims arising out of representations in any Franchise Disclosure Document we deliver to you in connection with the award of a successor term;

F. You must have paid us a successor fee of Ten Thousand Dollars (\$10,000) per renewing/extending Restaurant, subject to inflation adjustment, as provided in Section 9.6.

## **16. TERMINATION AND DEFAULT.**

### **16.1 Termination by Mutual Agreement.**

This Agreement may be Terminated any time upon your and our mutual agreement.

## **16.2 Other Terminations.**

A. You or we may Terminate this Agreement, with not less than thirty (30) days written notice to the other, so long as you are not operating any Restaurant pursuant to a license hereunder and we have not previously provided written authorization for the development of a Restaurant pursuant to Section 3.1, above.

B. If the license agreement between us and Panda Restaurant Group, Inc. is terminated or expires, our rights, duties and obligations under this Agreement will, at Panda Restaurant Group Inc.'s sole and absolute discretion, revert to and be accepted by Panda Restaurant Group, Inc. and/or its designee at its sole election. If Panda Restaurant Group, Inc. does not elect to accept such a reversion or assignment of our rights, duties and obligations under this Agreement, then you and we agree that this Agreement shall be deemed to be mutually terminated concurrently with the termination/expiration of our license with Panda Restaurant Group, Inc.

## **16.3 Defaults by You; Termination of Agreement and/or the Operating Term of a Restaurant by Us.**

Subject to Section 16.13, this Agreement and/or the Operating Term of the applicable Restaurant will automatically Terminate upon delivery of our written notice of Termination to you without further action by us if:

A. you make any material misrepresentation or omission in your application for the License;

B. Except as permitted in section 16.4 B, you cease to operate, surrender, or abandon your Restaurant by failing to operate one or more of the Restaurant(s) for five (5) consecutive days during which time you are required to operate the business, or for any shorter period after which it is not unreasonable under the facts and circumstances for us to conclude that you do not intend to continue to operate the Restaurant, unless such failure to operate is due to a Force Majeure and you have initiated all repairs and reconstruction necessary to restore your Restaurant to original condition within sixty (60) days of the Force Majeure, as provided in Section 10.1 A. 1) of this Agreement;

C. you are judged bankrupt, become insolvent, make an assignment for the benefit of creditors, or if a petition under any bankruptcy law is filed by or against you or any direct or indirect corporate parent, or if a receiver or other custodian is appointed for a substantial part of your assets;

D. you fail to have any authorization or comparable license or consent necessary for the use or operation of the Restaurant, or such authorization or license is revoked or terminated, or you participate in any fraud or criminal misconduct relating to the operation of any Restaurant, or if any of your officers or directors is convicted of, or pleads guilty or no contest to, a felony, or to any crime or offense that is likely to adversely affect the operations of your Restaurant or your or our reputation, or the goodwill associated with the Marks;

E. you make, or attempt to make, an unauthorized transfer under this Agreement, including but not limited to a transfer or attempted transfer of Licensee, any or all Restaurants, or of any portion of the premises of any Restaurant; or lose your right to possess, or surrender control of, any Restaurant or of the Licensee without our prior written approval and other than as provided in Section 16.4 B., below;

F. you understate the Gross Volume of a Restaurant by more than five percent (5%) during any Reporting Period;



G. your Lease Agreement is terminated for cause, or you fail to cure a material default under the applicable Lease Agreement within the time permitted by the Client;

H. you fail to cure any violation of any provisions under this Agreement with respect to the Marks or to Section 8 within fifteen (15) days after receipt of written notice of default;

I. you fail to report accurately Gross Volume for any Restaurant or fail to submit any other report, document or information due under this Agreement, or to make payments of any amounts due us or any Licensor-Related Person/Entity within fifteen (15) days after receipt of written notice of default;

J. you fail to permit or to cooperate with us or our designee in any audit or inspection at any Restaurant, or fail to produce on request any records required to be maintained by you, within fifteen (15) days after receipt of written notice of default;

K. you fail to meet on an ongoing basis the insurance requirements we establish as provided in Section 10.5, above within fifteen (15) days after receipt of written notice thereof. We may require you to immediately cease all operations at the applicable Restaurant until any such default is fully cured;

L. there exists one or more health, safety or sanitation conditions at a Restaurant that we reasonably determine may pose an imminent threat to public health or safety that you fail to cure within 24 hours after receipt of written notice thereof; provided that we may also require you to immediately cease all operations and temporarily close the applicable Restaurant until any such imminent threat default is fully cured to our satisfaction if we deem it necessary in our sole discretion;

M. you or required personnel fail to complete initial training or to satisfactorily complete any required testing as provided in Section 5.1 A., above;

N. you fail to pay any undisputed amount due a Client, a third party lessor or lender, or a designated or other supplier/vendor when due or within any cure period allowed for such a default and you do not correct such failure within fifteen (15) days after we notify you of this default;

O. you fail to comply with any other provision of this Agreement, any other agreement with us and/or any Affiliate of ours, or any System Standard or mandatory requirement prescribed in the Manuals within thirty (30) days after receipt of our written notice of default. If any such default cannot reasonably be corrected within such thirty (30) day period, then you must undertake diligent efforts within such thirty (30) day period to come into full compliance and furnish, at our request, proof acceptable to us of such efforts. In any event, all such defaults must be fully cured within sixty (60) days after delivery of the initial written notice to you;

P. you engage in any catering or delivery activities not expressly authorized in writing by us;

Q. you intentionally revoke the direct debit authorization agreement Section 9.7 requires, or close the account to which the authorization agreement applies without first having established another royalty payment account and having signed and delivered to us a new Authorization Agreement for Pre-Arranged Payment on a form acceptable to us and our bank;

R. you fail to correct or change your operation of your Restaurant that is likely to adversely affect our reputation, our brand and/or the goodwill associated with the Marks within fifteen (15) days after receipt of our written notice; or

S. you fail to respond to your guest's complaint in a timely manner and within ten (10) days after receipt of our written notice.

#### **16.4 Termination of the Operating Term of a Restaurant.**

A. If the Lease Agreement for a Restaurant is Terminated or expires before the end of the applicable Operating Term and no substitute location has been authorized by us in writing and occupied by you before the termination/expiration of such Lease Agreement or Client Contract, then we may elect to Terminate your License to operate the Restaurant at the applicable Restaurant as of the termination/expiration of such lease.

B. You may Terminate the Operating Term for a specific Restaurant following eight (8) months' prior written notice to us if your Lease Agreement at the Facility in which a Restaurant is established expires without renewal or is Terminated without default by you, and you (i) provide a proof of such contract expiration, or a termination letter issue by the Client, as applicable, to us within one week after you are aware of the termination, and (ii) you have used your best efforts to arrange a meeting between Client and us, if requested by us, to discuss the continued operation of the Restaurant. If your Lease Agreement requires you to take the applicable actions in a shorter period of time, the notice period provided in that Lease Agreement shall govern for that Restaurant, provided that you give to us a copy of the relevant provision of the Lease Agreement, and you shall pay us an early termination fee for our lost future royalties in an amount equal to the anticipated amount of royalties you would have paid to us had you operated for the full required eight (8) month notice period (based on the average daily Gross Revenues and related royalty fee during the full prior calendar month times the number of days to reach the required eight month notice period).

The Operating Term of each Restaurant shall be Terminated concurrently with the Termination of this Agreement, unless additional notice prior to Termination is required by applicable law.

#### **16.5 Multiple Defaults.**

If we send to you two (2) written notices of default for a particular Restaurant, upon the occurrence of a third (3<sup>rd</sup>) default at such Restaurant within any twelve (12) month period, we shall at our option have the right to automatically Terminate upon delivery of our written notice of Termination to you and without further action by us and without any opportunity to cure, i) the Operating Term of such Restaurant, or ii) this Agreement. We can exercise our rights under this Section 16.5 regardless of whether or not the first two (2) written notices were for the same or different defaults or either or both were cured.

#### **16.6 Failure to Meet System Standards.**

A. We anticipate evaluating your Restaurant(s) for compliance with System Standards using various methods (including, but not limited to, inspections, field service visits, customer comments/surveys, third party evaluation services and/or "mystery shopper" reports). In conducting such an evaluation we will use the same methodology and scoring system then in use by us for evaluating Restaurants owned and/or operated by us and/or our Affiliates. Evaluations may be conducted by us or persons/entities designated by us for such purpose. Each Restaurant will be assigned System Standards scores for categories being scored at that time.

B. We may (but are not required to) implement a Correction Process, as described in Section 16.6 C., below, for a particular Restaurant if any of your System Standards score(s) is less than the then current minimum score (the "Minimum Performance Standard") we set in the System Standards from time to time.



C. We will reasonably cooperate with and assist you in your efforts to meet acceptable System Standards scores. Such assistance may include, but is not limited to, on-site consultations, meetings at our headquarters, and/or retraining activities or programs at designated locations (a "Correction Process"). You are responsible for any costs associated with such activities, including our remedial training/tuition fees, travel, meals, lodging and any other related expenses.

D. If we give you a written notice of your failure to meet Minimum Performance Standards in any evaluation period for any Restaurant a total of three (3) consecutive times or more than five (5) times in any twelve (12) consecutive months, regardless of whether or not minimums are met after your receipt of any such notice, then we may elect to Terminate your License to operate such under-performing Restaurant immediately upon your receipt of written notice and without further opportunity to cure.

E. Nothing in this Section 16 is intended to limit or diminish in any way any rights or remedies provided us under this or any other agreement, at law or in equity. The fact that any Correction Process may be ongoing shall not prevent us from exercising any such rights and/or remedies, including any right to Terminate this Agreement or an Operating Term for a Restaurant for another default under this Agreement.

#### **16.7 Default by Us; Termination by You.**

You may Terminate this Agreement due to a material default by us which we fail to cure within thirty (30) days after our receipt of written notice thereof by delivering a written notice of such Termination to us, provided that if any such default cannot reasonably be corrected within such thirty (30) day period, then we must undertake diligent efforts within such thirty (30) day period to come into full compliance and furnish, at your request, proof acceptable to you of such efforts. In any event, all such material defaults must be fully cured within sixty (60) days after our receipt of the initial written notice from you.

#### **16.8 Non Exclusive Remedies.**

Whenever a right to Terminate this Agreement exists by reason of default, the non-defaulting party will have all remedies allowed at law and in equity. No right or remedy is exclusive of any other right or remedy, and any available rights and/or remedies may be sought.

#### **16.9 No Equity on Termination, etc.**

Your rights regarding the License are controlled by the provisions of this Agreement. You will have no equity or any other continuing interest in the License, any goodwill associated with it, or any right to compensation or refunds at the Termination with or without cause of the License and/or the expiration of the last Operating Term for the final Restaurant.

#### **16.10 Our Right To Discontinue Supplying Items Upon Default.**

We and any Licensor-Related Persons/Entities have the right to require that you pay C.O.D, by certified check or by wire transfer for any goods/services related to the operation of your Licensed Business. We may elect to stop selling and/or providing any such goods and/or services until you have cured any financial default. Neither we nor any supplier designated by us shall be obligated to fill or ship any orders from you that are pending or ordered at the Termination of this Agreement, or, with respect to any given Restaurant, at the termination or expiration of the applicable Operating Term.

#### **16.11 Cross-Defaults.**

Any default by you under this Agreement may be regarded by us as a default under any other agreement between us (or any Licensor-Related Persons/Entities) and you. Any default by you under any other agreement or any other obligation between us (or any Licensor-Related Persons/Entities) and you may be regarded as a default under this Agreement. Any default by you in undisputed payments owed to any supplier designated by us or under any occupancy agreement, lease, sublease, loan agreement, or security interest relating to the Licensed Business may be regarded as a default under this Agreement, regardless of whether or not any such agreements are between you and us.

#### **16.12 Management of the Restaurant(s) After Uncured Default.**

A. If after written notice you fail to cure within any applicable cure period a default under any System Standard and/or operational requirement at your Restaurant(s), subject to Client's approval, we will have the right, but not the obligation, in our sole and absolute discretion, to manage all or any such Restaurant(s) for so long as we consider appropriate in our sole discretion pursuant to the management agreement in the form satisfactory to us, or assign such management right, at our sole and absolute discretion, to any third party operator to manage your Restaurant(s). All revenues and other charges received or earned by the Restaurant(s) which we are, or our designee is, managing will be accounted for separately. In addition to the royalty payable under Section 9.2 above, you agree to pay to us a management fee of seven percent (7%) of the Gross Volume of each such Restaurant managed by us. In addition to such management fee, you shall reimburse us for our actual compensation and other costs incurred in staffing/managing the Restaurant(s), as well as any related accommodations costs and travel and living expenses for applicable staff. We may directly deduct from such Gross Volume the management fees and related costs, royalties, and any other amounts otherwise payable by you to us under this Agreement and to any Restaurant supplier. Our or our designee's operation of the Restaurant(s) shall be on your behalf; provided that we shall have a duty to use commercially reasonable efforts only, shall not warrant or assure any Restaurants success and/or profitability, and shall not be liable to any creditor of yours, or for any debts, losses or obligations incurred by the Restaurant(s). We shall pay to you on a monthly basis the balance of Gross Volume received in the preceding month with deductions taken as provided herein. If your Gross Volume is insufficient to pay our fees and costs and other Restaurant obligations, we shall notify you. You shall, within five (5) business days thereafter, deposit such amounts as shall be required to pay all such obligations and to maintain a reasonable, positive account balance. We will give you not less than ten (10) days advance written notice of our decision to discontinue managing any Restaurant(s).

B. This Section 16 shall not limit our right to Terminate this Agreement according to its terms or affect any of our indemnity or other rights under this Agreement.

#### **16.13 Liquidated Damages.**

If we terminate either this Agreement or the Operating Term of any Restaurant as a result of your uncured breach, default, or the occurrence of another event giving rise to a termination right under Section 16.3, 16.5, 16.6, 16.11 or 16.12, then for each terminated Restaurant, within thirty 30 days after the effective date of termination, and without any requirement for demand from us, and in addition to all remedies we may have in law and equity, you shall pay us a payment of a liquidated sum equivalent to twenty four (24) months of Royalties based on all Royalties paid in the twelve (12) Royalty Period immediately preceding the Termination date of such Restaurant, plus the Minimum Royalty amount for each such Restaurant for a period of ninety (90) days following the closure date, which would otherwise be due if the License for such Restaurant(s) had not been cancelled pursuant to this provision.

If you terminate the Operating Term of any Restaurant pursuant to Section 16.4B then for each terminated Restaurant, within thirty 30 days after the effective date of termination, and without any

requirement for demand from us, and in addition to all remedies we may have in law and equity, you shall pay us a payment of a liquidated sum equivalent to twelve (12) months of Royalties based on all Royalties paid in the twelve (12) Royalty Period immediately preceding the Termination date of such Restaurant, which would otherwise be due if the License for such Restaurant(s) had not been cancelled pursuant to this provision.

The parties acknowledge and agree that Licensee's payment of liquidated damages is not a penalty, and is intended by the parties to represent just compensation for lost future revenues resulting from Licensee's breach of this Agreement, which otherwise would be difficult to estimate accurately because of that breach. If any court of competent jurisdiction holds that this liquidated damages section is not enforceable, then we shall be entitled to collect consequential damages resulting from your breach. If any liquidated damages are owing under this Agreement, then you shall pay any applicable taxes on such payments as if those liquidated damages were royalties.

## **17. CERTAIN RIGHTS AND OBLIGATIONS ON TRANSFER, TERMINATION AND/OR EXPIRATION OF AGREEMENT AND/OR AN OPERATING TERM.**

### **17.1 Obligations on Termination, Expiration or Transfer of This Agreement.**

Upon the transfer, expiration or Termination of this Agreement for any reason and without limiting any rights or remedies available to us or to you:

A. All rights granted to you under this Agreement immediately shall Terminate and you shall cease any use of the Intellectual Property, Marks, Confidential Information or any aspect of the System without our express written consent.

B. You shall comply with the requirements of Sections 17.2, 17.3, and 17.4.

C. You shall comply with all other Post Termination Provisions according to the terms of this Agreement.

### **17.2 Obligations on Termination or Expiration of an Operating Term or Transfer of a Restaurant.**

Upon the termination or expiration of the Operating Term of a Restaurant for any reason (the "Event Date"), and without limiting any rights or remedies available to us or to you, you agree that you shall in connection with each such Restaurant:

A. pay all royalties and all amounts of any kind owed to us and/or any Licensor-Related Persons/Entities in connection with the Restaurant within ten (10) days after the Termination or expiration of the Operating Term, or after the earliest date on which the amounts due can be determined, including any reasonable expenses incurred by us in obtaining injunctive relief in enforcing this Agreement;

B. on the Event Date, immediately and permanently discontinue your Panda Express operations at the Restaurant and any use of the Intellectual Property and/or the Confidential Information (except as permitted with respect to other Restaurants properly operating under this Agreement) and not use any similar or derivative marks, or materials, or colorable imitations of any of the Intellectual Property in any medium or manner or for any purpose (except as permitted with respect to other Restaurants properly operating under this Agreement);

C. on the Event Date, return to us or, at our option, destroy all software, Manuals, forms, materials, recipes, specification, and any other items containing any Intellectual Property or Marks, or otherwise identifying or relating to a Panda Express Restaurant (to the extent they have not been assigned in connection with an authorized Transfer or to the extent that they cannot be properly used at any other Restaurants operated by you);

D. within ten (10) days of the Event Date, complete such actions as may be required to cancel all fictitious or assumed name or equivalent registrations relating to your use of any Mark which have not been assigned in connection with an authorized Transfer, or which are not properly used by you in connection with the operation of other authorized Restaurants;

E. on the Event Date immediately remove from the Facility any Panda Express interior and exterior displays and signage and any physical and/or structural features associated with the Trade Dress of Panda Express Restaurants, so that the Restaurant is clearly distinguished from other Panda Express Restaurants and does not create any public confusion. A Restaurant shall be de-identified to the extent and in the manner described in the Manual, or, if no such standard is provided in the Manual, to the then current standards applicable to Restaurants owned and operated by us and/or Licensor-Related Persons Entities. If immediate removal of exterior signage is not possible because of the necessity of lessor involvement or similar requirements involving leased premises, you will arrange for coverage as of the Event Date of the exterior signage such that it is no longer visible to the public and for the removal of the exterior signage within ten (10) days of the Event Date (to the extent displays and signage have not been assigned in connection with an authorized Transfer or to the extent that they cannot be properly used at any other Restaurants operated by you). If Licensee fails to comply with such requirement, Licensee shall permit Licensor and its Affiliates and their respective personnel agents, to enter the Restaurant and remove signs, décor and materials displaying any marks, designs or logos owned or licensed by Licensor, provided Licensee will bear the expense of repairing any damage to the location as a result thereof.

F. beginning on the Event Date, you will not identify yourself, or any business you may operate or in which you may become involved, or advertise or promote yourself in any manner, as a present or former Panda Express Licensee, except in connection with the operation of other Restaurants that you are authorized by us to operate;

G. sell to us if we so request in our sole and absolute discretion any equipment, Trade Dress, signage and/or furnishing designated by us which is/are associated with the Restaurant(s) at net book value, using a 5-year amortization schedule;

H. furnish to us within thirty (30) days satisfactory evidence of your compliance with the obligations described in this Section 17.2 and in Section 17.3, below. If you operate any business using any of the Intellectual Property, Marks, Confidential Information or any aspect of the System without our express written consent, our remedies will include (but will not be limited to) recovery of the greater of i) all profits earned by you in the operation of such business, or ii) all royalties and other amounts which would have been due if this Agreement remained in effect with you.

### **17.3 Telephone and Other Directory Listings, Internet Sites.**

After any Termination and/or expiration of the Agreement and/or the Operating Term for a Restaurant, you agree to immediately notify the applicable telephone company, service provider and/or listing agency, as applicable, that you are no longer authorized to use telephone numbers, domain names, Internet addresses/sites and/or other communications contacts (collectively, the "Numbers"), and any related directory listings/advertising, used in connection with the operation of the applicable Restaurant(s). You further agree to authorize us to transfer, call-forward, discontinue or otherwise deal with the Numbers

and any related directory listings/advertising and to reasonably assist in facilitating such activities by providing any written documentation or otherwise as may be required by any such service providers. By signing this Agreement, you irrevocably appoint us your attorney in fact to take any such actions regarding the Numbers and any related directory listings/advertising if you do not do so yourself within ten (10) days after the Termination or expiration of this Agreement and/or the Operating Term for a Restaurant.

#### **17.4 Continuing Obligations.**

A. All obligations and rights which expressly or by their nature survive the Transfer, expiration or Termination of this Agreement and/or the Operating Term of a Restaurant will continue in full force and effect until they are satisfied or by their nature expire, including but not limited to this Section 17, all indemnity, confidentiality, non-use and non-infringement rights and obligations under this Agreement; your payment obligations and the provisions of Sections 19 and 22. These rights and obligations continue notwithstanding any rejection of this Agreement in a bankruptcy proceeding or otherwise.

B. If this Agreement or the Operating Term of a Restaurant is Terminated because of a default of yours, you will not be released or discharged from your obligations, including accrued payment of all amounts then due and other amounts which would have become due under this Agreement if you had continued in operation as a Panda Express Licensee for the full term of the applicable Operating Term(s). Our remedies will include, but are not limited to, the right to collect the present value of these amounts and to receive the benefit of our bargain with you, as well as to accelerate the balances of any promissory notes owed and to receive any other unpaid amounts owed to us or any of our Affiliates.

### **18. DISPOSITION OF PRODUCT AND INVENTORY ON CERTAIN TERMINATIONS.**

#### **18.1 On Termination by You for Default by Us.**

If you Terminate this Agreement in accordance with Section 16.7, above, due to a default by us, we shall repurchase all unused and usable Products and supplies inventory at the Terminated Restaurant(s) at your cost for such inventory. We will bear the de-identification costs for the applicable Restaurant(s). You agree that except as specifically provided in this Section 18, we shall not have any other payment obligations to you and you do not have, and hereby waive, any claim for costs or expenses related to Designated Equipment, furnishings, fixtures, customized materials not usable by us, or other equipment and/or Facility or Restaurant premises-related expenses. We reserve the right to offset any amounts owed by you to us and/or a Licensor-Related Person/Entity against any amounts payable by us to you under this Section 18.

#### **18.2 On Termination by Us for Default by You.**

If we Terminate this Agreement with respect to any or all Restaurants due to a default by you, you acknowledge and agree that we shall have no obligation to repurchase, and you shall not receive any payment from us or any Licensor-Related Person/Entity for, any Products or supplies inventory remaining at any Terminated Restaurant, unless otherwise required under applicable law. Promptly at our request and your expense, you agree to return any such Products and supplies to a location we designate and shall bear all costs of de-identification of any Terminated Restaurant in accordance with Section 17.2 E. To the extent that you are licensed to operate any remaining Restaurant and provided that there is no adverse effect on quality, we will permit you to use such inventory at other Restaurants to reduce the expense of your compliance with this Section 18.

### **19. DISPUTE AVOIDANCE AND RESOLUTION.**

For the purposes of this Section 19, “you” shall be deemed to include your Affiliates, and “we” shall be deemed to include “Licensor-Related Persons/Entities.”

### **19.1 MEDIATION AND MANDATORY BINDING ARBITRATION, WAIVER OF RIGHT TO TRIAL IN COURT.**

You and we agree as follows:

A. Claim Process. Any litigation, claim, dispute, suit, action, controversy, or proceeding of any type whatsoever including any claim for equitable relief between or involving you and us on whatever theory and/or facts based, and whether or not arising out of this Agreement, (“Claim”) will be processed in the following manner, except as expressly provided below at Section 19.1 H.

1) First, submitted to non-binding mediation for a minimum of four (4) hours before the Judicial Arbitration and Mediation Services, Inc. (“JAMS”) or its successor or ii) before any other mediation organization approved by all parties. We will pay the costs of the first four (4) hours of any mediation, and no mediation is required to extend beyond such four (4) hour period. Any party may be represented by counsel and may, with permission of the mediator, bring persons appropriate to the proceeding.

2) Second, submitted to and finally resolved by binding arbitration before and in accordance with JAMS’ (or its successor’s) then-prevailing Comprehensive Arbitration Rules and Procedures, subject to the provisions of this Agreement. Arbitration may be filed prior to mediation, with such mediation to follow as quickly thereafter as possible. Judgment on any preliminary or final arbitration award will be final and binding, and may be entered in any court having jurisdiction. The arbitrator’s award shall be in writing. On request by either party, the arbitrator shall provide to all disputants a reasoned opinion with findings of fact and conclusions of law, and the party so requesting shall pay the arbitrator’s fees and costs connected therewith.

B. Confidentiality. The parties to any mediation/arbitration will sign confidentiality agreements, excepting only public disclosures and filings as are required by law.

C. Location and Attendees. Any mediation/arbitration will be conducted exclusively at a neutral location in the county in which our then-current headquarters is located (currently, Los Angeles County), which may change from time to time, and be attended by you and us, and/or designees authorized to make binding commitments on behalf of you or us, respectively. You and we agree that the provisions of this Section will control, notwithstanding any language included in our Franchise Disclosure Documents due to state requirements suggesting that the provisions of any section might be unenforceable due to a failure to have a meeting of the minds or otherwise. Neither you nor we have any expectation that the provisions of this (or any other) section will be unenforceable or that they will not be enforced. You understand and agree that one effect of this paragraph may be that arbitration and other related costs may be greater than if those proceedings took place in a location near your residence or business. If this provision is unenforceable for any reason, mediation/arbitration will be conducted at a neutral location in the county in which your principal place of business is located.

D. Arbitration Authority. Arbitrators in any proceeding under this Section 19 shall apply all applicable law, and a failure to apply the applicable law in accord with Section 19.11 shall be deemed an act in excess of authority and reviewable by the courts and the parties expressly agree that any arbitration award can be reviewed and overturned by a court for legal error. The arbitrator shall decide any questions relating in any way to the parties’ agreement, or claimed agreement, to arbitrate, including but not limited to applicability, subject matter, arbitrability, timeliness, scope, remedies, formation issues or purportedly



void or voidable provisions of the Agreement and any alleged fraud in the inducement. The arbitrator may issue summary orders disposing of all or part of a claim and provide for temporary restraining orders, preliminary injunctions, injunctions, attachments, claim and delivery proceedings, temporary protective orders, receiverships and other equitable and/or interim/final relief. Each party consents to the enforcement of such orders, injunctions, or other relief by any court having jurisdiction. The subpoena powers of the arbitrator with respect to witnesses to appear at the arbitration proceeding shall not be subject to any geographical limitation.

E. Discovery. The disputants shall have the same discovery rights as are available in civil actions under California law as selected in Section 19.11.

F. Compulsory Counter-claims. Each participant must submit or file any claim that would constitute a compulsory counter-claim (as defined by the applicable rule under the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any such Claim that is not submitted or filed in such proceeding will be forever barred. In no event shall offers and/or other communications made in connection with, or related in any way to, mediation, possible settlement or other resolution of a dispute be admitted into evidence or otherwise used in any arbitration or other proceeding.

G. Fees and Costs. The parties will bear their own fees and costs, including Attorneys' Fees, for matters settled through agreement of the parties. For matters not settled through agreement of the parties and to the extent the arbitrator designates a party as non-prevailing, the arbitrator shall assess fees and costs incurred in connection with the arbitration against the non-prevailing party, and the non-prevailing party also shall be responsible for the prevailing party's cost and expenses incurred in connection with the arbitration, including Attorneys' Fees and costs.

H. Preliminary Relief and Undisputed Debts. Either party shall be entitled to seek preliminary or interim injunctive or provisional relief by a court or by arbitration (including, but not limited to, a temporary restraining order and preliminary injunction, all without bond) without showing or proving any actual damage, until such time as a final and binding determination is made by the arbitrator. The foregoing equitable remedies shall be in addition to, and not in lieu of, all other remedies or rights which the parties might otherwise have by virtue of any breach of this Agreement by the other party. Either party shall be entitled to pursue an action for collection of moneys owed in either a court or arbitration proceeding when the right to payment is not in dispute.

I. Intention to Arbitrate. You and we expressly agree that, notwithstanding any contrary provisions of state, province, or other law, and/or any statements in any disclosure document required by a state/province as a condition to franchise registration or for some other purpose:

1) all issues relating to arbitration and/or the enforcement of arbitration-related provisions will be decided by the arbitrator and governed only by the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and the federal common law of arbitration;

2) all provisions of this Agreement shall be fully enforced, including but not limited to those provisions relating to arbitration, venue, and choice of law;

3) you and we intend to rely upon federal preemption under the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and, as a result, the provisions of this Agreement will be enforced only according to their terms.

## 19.2 Venue.

Without in any way limiting or otherwise affecting your and our obligations under Section 19.1, above, you and we agree that any litigation will be held in the United States District Court encompassing our then-current headquarters, which are currently located in Rosemead, CA (the "Proper Federal Court"); provided, that if any court determines that this provision is unenforceable for any reason, such action shall be brought in the United States District Court encompassing your principal place of business. Proceedings will be held only in the Proper Federal Court, subject to the following exceptions:

A. if a basis for federal jurisdiction does not exist, then any such proceeding shall be brought exclusively before a court in the most immediate state judicial district encompassing our then-current headquarters, which are currently located in Rosemead, CA, and having subject matter jurisdiction (the "Proper State Court"), provided that if any court determines that this provision is unenforceable for any reason, such action shall be brought in the state judicial district in which your principal place of business is located;

B. proceedings to remove or transfer a matter to the Proper Federal Court and/or to compel arbitration as contemplated by this Agreement may be brought in the court where the applicable action is pending and/or the Proper State or Federal Court; and

C. any action primarily with respect to any real property (including any action in unlawful detainer, ejectment or otherwise) may be brought in any court of competent jurisdiction and/or the Proper State or Federal Court.

### **19.3 Terms Applicable to All Proceedings.**

A. You and we **knowingly waive all rights to trial by jury**, if permitted under applicable law.

B. **You and we will pursue any proceeding on an individual basis only, and not on a class-wide or multiple plaintiff basis**, if permitted under applicable law.

### **19.4 Damages.**

UNWAIVABLE RIGHTS TO PUNITIVE, EXEMPLARY, MULTIPLE OR SIMILAR DAMAGES YOU OR WE MAY HAVE UNDER ANY STATUTE OR REGULATION SHALL BE FULLY EFFECTIVE. OTHERWISE AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RECOVERY ON ANY CLAIM UNDER THIS AGREEMENT SHALL BE LIMITED TO ACTUAL DAMAGES SUSTAINED BY THE INJURED PARTY, WITH YOU AND US WAIVING CLAIMS FOR PUNITIVE, EXEMPLARY, MULTIPLE OR SIMILAR DAMAGES.

### **19.5 Survival of Obligations.**

A. Each provision of this Section 19, together with the provisions of Section 22, will be deemed to be self-executing and continue in full force and effect subsequent to and notwithstanding the expiration or Termination of this Agreement and will survive and will govern any Claim for rescission. Notwithstanding any bankruptcy or other proceeding, you and we wish to have the dispute avoidance and resolution provisions of this Agreement enforced according to their terms.

B. Confidentiality, protection of the Marks and Intellectual Property, indemnity/hold harmless obligations, and all other Post-Termination Provisions provided in this Agreement shall survive the expiration and/or Termination of this Agreement according to their terms.



**19.6 Costs and Attorneys' Fees.**

The parties will bear their own fees and costs, including Attorneys' Fees, for matters settled through agreement of the parties. For matters not settled through agreement of the parties and to the extent a non-prevailing party is identified by a court or arbitrator in an award or judgment, the non-prevailing party shall be responsible for the prevailing party's cost and expenses incurred in connection with the arbitration and/or litigation, including Attorneys' Fees and costs. The foregoing notwithstanding, nothing herein shall be deemed to limit, restrict or diminish in any way any party's rights to recover costs, Attorneys' Fees or any other amounts pursuant to any indemnity rights granted under this Agreement.

**19.7 Binding Effect, Modification.**

This Agreement is binding on the parties hereto and their respective executors, administrators, heirs, assigns, and successors in interest, and will not be modified or supplemented except as expressly provided in this Agreement or by means of a written amendment signed by both parties; provided that changes to the Manuals made in accordance with this Agreement are binding and do not require any acceptance by you, written or otherwise, to be effective and enforceable. No field representative, salesperson or other person has the right or authority modify this Agreement, or to make any representations or agreements on our behalf, and no such modification, representation and/or agreement shall be binding.

**19.8 Construction.**

A. Section headings are for convenience only and do not define, limit, or construe such provisions.

B. This Agreement may be executed in multiple copies, each of which will be deemed an original.

C. The phrases "sole and absolute discretion" and/or "sole discretion" as used in this Agreement mean an unrestricted right to make decisions and/or take, or refrain from taking, actions, notwithstanding a potential negative and/or financial impact on Licensee or another person/entity.

**19.9 Severability; Substitution of Valid Provisions.**

Each provision of this Agreement, and any portion of any provision, is severable. Each party reserves the right to challenge any law, rule or judicial or other construction which would have the effect of varying or rendering ineffective any provision of this Agreement. To the extent that any provision of this Agreement, or any specification, standard or operating procedure we prescribe, is invalid or unenforceable, you and we agree that such provisions will be modified or enforced to the fullest extent permissible under, and to be compliant with, governing law. This Agreement will be deemed automatically modified to comply with governing law if such law requires: i) a greater time period for notice of the Termination of this Agreement, or a Termination or refusal to renew an Operating Term; or ii) the taking of some other action not described in this Agreement. Such modifications to this Agreement shall be effective only in such jurisdiction. You and we agree that the unenforceability of any provision of this Agreement will not affect the remainder of this Agreement.

**19.10 Waivers; Cumulative Rights; Limitation on Licensee.**

Subject to the provisions of Section 19.4, no waiver by either party of any breach, default or unfulfilled condition under this or any other agreement between the parties shall be deemed a waiver of any subsequent or other breach, default or unfulfilled condition. No waiver shall be effective unless in writing and signed by an authorized representative of the signing party. The rights and remedies provided in this Agreement are cumulative, provided that in no event shall Licensee have as a remedy the right to withhold any payment due to us under this Agreement. Except as expressly provided in this Agreement, no party will be prohibited from exercising any rights or remedies provided under this Agreement or permitted under law or equity.

#### **19.11 Choice of Laws.**

Except with respect to the applicability of the Federal Arbitration Act, 9 U.S.C. § 1 et seq., and the effect of federal pre-emption of state law by such Act and except to the extent governed by the United States Trademark Act, 15 U.S.C. § 1051 et seq., and other federal laws and as otherwise expressly provided in this Agreement, this Agreement and all other matters between you and us shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws, excepting however i) the provisions of Section 8.2 shall be construed and enforced in accordance with the laws of the State where the breach of said Section occurs, and ii) the California Franchise Investment Law, the California Franchise Relations Act and the provisions of any other California statute or law regarding licenses or franchises will not apply unless jurisdictional, definitional and other requirements of such statute or law are met independently of this Section, without giving effect to any conflict of laws.

#### **19.12 Application of Agreement to Parties and Others; Joint and Several Liability; Personal Guaranty.**

A. The rights and obligations of this Agreement run directly between you and us and are not intended to create any third-party beneficiary or similar rights or obligations unless specifically expressed in this Agreement; except that the protections which apply to us for the safeguarding of Intellectual Property or relating to indemnification and/or releases shall also apply to any current and/or future Licensor-Related Persons/Entities as if they were expressly named beneficiaries thereof.

B. We have the right to elect in our sole and absolute discretion to not enforce (or to selectively enforce) any provision of this or any Agreement, standard or policy, whether with respect to you and/or any other Licensee or other person, in a lawful manner without liability.

C. If two (2) or more persons/entities are the Licensee at any time, all of their obligations and liabilities under this or any other agreement with us and/or any Licensor-Related Persons/Entities will be joint and several.

D. We have the right to require any or all individuals having a legal or beneficial ownership interest, directly or indirectly, in a Business Entity Licensee to sign our then current form of personal guaranty. The current approved form of Continuing Personal Guaranty is attached as Exhibit 19.12 to this Agreement. We have the right to require any such guarantor's spouse or domestic partner under local law to co-sign any such guaranty.

#### **19.13 Fundamental Business Intention to Mediate and/or Arbitrate, Severability of Dispute Resolution Provisions, Federal Arbitration Act Governs, etc.**

If any provision of this Section 19 is deemed by a court to be unenforceable for any reason, you and we agree and intend that such provision will be i) modified so as to be enforceable or ii), if that cannot

be done, severed. Any remaining portions of this Section 19 shall remain in full force and effect. You and we acknowledge that your and our activities relating to the License relationship are in interstate commerce and that this Agreement is governed by the Federal Arbitration Act.

#### **19.14 Contractor and Subcontractor Status.**

The parties agree that Licensor shall not be a contractor or subcontractor, agent, or employee of Licensee. Licensee shall be responsible for paying all taxes on payments received pursuant to the License Agreement. Licensee shall properly direct and control its subcontractors and shall have full responsibility for all work, whether performed by Licensee or its subcontractors. In this regard, Licensee shall be responsible for all work performed by, and for the acts, omissions, or negligence of its employees, subcontractors and of all employees or agents of its subcontractors, and for compliance by each of its subcontractors with the requirements of their contract, and all applicable laws, rules, and regulations.

#### **20. NOTICES AND PAYMENTS.**

All written notices and reports to be delivered under this Agreement or pursuant to the Manuals will be deemed so delivered when delivered by hand, immediately on transmission by facsimile transmission or other electronic system, including e-mail or any similar means, one (1) business day after being placed in the hands of a commercial courier service for overnight delivery, or three (3) business days after placement in the United States Mail by registered or certified mail, return receipt requested, postage prepaid and addressed to us at Citadel Panda Express, Inc., 1683 Walnut Grove Ave., Rosemead, CA 91770 (or our then-current headquarters), to the attention of Legal, and to you, at

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to the attention of the Designated Individual. Any required payment or report not actually received by us during regular business hours on the date due will be deemed delinquent. Notice to any one Licensee, shall be deemed effective as to all Licensees under this Agreement. Any party may change its address for receipt of notices by providing prior written notice of such change to the other party. Notwithstanding the foregoing, any notice of default or termination shall be delivered only by commercial courier service by overnight delivery, or by United States registered or certified mail, return receipt requested, postage prepaid.

#### **21. MULTIPLE CONCEPT OPERATIONS AND REPLACEMENT.**

If you are an operator of non-Panda concept units or facilities and you have an opportunity during the Initial Term to replace one of your other Asian concept operations with another Asian concept, you agree to replace it with another Panda Express Restaurant, contingent on our approval, which shall not be unreasonably withheld.

#### **22. ACKNOWLEDGMENTS AND REPRESENTATIONS, ENTIRE AGREEMENT, NO FIDUCIARY RELATIONSHIP.**

A. In signing this Agreement, you acknowledge the importance of operating your Restaurants in conformity with Panda Express standards.

B. You and we agree that this Agreement along with concurrently signed writings, such as but not limited to addenda, exhibits, releases, Statement of Prospective Licensee, and any other related documents (collectively, the Related Documents) contain the final, complete and exclusive expression of the terms of your and our agreement. This Agreement and the Related Documents supersede all other

agreements and/or representations of any kind or nature. Except for our representations in the Franchise Disclosure Document and your written representations in any license application, any oral or written understandings, agreements or representations which are not fully expressed in this Agreement and the Related Documents are expressly disclaimed by you and us.

C. You represent and warrant to us, as an inducement to our entering into this License relationship, that you have made no misrepresentations or material omissions in any license application or otherwise in obtaining the License and acknowledge that we have relied upon such representation and warranty. You understand and acknowledge that we have offered Licenses in the past, may currently be offering Licenses and/or may offer Licenses in the future, on economic and/or other terms, conditions and provisions which may significantly differ from those offered under this Agreement and any related documents and may be more favorable than the terms provided herein. We may, from time to time, deal with our Licensees on differing economic and/or other terms (including making special arrangements for payments of amounts due, waiving defaults and/or otherwise) to suit individual business circumstances, in each case in our sole and absolute discretion and without being required to offer similar terms to other Licensees, such flexibility being a practical necessity to respond to distinct business situations.

D. You and we acknowledge and agree that the officers, directors, managers, employees, and agents of the parties to this Agreement act only in a representative capacity and not in an individual capacity and shall not be individually bound by the terms of this Agreement, except as may be provided in any personal guaranty or other agreement executed independently of this Agreement.

E. You and we further acknowledge that there is not a fiduciary relationship between you and us or between you and any Licensor-Related Persons/Entities. You and we acknowledge that you are an independent contractor. Neither party shall hold itself out as a partner, joint-venturer, agent, employee, or legal representative of the other. Neither party is authorized to make any agreement, warranty, covenant, or other representation, nor to create any obligation, express or implied, on behalf of the other party nor represent any right or power to do so.

F. YOU REPRESENT AND ACKNOWLEDGE THAT YOU RECEIVED OUR FRANCHISE DISCLOSURE DOCUMENT AT LEAST FOURTEEN (14) DAYS BEFORE THE DATE ON WHICH THIS AGREEMENT AND ALL OTHER RELATED AGREEMENTS WERE EXECUTED, OR ANY CONSIDERATION WAS PAID (WHICHEVER HAPPENED FIRST). YOU REPRESENT THAT YOU HAVE READ IN THEIR ENTIRETY THE LICENSE AGREEMENT AND ALL EXHIBITS, ADDENDA AND OTHER RELATED DOCUMENTS, ALONG WITH OUR FRANCHISE DISCLOSURE DOCUMENT AND ANY ADDITIONAL INFORMATION YOU CONSIDER TO BE RELEVANT TO YOUR DECISION TO OBTAIN THIS LICENSE AGREEMENT.

G. You represent and warrant that you meet and will continue to meet the following checked and initialed Exemption, if applicable:

## Fractional Franchise Exemption

**(Federal Trade Commission Rule exemption and South Dakota exemption):** You or any of your current directors or officers, or any current directors or officers of a parent or Affiliate of yours, has more than 2 years of experience in a Similar Business (as defined in Section 23). If applicable, identify your Similar Business and the business it conducts:

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You hereby certify that, when the Restaurant becomes a part of your Similar Business, the total sales in dollar volume from the proposed Restaurant on an annual basis will be less than 20% of total dollar volume sales for your Similar Business (including the Restaurant) for a period of at least one year after opening.

- **Note in Illinois, Indiana, Michigan, Minnesota and Wisconsin, the experiences of directors and officers of parent or Affiliate do not qualify and cannot be relied upon in claiming the above exemption.**
- **Note in Michigan and Minnesota the dollar volume sales qualifier requiring that the Restaurant generate less than 20% of the total dollar volume sales for your Similar Business is ongoing and not limited to the first year. In Minnesota and Wisconsin the franchisee must already be in the same type of business as the franchise. Michigan also requires the delivery of a Disclosure Document if the franchisor has one that is compliant under federal or another state's law.**
- **Note the fractional franchise exemption criteria in California and New York are as follows:** You or your current officers, directors or managing agents who have held their respective positions for more than 24 months prior to the date of this Agreement, if applicable, have been in a Similar Business for more than 24 months prior; AND
  - You represent that the products and services to be offered from the Restaurant represent a new line and are substantially similar to those offered from your existing Similar Business; AND
  - You represent that the Restaurant will operate at the same location as your "Similar Business"; AND
  - You hereby certify that, when the Restaurant becomes a part of your Similar Business, the total sales in dollar volume from the proposed Restaurant on an annual basis will be less than 20% of total dollar volume sales for your Similar Business (including the Restaurant); AND
  - You represent that you are not controlled by the Franchisor.

**Note the fractional franchise exemption criteria in Rhode Island are as follows:** You must have been in a Similar Business for more than 24 months prior; AND

- You represent that the products and services to be offered from the Restaurant are substantially similar to those offered from your existing Similar Business; AND
- You represent that the Restaurant will operate at the same location as your "Similar Business"; AND
- You hereby certify that, when the Restaurant becomes a part of your Similar Business, the total sales in dollar volume from the proposed Restaurant will be less than 20% of total dollar volume sales for your Similar Business (including the Restaurant) at least in the first year; AND
- You represent that you are not controlled by the Franchisor.

**Note the fractional franchise exemption criteria in Virginia are as follows:**

- You hereby certify that, when the Restaurant becomes a part of your principal business, the total sales from the proposed Restaurant will be less than 20% of gross sales for your principal business (including the Restaurant).

**Note a fractional franchise exemption does not apply in Hawaii, Maryland, North Dakota, and Washington.**

Initial: \_\_\_\_\_

## Large Franchisee Exemption (Federal Trade Commission Rule Exemption Only)

- You (or your parent or any affiliates)
  - Have been in business for at least 5 years.
  - Have a net worth of at least \$6,165,500

Initial: \_\_\_\_\_

## Insider Exemption (Federal Trade Commission Rule Exemption Only)

- Within 60 days of the sale, one or more individuals with at least 50% ownership interest in the franchise
  - have been an officer, director, general partner or had management responsibility for the offer and sale of Panda Express franchises or been administrator of the franchised network for at least 2 years; or
  - have been an owner of at least a 25% interest in the Franchisor for at least 2 years.

Initial: \_\_\_\_\_

## Large Investment Exemption (Federal Trade Commission Rule Exemption Only)

- At least one individual in the franchise investor group is going to invest a minimum of \$1,233,000 towards the franchise build out and development and in the first 3 months of operation (exclusive of financing received from Panda Express and any unimproved land costs).
- If applicable, you acknowledge the following:
  - "The franchise sale is for more than \$1,233,000 - excluding the cost of unimproved land and any financing received from the franchisor or an affiliate - and thus is exempted from the Federal Trade Commission's Franchise Rule disclosure requirements, pursuant to 16 CFR 436.8(a)(5)(i)"

Initial: \_\_\_\_\_

Other Statutory Exemption: \_\_\_\_\_ (if applicable, identify type and specify State)

Initial: \_\_\_\_\_

If No Exemption Is Applicable, Initial Below.

No Exemption:

Initial: \_\_\_\_\_

## 23. **DEFINITIONS.**

**“Affiliate”** - Any legal entity that controls, is controlled by or is under common control with another legal entity.

**“Agreement” or “License Agreement”** - This License Agreement and any amendments to it.

**“Artificial Intelligence” or “AI”** means a field of science concerned with building computers and machines that can reason, learn, and act in such a way that would normally require human intelligence or that involves data whose scale exceeds what humans can analyze.

**“Assistant Manager”** – A person who provides operations expertise and supervises day-to-day performance of Restaurant support staff under the guidance of the Store Manager and administers and executes policies and procedures that typically affect subordinate staff members.

**“Attorneys’ Fees”** - Includes, without limitation, legal fees, whether incurred in preparation of the filing of any written demand or claim, action, hearing, arbitration, plus all costs incurred in connection therewith.

**“Back of House (BOH) Staff”** – Includes Head Chef, Cooks and Kitchen Help. BOH Staff are responsible for activities relating to the preparation of food according to Panda Express recipes, adherence to all System Standards and relevant health regulations, and maintenance of kitchen cleanliness. They ensure compliance with all safety and sanitation requirements of the Back of House of the Restaurant which area includes prep cooler, reach-in freezer, walk-in cooler, freezer, oil deep fryer, sinks, prep tables, and cooking areas.

**“Brand”** – Panda Express.

**“Brand Refresh”** – As defined in Section 10.1.

**“Business Entity”** - Includes a corporation, partnership, joint venture, limited liability company, limited partnership, trust or other form of enterprise or ownership recognized in any jurisdiction.

**“Client”** – The owner or lessor of the Facility in which the Restaurant is located.

**“Client Contract” or “Lease Agreement”** – The lease agreement or contract that authorizes a Panda Express Restaurant to be established at the specified Facility.

**“Complete Update”** – As defined in Section 10.1.

**“Cooks”** - Cooks are responsible for cooking all Panda Express entrées and side dishes and for executing Panda Express recipes correctly to ensure food quality, ensuring food safety practice, and maintaining cleanliness at a Panda Express Restaurant. We also recommend that Cooks be cross-trained to perform FOH Staff operations. Cooks must perform all BOH Staff operations as defined herein in compliance with System Standards.

**“Correction Process”** – As defined in Section 16.6.

**“Counter Help”** - Counter Help is responsible for ensuring high-quality guest service while serving fresh food. They must be able to take responsibility for any FOH Staff duties as defined herein. The Counter Help must be able to perform proper food portioning, friendly service, salesmanship, cleanliness of service table and dining area (if applicable) at all times.



**“Crisis Management Event”** means any event that occurs at or otherwise involves the Restaurant premises, or that occurs generally at a local, regional, national or even global scale, which has or may cause harm or injury to customers or employees, such as contagious diseases, natural disasters, terrorist acts, shootings or other acts of violence, or any other similar circumstance which may materially and adversely affect the System or the goodwill symbolized by the marks.

**“Customary Representations, Warranties and Agreements”** - Includes commitments generally made by a transferor in connection with a transfer of a business and/or assets, commonly including: representations as to ownership, condition and title to stock and/or assets, liens and encumbrances, validity of contracts, and liabilities, contingent or otherwise; indemnification and non-competition commitments by the transferor and its Affiliates which are substantially similar to those under this Agreement; transfer of good and merchantable title to purchased assets, free and clear of encumbrances; requirements that all sales, transfer and/or similar taxes are to be paid by the transferor; the transfer at closing of all applicable licenses and permits; and the like.

**“Designated Equipment”** - Equipment that meets our requirements and which you must obtain [from our approved vendors](#) and use in the operation of your Restaurant.

**“Designated Individual”** - The person identified on Exhibit 2.1, or a substitute individual reasonably approved by us in writing, who shall be our primary contact person with you and shall be principally responsible for the management and facilitation of the administration of this License Agreement.

**“Designated Purchaser”** – As defined in Section 14.5.

**“Effective Date”** – Defined in the opening of this Agreement.

**“Facility”** - The larger physical business location in which you operate a single Restaurant, such as, but not necessarily limited to, a mall, a university, a hospital or a terminal in an airport.

**“Force Majeure”** - An event which is caused by fire, water, weather, natural disaster of any kind, riot, an act of God, governmental restriction, judicial orders or governmental executive orders, pestilence/plague/epidemic/pandemic, quarantines, relevant travel bans, government ordered lockdowns, or a force or event beyond the reasonable control of a party other than a financial inability to perform; the time for performance of an obligation (other than the payment of money required herein) or the satisfaction of any contingency under this Agreement shall be extended for the period during which a party is prevented from performing by the act or omission of the other party or a Force Majeure.

**“Front of House (FOH) Staff”** – Includes Shift Lead and Counter Help. FOH Staff provide quality service to guests at the food counter. They greet guests, provide requested information regarding the menu and serve accurate portions, according to System Standards while monitoring food quality and compliance with all safety and sanitation requirements of the Front of House area of the Restaurant which area includes the dining room, register, steam/induction table and soda fountain.

**“General Release”** - A general release by you and your Affiliates and each of your and their respective officers, agents, representatives, directors, partners, managers, shareholders, successors and assigns in the then-current form prescribed by us at the time such release is to be delivered, of any and all claims, liabilities and/or obligations, of any nature whatsoever, including those existing as of, and/or arising before, the date of any such release, however arising, known or unknown, whether against us and/or any or all of the Licensor-Related Persons/Entities. The form of General Release in use as of the Effective Date is attached as Exhibit 23.2 and is subject to change by us.



**“Good Standing”** - You are in “Good Standing” if you are not in default of any obligation to us and/or any of the Licensor-Related Persons/Entities, whether arising under this Agreement, the Manuals or other System requirements.

**“Gross Volume”** - Gross Volume includes amount of sales of all products and services sold in, on, about or from your Restaurant, whether for cash or on a charge, credit or time basis, without reserve or deduction for inability to collect, including, but not limited to all charges and/or revenues that are received or earned by you (and/or any Affiliate):

- A. by, at or in connection with any Restaurant operated by you including beverage sales, whether they are (i) part of a Panda Express combination plate offering, or (ii) being purchased through a Panda Express register and sold under Panda Express Marks or Trade Dress;
- B. from sales of Panda Express Products in contravention of this Agreement at locations outside a Restaurant;
- C. from proceeds of any business interruption insurance, less the deductible amount;
- D. from mail, fax, and telephone orders and/or any orders received through other electronic or other means and filled on or from a Restaurant;
- E. from all deposits not refunded to purchasers;
- F. from orders sold under Panda Express Marks or Trade Dress though filled outside a Restaurant;
- G. in connection with any Similar Business operated in violation of this Agreement.

All sales and/or billings, whether collected or not, will be included in Gross Volume, with no deduction for credit card, third-party delivery service charges or fees, or other charges. Gross Volume does not include sales tax collected and paid when due to the appropriate taxing authority and actual customer refunds, adjustments, credits and employee discounts actually given.

**“Head Chef”** – A certified cook who is exclusively designated as a Head Chef of a Panda Express Restaurant and cannot be shared with other non-Panda Express concepts. Head Chef is responsible for managing the kitchen, including: mastering all Panda Express entrée and side dish recipes, demonstrating the ability to train and supervise others, cooking, cleaning, food preparation and food safety management. Head Chefs are also utilized as shift supervisors with the ability to recommend BOH Staff scheduling and to supervise shifts, open to close.

**“Head of Operations”** – A person who is accountable for ensuring that operations of the Restaurant meet or exceed the Systems and Standards, including ensuring compliance with Panda Express’ team composition and structure necessary to operate all existing and new Restaurant. The Head of Operations works on strengthening the connection between operations, support team and Licensor in propelling the development of your Restaurants.

**“Intellectual Property”** - Includes, regardless of the form or medium involved, i) any Panda Express Software; ii) the Manuals and all other directives, policies or information we issue from time to time; iii) all customer relationships and information; iv) the Marks; v) all Confidential Information and Panda Express Trade Secrets; vi) Panda Express recipes, food and food preparation specifications and supplier

information and vi) all other proprietary, copyrightable and/or Trade Secret information and materials developed, acquired, licensed or used by us in our operation of the System.

**“Kitchen Help”** - Kitchen Help is responsible for cooking fried rice and chow mein, preparing steamed rice, marinating the meat, grilling, washing and cutting the vegetables, preparing the sauces and condiments, maintaining cleanliness of the utensils and kitchen, supporting Cooks on deep fry items and other BOH Staff duties.

**“License”** - The right to develop and operate a Restaurant(s) at any site authorized by us under the terms of this Agreement.

**“Licensed Business”** - The business operations conducted by, at or in connection with your Restaurant(s).

**“Licensee’s Certified Training Restaurant”** – a Panda Express Restaurant owned and operated by a Licensee that has been approved by us to serve as a site for our training programs, as we may authorize and designate from time to time.

**“Licensor-Related Persons/Entities”** - Citadel Panda Express, Inc. and its Affiliates, including without limitation Panda Restaurant Group, Inc., Panda Express, Inc. and Hibachi San, Inc., and each of their respective shareholders, partners, officers, members, directors, agents, representatives, successors and assigns.

**“Manuals”** - Specifications, standards, policies and procedures prescribed by us and published to you in any media (including electronic) as they may be changed or eliminated by us in our sole and absolute discretion, including all System Standards, and the mandatory provisions of which are to be followed in the development and operation of each Panda Express Restaurant for the protection of the Marks and the good will associated therewith. The Manuals may contain recommendations and suggestions in addition to franchise requirements. For avoidance of doubt, whenever reference is made in this Agreement to your obligation to comply with the Manuals the reference is limited in its application to the mandatory provisions of the Manuals.

**“Marks”** - The trademarks, service marks and other commercial symbols, as fully described in Exhibit 23.1, which as of the Effective Date of this Agreement identify the services and/or products offered by Panda Express Restaurants, including (but not limited to) “Panda Express” and other logos and identifiers. We have an unrestricted right to modify Exhibit 23.1 as provided in Section 6.4 of this Agreement, without requiring your consent or amending this Agreement.

**“Minimum Royalty”** – As defined in Section 9.2.

**“Non-Compliance Fees”** – \$250 for each deviation from a contractual requirement under this Agreement, including any System Standards, identified in writing by us, provided that Non-Compliance Fee will double to \$500 if we discover that the same (or a substantially similar) deviation on one or more consecutive, subsequent visits to or inspections of the Restaurant and will double against to \$1,000 for the second and each subsequent repeat deviation. (The Non-Compliance Fee does not apply to payment defaults for which we may charge interest).

**“Operations Training Leader”** - Operations Training Leaders are responsible for serving as successful Store Managers while also training Assistant Managers In Training and Store Managers In Training. They manage one or more successful stores while keeping the pipeline of future quality store managers filled.

**“Panda Express Restaurant”** - A restaurant offering and selling Panda Express Products and Services on a retail basis and using the Marks and Panda Express System.

**“Panda Uniform”** – The distinctive attire worn during the operation of a Panda Express Restaurant as specified in the Manual or as otherwise directed by us.

**“Permitted Closing”** – As defined in Section 9.2.

**“Post Termination Provisions”** - Those promises contained in this Agreement that survive its expiration, Transfer, or, Termination for any reason, including without limitation the confidentiality, indemnification, Intellectual Property protection and dispute resolution and other provisions contained in Sections 19, 20 and 22.

**“Prep Cook”** - A person responsible for cooking fried rice and chow mein, preparing steamed rice, marinating meat, washing and cutting the vegetables, preparing sauces and condiments, and maintaining cleanliness of the utensils and kitchen.

**“Products” and “Services”** - Goods, menu items, products and services designated by us from time to time for use, sale or distribution from your Restaurant(s).

**“Restaurant”** – Your specific Panda Express Restaurant(s) licensed under this Agreement and offering and selling Panda Express Products and Services on a retail basis and using the Marks and Panda Express System within the Facility.

**“Royalty” or “Royalties”** –. Ongoing fees payable by you to us as provided in Section 9.2.

**“Royalty Period”** – As defined in Section 9.2.

**“Service Associate”** - A person responsible for tasks in the front of the Restaurant, such as serving the guest, tending to any of the guest needs in and around the Restaurant, and charging the guests for their food purchase during all hours of operation.

**“Services” and “Products”** - Goods, menu items, products and services we designate from time to time for use, sale or distribution at or from your Restaurant(s).

**“Shift Lead”** - Shift Leads are responsible for assisting Store Manager and/or Assistant Manager by supervising and training all FOH Staff on food quality, portion control, proper cash handling, cleaning of all dining room areas, and salesmanship. They maintain quality of food on the serving line as well as efficiency of Counter Help, tight cash controls, and cleanliness of all dining areas.

**“Similar Business”** - Any wholesale, retail or other business or enterprise involved in the food service industry offering, marketing, selling or otherwise providing Asian-style food items (including without limitation, Chinese, Japanese, Thai, and Korean-style food items), including any enterprise and/or entity awarding franchises or licenses to operate or be involved with any such business.

**“Site Search Implementation Date”** – As defined in Section 2.1.

**“Store Maintenance Activities”** – As defined in Section 10.1.

**“Store Manager”** - A person who is exclusively designated to manage a Panda Express Restaurant and is responsible for the overall performance of a Panda Express Restaurant, including, without limitation, the

following: guest experience, food quality, safety and security, planning and control, business growth and cost control.

**“System”** - The distinctive format and method of doing business developed and used for the operation of a Panda Express Restaurant as specified in the Manual or as otherwise directed by us, including, but not limited to, Restaurant design; other Trade Dress features; Designated Equipment, fixtures, and apparel specifications; specified Product offerings, recipes and preparation methods; standard operating and administrative procedures; and management and technical training programs and Intellectual Property, all as may be changed by us at any time in our sole and absolute discretion as specified in the Manual or as otherwise directed by us.

**“System Standard(s)”** - Standards, specifications, operating procedures and rules prescribed by us in our sole and absolute discretion from time to time, in the Manuals or elsewhere, for the operation, marketing and other aspects of Panda Express Restaurants. System standards do not, and are not intended to, control the day to day operations of your business, but are established to protect the good will associated with the Marks and the quality and consistency of the Restaurants' Products and Services. Neither System Standards nor the Manuals shall mandate personnel policies or procedures for you to implement in your Licensed Business, including those related to hiring, firing, discipline, wages, scheduling and other terms and conditions of employment relating to your employees and contractors.

**“Terminate,” “Terminated” or “Termination”** - “Terminate” or “Terminated” or “Termination” when used in this Agreement means the Termination or cancellation of certain rights and obligations under this Agreement for any reason before the initial term expires. All of our respective rights are not cancelled on Termination since certain obligations survive the ending of the Agreement in any manner, such as, but not limited to certain promises regarding confidentiality and indemnity. Both of us are bound by the dispute resolution provisions (Section 19) this Agreement, even after the Agreement is ended for any reason.

**“Trade Dress”** - The distinctive Panda Express Restaurant design and image you are licensed to use and which is subject to change by us at any time and in our sole and absolute discretion.

**“Trade Secret”** – Defined in Section 8.1.

**“Transfer”** - Defined in Section 14.2.

**“Us,” “We,” “Our” or “Licensor”** - Citadel Panda Express, Inc., a California corporation.

**“You,” “Your,” or “Licensee”** - The party(ies) signing this Agreement as Licensee or any of its Affiliates that the Licensor approves to sign this Agreement or any of the Exhibit 2.1 for each Restaurant to be opened and operated under this Agreement. If there is more than one Licensee signing this Agreement or any of the Exhibit 2.1, each is jointly and severally obligated under this Agreement.

[completed and executed on the following page]

IN WITNESS WHEREOF, you and we have executed and delivered this Agreement in \_\_\_\_\_  
counterparts on the day and year first above written.

THIS AGREEMENT WILL NOT BECOME EFFECTIVE UNLESS AND UNTIL SIGNED BY AN  
AUTHORIZED REPRESENTATIVE OF LICENSOR. NO FIELD REPRESENTATIVE OR OTHER  
PERSON IS AUTHORIZED TO EXECUTE THIS AGREEMENT FOR LICENSOR.

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 2.1**

**AUTHORIZED RESTAURANTS AND DESIGNATED INDIVIDUAL**

Designated Individual: \_\_\_\_\_

Site Search Implementation Date (if applicable): \_\_\_\_\_

Restaurant: \_\_\_\_\_

Initial Term: \_\_\_\_\_

Initial License Fee: \_\_\_\_\_

Applicable Royalty % AND Minimum Royalty Amount: \_\_\_\_\_

Proprietary Mark-up: \_\_\_\_\_

Successor Term: \_\_\_\_\_

Successor Fee\*: \_\_\_\_\_

**\* See Section 15.3 of this Agreement, (or the applicable successor provisions of your Agreement) for a full list of all conditions that must be met before a Successor License will be awarded.**

**TO BE COMPLETED UPON OPENING:**

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

Term Expiration: \_\_\_\_\_

In the event of a conflict between the License Agreement and the Exhibit 2.1, the Exhibit 2.1 shall control.

**LICENSOR:**  
 Citadel Panda Express, Inc.,  
 a California corporation

**LICENSEE:**

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

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

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

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

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

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

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

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

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

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 2.1 A**

**CLIENT CONTRACT/LEASE AGREEMENT SUMMARY**

Unit Location: \_\_\_\_\_ (PX# \_\_\_\_\_)

In accordance with the \_\_\_\_\_ (“Client Contract” or “Lease Agreement” as attached in Exhibit 2.1B) dated \_\_\_\_\_ by and between you and \_\_\_\_\_, the following has been established:

- Premise Address: \_\_\_\_\_
- Effective Date of Client Contract: \_\_\_\_\_
- Term of Client Contract: \_\_\_\_\_
- Term Commencement Date: \_\_\_\_\_
- Term Expiration Date: \_\_\_\_\_
- Renewal Options: \_\_\_\_\_
- First Option Notification Date: \_\_\_\_\_

LICENSEE:

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

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

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

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

CITADEL PANDA EXPRESS, INC.  
LICENSE AGREEMENT

EXHIBIT 2.1 B

CLIENT CONTRACT / LEASE AGREEMENT



**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 2.1 E.**

**ORGANIZATIONAL AND OWNERSHIP INFORMATION**

**1. FORM OF ENTITY OF LICENSEE.**

**LEGAL ENTITY.** \_\_\_\_\_ (the "Licensee") is a \_\_\_\_\_ organized on \_\_\_\_\_, under the laws of the State of \_\_\_\_\_. Its Federal Employer Identification Number (FEIN) is \_\_\_\_\_. It has not conducted business under any name other than its respective corporation, partnership or other legal name. The following is a list of all of Licensee's directors, officers, partners, managers or managing members, as applicable, as of \_\_\_\_\_.

**Name:**

**Title:**

- 2. Shareholders and/or Members.** The following is a complete and accurate list of shareholders and/or members of Licensee, including their full name, mailing address and ownership percentage.

**Shareholder and/or Member's Name and Address**      **% of Ownership**

Name:

Address:

**Shareholder and/or Member's Name and Address**      **% of Ownership**

Name:

Address:

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 3.1**

**COLLATERAL ASSIGNMENT OF LEASE**

THIS COLLATERAL ASSIGNMENT OF LEASE (this "Assignment") is entered into as of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ ("Licensee") and \_\_\_\_\_, a \_\_\_\_\_ ("Licensor").

Subject to the provisions hereof, Licensee, to secure its obligations to the Licensor under the License Agreement between Licensor and Licensee dated \_\_\_\_\_, 20\_\_ (the "License Agreement"), hereby assigns, transfers and sets over unto Licensor [and/or such person(s)/entity(ies) as Licensor may from time-to-time designate] all of Licensee's right, title and interest, whether as tenant or otherwise, in, to and under that certain lease (the "Lease") dated \_\_\_\_\_, 20\_\_\_\_, between Licensee and \_\_\_\_\_ ("Landlord"), respecting that property commonly known as \_\_\_\_\_ (the "Facility"), a copy of which lease is attached to this Assignment. The Licensor shall have no liabilities or obligations of any kind arising from, or in connection with, this Assignment, the Lease or otherwise (including, but not limited to, any obligation to pay rent and/or other amounts) until and unless the Licensor, in its sole and absolute discretion, takes possession of the Facility pursuant to the terms hereof and expressly assumes in writing the rights and obligations of Licensee under the Lease. The Licensor is responsible only for those obligations accruing under the Lease after the date of such assumption.

Licensee agrees to indemnify and hold harmless Licensor from and against all claims and demands of any type, kind or nature made by Landlord or any third party that arise out of or are in any manner connected with Licensee's use and occupancy of the Facility.

Licensee represents and warrants to Licensor that Licensee has full power and authority to assign the Lease and its interest in the Lease.

**Licensor will not take possession of the Facility until and unless Licensee defaults (and/or until there is a termination, cancellation, rescission or expiration of Licensee's rights) under the Lease, any sublease, the License Agreement or another agreement between Licensee and Licensor (or any Licensor Associate.** In such event, Licensor (or its designee) shall have the right, and is hereby empowered, but has no obligation, to take possession of the Facility and expel Licensee. In such event, Licensee shall have no further right, title or interest in or under the Lease or to the Facility, all such rights passing to Licensor or its designee, in each case without the Landlord's further consent. Licensee agrees to do all acts necessary or appropriate to accomplish such assignment on Licensor's request. Licensee will reimburse Licensor for the costs and expenses incurred in connection with any such retaking, including, without limitation, the payment of any back rent and other payments due under the Lease (whether such payments are made by a separate agreement with the Landlord or otherwise), attorney's fees and expenses of litigation incurred in enforcing this Assignment, costs incurred in re-letting the Facility and costs incurred for putting the Facility in good working order and repair.

Licensee agrees that it will not suffer or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of Licensor. Throughout the term of the

License Agreement, Licensee agrees that it shall elect and exercise on a timely basis all options to extend the term, or renew or assume in bankruptcy, the Lease, unless Licensor consents in writing to an alternative Accepted Location. Upon failure of Licensee to so elect to extend or renew or assume the Lease, Licensee hereby appoints Licensor as its true and lawful attorney-in-fact to exercise such options in the name, place and stead of Licensee for the sole purpose of effecting any extension, renewal or assumption, in each case for the account of Licensee and without any liability or obligation of Licensor.

Failure of Licensor to exercise any remedy hereunder shall not be construed or deemed to be a waiver of any of its rights hereunder. The rights and remedies of Licensor under this Assignment are cumulative and are not in lieu of, but are in addition to, any other rights and remedies which Licensor shall have under or by virtue of the License Agreement or otherwise. The terms, covenants, and conditions contained herein shall bind Licensee and its successors and assigns, and inure to the benefit of Licensor and its successors and assigns. In the event of any dispute between the parties regarding this Assignment, or any matter related in any way to it, the dispute resolution provisions of the License Agreement between Licensor and Licensee shall apply. The arbitrator in any such proceeding shall have the full power and authority to grant an appropriate award to give full effect to this Assignment, expelling Licensee from the Facility and awarding possession to Licensor, as well as granting such other relief as may be proper and fair at law and by equity. If there is more than one Licensee, their obligations hereunder will be joint and several.

This Assignment, any memorandum hereof or any financial statement related hereto may be recorded by, and at the expense of, Licensor. Licensee hereby appoints Licensor as its attorney in fact to execute any and all documents and to take any and all such actions, as are necessary or appropriate to record such instrument referenced above.

Nothing contained in this Assignment shall diminish any obligations or covenants of Licensee owed under its License Agreement with Licensor, including, without limitation, any post-termination covenant not to compete. Terms not otherwise defined in this Exhibit have the same meanings as stated in the License Agreement. Licensee and Licensor shall be bound to this Collateral Assignment of Lease regardless of whether or not the attached Landlord Approval is provided by Landlord.

LICENSOR:

\_\_\_\_\_  
 \_\_\_\_\_  
 a \_\_\_\_\_

By: \_\_\_\_\_  
 Printed Name

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

*Sign here if "Licensee" is a natural person*

LICENSEE (Individual[s])

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
 Printed Name

*Sign here if "Licensee" is a type of business entity*

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
Jurisdiction of Formation Corporation, LLC or Partnership

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**LANDLORD APPROVAL:**

The undersigned Landlord under the Lease hereby:

1. Agrees to notify Licensor in writing of any proposed Lease amendment and of any default and any failure of Licensee to cure any default under the Lease;
2. Agrees that Licensor shall have the right, but not be obligated, to cure any default by Licensee;
3. Consents to the foregoing Collateral Assignment of Lease and agrees that if Licensor takes possession of the Facility and confirms to Landlord the assumption of the Lease by Licensor as tenant, Landlord shall recognize Licensor, or its designee, as tenant under the Lease;
4. Agrees that Licensor may further assign the Lease or sublet the Facility to a designee and/or a person or entity who is a license owner reasonably acceptable to Landlord. Licensor will have no further liability under the Lease upon such an assignment. This Approval of Landlord shall apply to any subsequent license owner acceptable to Landlord, as provided herein;
5. Agrees to provide a copy of this Collateral Assignment of Lease to any actual and/or prospective purchaser of the Facility.

FACILITY LOCATION: \_\_\_\_\_

LANDLORD

\_\_\_\_\_

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

Its: \_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

Email address: \_\_\_\_\_

00000041.0

**FACILITY LEASE ATTACHED**  
**TO COLLATERAL ASSIGNMENT OF LEASE**

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 3.3**

**ADA AND RELATED CERTIFICATIONS**

(Subject to change by Licensor)

Citadel Panda Express, Inc. ("Licensor") and \_\_\_\_\_  
 ("Licensee") are parties to a License agreement dated \_\_\_\_\_, 20\_\_\_\_ (the  
 "License Agreement") for the operation of a Panda Express Restaurant at  
 \_\_\_\_\_ (the "Restaurant").

In accordance with Section 3.3 of the License Agreement, Licensee certifies to Licensor that the Restaurant and its adjacent areas comply with all applicable federal, state and local accessibility laws, statutes, codes, rules, regulations and standards, including but not limited to the Americans with Disabilities Act as Amended and all local zoning regulations and building codes. Licensee acknowledges that it is an independent contractor and the requirement of this certification by Licensor does not constitute ownership, control, leasing or operation of the Restaurant. Licensee acknowledges that Licensor has relied on the information contained in this certification. Furthermore, Licensee agrees to indemnify Licensor and each and all of the Licensor-Related Persons/Entities, in connection with any and all claims, losses, costs, expenses, liabilities, compliance costs, and damages incurred by the indemnified party (ies) as a result of any matters associated with Licensee's compliance (or failure to comply) with the Americans with Disabilities Act as Amended, all local zoning regulations and building codes and otherwise, as well as the costs, including attorneys' fees, related to the same.

LICENSEE:

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

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

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

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

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 8.1**

(Subject to change by Licensor)

---

**[Name of Licensee]**

**EMPLOYEE CONFIDENTIALITY AGREEMENT**

As an employee of \_\_\_\_\_ [Name of Licensee] ("Company") and in consideration of the compensation and benefits from my employment, I agree as follows:

For purposes of this Agreement, the term Confidential Information means information of any type that the Company considers confidential and is not generally known by the public about the Company, about the Company's Licensor, CITADEL PANDA EXPRESS, INC., and/or about Panda Express® processes, services, products, suppliers, customers, decisions, or plans or which confers or tends to confer a competitive advantage over one who does not possess it, whether or not marked confidential. Confidential Information includes recipes, business plans, customer lists, business records and files, sales and marketing reports, technical data, prices and costs, designs and formulas, software, databases, personnel and payroll records, mailing lists, accounting records, and other business information.

1. During my employment by the Company, I will not disclose or make use of any Confidential Information except as authorized by the Company and necessary for the performance of my duties as a Company employee.

2. After my employment with the Company has Terminated, I will not disclose or make use of any Confidential Information for any purpose, either on my own or on behalf of another business.

3. During my employment by the Company, I will not make use of any trade secrets or other material belonging to another employer or other third party without the express approval of the Company and such employer or other third party.

I represent that I am not subject to any other confidentiality agreement(s) with any other party that would prevent me from performing all my assigned duties as an employee of the Company.

4. I understand and agree that the products of my labor as a Company employee are confidential and belong solely to the Company and shall remain as such after my employment with the Company has Terminated.

5. I hereby assign to the Company all rights that I may have to any inventions, works of authorship, developments, improvements, or trade secrets that I may develop during the course of my employment.



6. I understand and agree that all works of authorship to which I contribute during my employment shall be considered "works made for hire" and shall be the sole property of the Company.

7. I will keep adequate records of all inventions and works of authorship to which I contribute during my employment, and will make such records available to the Company on request.

Upon termination of my employment for any reason, I will immediately assemble all property of the Company in my possession or under my control, and return it unconditionally to the Company.

During my employment, I will devote all of my working time and energy to the business of the Company, and will not render services to anyone outside the Company, accept competing employment, or make preparations to compete with the Company.

8. During and for a period of twelve months after my employment, I will not solicit or induce any employee or consultant of the Company to quit their employment or cease doing business with the Company, unless I am specifically authorized to do so by the Company.

9. I understand the terms of this Agreement and agree that a violation of this Agreement may cause harm to the Company's reputation, customer relationships, and other aspects of its business for which an award of money damages would not be adequate. I therefore agree that the Company shall be entitled to a court order as appropriate to prevent me from violating this Agreement, in addition to any claims for money damages or other relief.

10. For purposes of enforcing this Agreement, I hereby consent to jurisdiction in the Superior Court of \_\_\_\_\_ for the County of \_\_\_\_\_ in the State of \_\_\_\_\_, as well as any other jurisdiction allowed by law. This Agreement shall be governed by the laws of the State of \_\_\_\_\_.

11. If any legal action is necessary to enforce this Agreement, the prevailing party shall be entitled to recover attorneys' fees.

12. This Agreement does not guarantee me any term of employment, or limit my or the Company's right to Terminate my employment at any time with or without cause.

13. This Agreement may be amended only in writing, signed by the parties. If any provision of this Agreement is invalid, all other provisions shall remain in effect.

14. This Agreement is binding on my successors and assigns, and will benefit the successors and assigns of the Company.

15. While Company and its employees and contractors do not perform any work for Company's Licensor as an employer or otherwise, the following notice is provided pursuant to the Defend Trade Secrets Act of 2016 to the extent it is determined or construed to be required for Company's Licensor, as identified above, or for any of Licensor's affiliates, to enforce its and their full rights under such Act or any other law:

"An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state or local government official or to an attorney solely for the purpose of

reporting or investigating a suspected violation of law. An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding if the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.”

The parties indicate their agreement to these terms by signing below:

EMPLOYEE

LICENSEE COMPANY NAME

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

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

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

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 9.7**

**AUTHORIZATION AGREEMENT FOR PREARRANGED PAYMENT  
(ACH TRANSACTIONS)**

The undersigned depositor ("Depositor") authorizes Citadel Panda Express, Inc., or its designee ("Company") to initiate debit entries and/or credit correction entries to the Depositor's checking account(s) indicated below and authorizes the bank or other depository indicated below ("Depository") to debit the account according to Company's instructions.

\_\_\_\_\_  
Bank

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Bank Transit/ABA Number

\_\_\_\_\_  
Account Number

Depository contact: \_\_\_\_\_

This authorization is to remain in full force and effect until Depository has received joint written notification from Company and Depositor of the Depositor's termination of the authorization in a time and manner that will give Depository a reasonable opportunity to act on it. In spite of the foregoing, Depository will give Company and Depositor thirty (30) days' prior written notice of the termination of this authorization. If an erroneous debit entry is made to Depositor's account, Depositor will have the right to have the amount of the entry credited to the account by Depository, if within fifteen (15) days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to the entry or forty-five (45) days after posting, whichever occurs first, Depositor has sent Depository and Company a written notice identifying the entry, stating that the entry was in error, and requesting Depository to credit the amount of it to the account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

**Depositor:**

**Depository:**

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

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

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 10.3**

**EXECUTIVE ORDER 13224 AND RELATED CERTIFICATIONS**

If the Licensee is an individual or individuals, the Licensee certifies that he/she/they are not, nor to my/our best knowledge have I/us been designated, a terrorist and/or a suspected terrorist, nor am I/us associated and/or affiliated in any way with any terrorist and/or suspected terrorist person and/or organization, as defined in U.S. Executive Order 13224 and/or otherwise.

If the Licensee is a company, the person(s) signing on behalf of the Licensee certifies (y) that, to the Licensee's and such person's best knowledge, neither the Licensee, such person, and/or any owners, officers, board members, similar individuals and/or Affiliates/associates/employees of the Licensee have been designated, a terrorist and/or a suspected terrorist, nor is the Licensee or any such persons and/or Affiliates/associates owned, controlled, associated and/or affiliated in any way with any terrorist and/or a suspected terrorist person and/or organization, as defined in U.S. Executive Order 13224 and/or otherwise.

Licensee agrees to fully comply and/or assist Licensor in its compliance efforts, as applicable, with any and all laws, regulations, Executive Orders or otherwise relating to antiterrorist activities, including without limitation the U.S. Patriot Act, Executive Order 13224, and related U.S. Treasury and/or other regulations, including properly performing any currency reporting and other obligations, whether relating to the License or otherwise, and/or required under applicable law.

Any misrepresentation by you under this Certification is a default and grounds for termination of this Agreement. The indemnification responsibilities provided in the License Agreement cover the Licensee's obligations hereunder.

LICENSEE:

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

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

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

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

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 12.2**

**CONSENT TO SUPPLIERS' RELEASE OF INFORMATION**

Citadel Panda Express, Inc. ("Licensor") and \_\_\_\_\_ ("Licensee") are parties to a License Agreement dated \_\_\_\_\_, 20\_\_ (the "License Agreement") for the operation of the Panda Express Restaurant(s) (the "Restaurant(s)"). In accordance with Section 12.2 of the License Agreement, Licensee hereby authorizes its Restaurant(s)' suppliers to release upon Licensor's request such information regarding Licensee's purchases of such goods/services for the Restaurant(s) as Licensor shall request. Licensor agrees that such information shall be employed by Licensor for its internal use in the management of its Panda Express Restaurant organization and may only be disclosed for such purpose to Licensee and Licensor's Affiliates and each of their respective employees, agents, attorneys, accountants and representatives.

**LICENSOR:**

Citadel Panda Express, Inc.  
a California corporation

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

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

**LICENSEE (Corp., LLC or Partnership)**

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
Jurisdiction of Formation                      Corporation, LLC or Partnership

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 19.12**

**GUARANTY AND ASSUMPTION OF OBLIGATIONS**

THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS (the "Guaranty") is given this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the business entity Licensee, and, as applicable, its owners, partners, successors, guarantors, assigns, and affiliates and any spouses or domestic partners of each of them (individually and collectively, the "Guarantor").

In consideration of, and as an inducement to, the execution of the License Agreement or the consent to transfer of even date with this Guaranty by Citadel Panda Express, Inc. (the "Licensor"), each of the undersigned Guarantors hereby personally and unconditionally (1) guarantees to Licensor and its successors and assigns, for the term of the License Agreement and thereafter as provided in the License Agreement, that: (Licensee Name) \_\_\_\_\_ (the "Licensee") shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the License Agreement; and (2) shall personally be bound by, and personally liable for the breach of each and every provision in the License Agreement, both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities including, without limitation, the provisions of Sections 8, 17 and 18. Each of the undersigned waives: (1) acceptance and notice of acceptance by Licensor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; (4) any right it may have to require that an action be brought against Licensee or any other person as a condition of liability; and (5) any and all other notices and legal or equitable defenses to which it may be entitled.

Each of the undersigned consents and agrees that: (1) its direct and immediate liability under this Guaranty shall be joint and several; (2) it shall render any payment or performance required under the License Agreement on demand if Licensee fails or refuses punctually to do so; (3) such liability shall not be contingent or conditioned on pursuit by Licensor of any remedies against Licensee or any other person; and (4) such liability shall not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence that Licensor may from time to time grant to Licensee or to any other person, including, without limitation, the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which shall in any way modify or amend this Guaranty, which shall be continuing and irrevocable during the term of the License Agreement (and any extensions), for so long as any performance is or might be owed under this Agreement and for so long as Licensor has any cause of action against Licensee or any Guarantor.

Guarantors acknowledge having read and understood the License Agreement and the undersigned agree that this Guaranty and all other matters concerning Licensor and Guarantors and/or their respective rights and obligations will be governed by, and construed and enforced in accordance with the dispute resolution provisions of Section 19 of the License Agreement, as though Guarantors were "Licensee" for purposes of such Section. Section 19 is attached to this Guaranty and incorporated by reference.

[Signatures Follow]

IN WITNESS WHEREOF, each of the undersigned has here unto affixed his or her signature on the day and year noted below.

**GUARANTOR(S)**

**PERCENTAGE OF OWNERSHIP  
OF ENTITY LICENSEE**

**DATE**

\_\_\_\_\_  
Signature

\_\_\_\_\_%

\_\_\_\_\_

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

Signature of Spouse or Domestic Partner:

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

\_\_\_\_\_  
Signature

\_\_\_\_\_%

\_\_\_\_\_

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

Signature of Spouse or Domestic Partner:

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

\_\_\_\_\_  
Signature

\_\_\_\_\_%

\_\_\_\_\_

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

Signature of Spouse or Domestic Partner:

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

*(Signatures Continue on Next Page)*



ENTITY LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Entity

a \_\_\_\_\_  
Jurisdiction of Formation

\_\_\_\_\_  
Corporation, LLC or Partnership

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Section 19 of the License Agreement  
(Attachment to Guaranty)**

**19. DISPUTE AVOIDANCE AND RESOLUTION.**

For the purposes of this Section 19, “you” shall be deemed to include your Affiliates, and “we” shall be deemed to include “Licensor-Related Persons/Entities.”

**19.1 MEDIATION AND MANDATORY BINDING ARBITRATION, WAIVER OF RIGHT TO TRIAL IN COURT.**

You and we agree as follows:

A. Claim Process. Any litigation, claim, dispute, suit, action, controversy, or proceeding of any type whatsoever including any claim for equitable relief between or involving you and us on whatever theory and/or facts based, and whether or not arising out of this Agreement, (“Claim”) will be processed in the following manner, except as expressly provided below at Section 19.1 H.

1) First, submitted to non-binding mediation for a minimum of four (4) hours before Judicial Arbitration and Mediation Services, Inc. (“JAMS”) or its successor or ii) before any other mediation organization approved by all parties. We will pay the costs of the first four (4) hours of any mediation, and no mediation is required to extend beyond such four (4) hour period. Any party may be represented by counsel and may, with permission of the mediator, bring persons appropriate to the proceeding.

2) Second, submitted to and finally resolved by binding arbitration before and in accordance with JAMS’ (or its successor’s) then-prevailing Comprehensive Arbitration Rules and Procedures, subject to the provisions of this Agreement. Arbitration may be filed prior to mediation, with such mediation to follow as quickly thereafter as possible. Judgment on any preliminary or final arbitration award will be final and binding, and may be entered in any court having jurisdiction. The arbitrator’s award shall be in writing. On request by either party, the arbitrator shall provide to all disputants a reasoned opinion with findings of fact and conclusions of law, and the party so requesting shall pay the arbitrator’s fees and costs connected therewith.

B. Confidentiality. The parties to any mediation/arbitration will sign confidentiality agreements, excepting only public disclosures and filings as are required by law.

C. Location and Attendees. Any mediation/arbitration will be conducted exclusively at a neutral location in the county in which our then-current headquarters is located (currently, Los Angeles County), which may change from time to time, and be attended by you and us, and/or designees authorized to make binding commitments on behalf of you or us, respectively. You and we agree that the provisions of this Section will control, notwithstanding any language included in our Franchise Disclosure Documents due to state requirements suggesting that the provisions of any section might be unenforceable due to a failure to have a meeting of the minds or otherwise. Neither you nor we have any expectation that the provisions of this (or any other) section will be unenforceable or that they will not be enforced. You understand and agree that one effect of this paragraph may be that arbitration and other related costs may be greater than if those proceedings took place in a location near your residence or business. If this provision is unenforceable for any reason, mediation/arbitration will be conducted at a neutral location in the county in which your principal place of business is located.

D. Arbitration Authority. Arbitrators in any proceeding under this Section 19 shall apply all applicable law, and a failure to apply the applicable law in accord with Section 19.11 shall be deemed an act in excess of authority and reviewable by the courts and the parties expressly agree that any arbitration award can be reviewed and overturned by a court for legal error. The arbitrator shall decide any questions relating in any way to the parties' agreement, or claimed agreement, to arbitrate, including but not limited to applicability, subject matter, arbitrability, timeliness, scope, remedies, formation issues or purportedly void or voidable provisions of the Agreement and any alleged fraud in the inducement. The arbitrator may issue summary orders disposing of all or part of a claim and provide for temporary restraining orders, preliminary injunctions, injunctions, attachments, claim and delivery proceedings, temporary protective orders, receiverships and other equitable and/or interim/final relief. Each party consents to the enforcement of such orders, injunctions, or other relief by any court having jurisdiction. The subpoena powers of the arbitrator with respect to witnesses to appear at the arbitration proceeding shall not be subject to any geographical limitation.

E. Discovery. The disputants shall have the same discovery rights as are available in civil actions under California law as selected in Section 19.11.

F. Compulsory Counter-claims. Each participant must submit or file any claim that would constitute a compulsory counter-claim (as defined by the applicable rule under the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any such Claim that is not submitted or filed in such proceeding will be forever barred. In no event shall offers and/or other communications made in connection with, or related in any way to, mediation, possible settlement or other resolution of a dispute be admitted into evidence or otherwise used in any arbitration or other proceeding.

G. Fees and Costs. The parties will bear their own fees and costs, including Attorneys' Fees, for matters settled through agreement of the parties. For matters not settled through agreement of the parties and to the extent the arbitrator designates a party as non-prevailing, the arbitrator shall assess fees and costs incurred in connection with the arbitration against the non-prevailing party, and the non-prevailing party also shall be responsible for the prevailing party's cost and expenses incurred in connection with the arbitration, including Attorneys' Fees and costs.

H. Preliminary Relief and Undisputed Debts. Either party shall be entitled to seek preliminary or interim injunctive or provisional relief by a court or by arbitration (including, but not limited to, a temporary restraining order and preliminary injunction, all without bond) without showing or proving any actual damage, until such time as a final and binding determination is made by the arbitrator. The foregoing equitable remedies shall be in addition to, and not in lieu of, all other remedies or rights which the parties might otherwise have by virtue of any breach of this Agreement by the other party. Either party shall be entitled to pursue an action for collection of moneys owed in either a court or arbitration proceeding when the right to payment is not in dispute.

I. Intention to Arbitrate. You and we expressly agree that, notwithstanding any contrary provisions of state, province, or other law, and/or any statements in any disclosure document required by a state/province as a condition to franchise registration or for some other purpose:

1) all issues relating to arbitration and/or the enforcement of arbitration-related provisions will be decided by the arbitrator and governed only by the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and the federal common law of arbitration;

2) all provisions of this Agreement shall be fully enforced, including but not limited to those provisions relating to arbitration, venue, and choice of law;

3) you and we intend to rely upon federal preemption under the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and, as a result, the provisions of this Agreement will be enforced only according to their terms.

## **19.2 Venue.**

Without in any way limiting or otherwise affecting your and our obligations under Section 19.1, above, you and we agree that any litigation will be held in the United States District Court encompassing our then-current headquarters, which are currently located in Rosemead, CA (the "Proper Federal Court"); provided, that if any court determines that this provision is unenforceable for any reason, such action shall be brought in the United States District Court encompassing your principal place of business. Proceedings will be held only in the Proper Federal Court, subject to the following exceptions:

A. if a basis for federal jurisdiction does not exist, then any such proceeding shall be brought exclusively before a court in the most immediate state judicial district encompassing our then-current headquarters, which are currently located in Rosemead, CA, and having subject matter jurisdiction (the "Proper State Court"), provided that if any court determines that this provision is unenforceable for any reason, such action shall be brought in the state judicial district in which your principal place of business is located;

B. proceedings to remove or transfer a matter to the Proper Federal Court and/or to compel arbitration as contemplated by this Agreement may be brought in the court where the applicable action is pending and/or the Proper State or Federal Court; and

C. any action primarily with respect to any real property (including any action in unlawful detainer, ejectment or otherwise) may be brought in any court of competent jurisdiction and/or the Proper State or Federal Court.

## **19.3 Terms Applicable to All Proceedings.**

A. You and we **knowingly waive all rights to trial by jury**, if permitted under applicable law.

B. **You and we will pursue any proceeding on an individual basis only, and not on a class-wide or multiple plaintiff basis**, if permitted under applicable law.

## **19.4 Damages.**

UNWAIVABLE RIGHTS TO PUNITIVE, EXEMPLARY, MULTIPLE OR SIMILAR DAMAGES YOU OR WE MAY HAVE UNDER ANY STATUTE OR REGULATION SHALL BE FULLY EFFECTIVE. OTHERWISE AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RECOVERY ON ANY CLAIM UNDER THIS AGREEMENT SHALL BE LIMITED TO ACTUAL DAMAGES SUSTAINED BY THE INJURED PARTY, WITH YOU AND US WAIVING CLAIMS FOR PUNITIVE, EXEMPLARY, MULTIPLE OR SIMILAR DAMAGES.

**19.5 Survival of Obligations.**

A. Each provision of this Section 19, together with the provisions of Section 22, will be deemed to be self-executing and continue in full force and effect subsequent to and notwithstanding the expiration or Termination of this Agreement and will survive and will govern any Claim for rescission. Notwithstanding any bankruptcy or other proceeding, you and we wish to have the dispute avoidance and resolution provisions of this Agreement enforced according to their terms.

B. Confidentiality, protection of the Marks and Intellectual Property, indemnity/hold harmless obligations, and all other Post-Termination Provisions provided in this Agreement shall survive the expiration and/or Termination of this Agreement according to their terms.

**19.6 Costs and Attorneys' Fees.**

The parties will bear their own fees and costs, including Attorneys' Fees, for matters settled through agreement of the parties. For matters not settled through agreement of the parties and to the extent a non-prevailing party is identified by a court or arbitrator in an award or judgment, the non-prevailing party shall be responsible for the prevailing party's cost and expenses incurred in connection with the arbitration and/or litigation, including Attorneys' Fees and costs. The foregoing notwithstanding, nothing herein shall be deemed to limit, restrict or diminish in any way any party's rights to recover costs, Attorneys' Fees or any other amounts pursuant to any indemnity rights granted under this Agreement.

**19.7 Binding Effect, Modification.**

This Agreement is binding on the parties hereto and their respective executors, administrators, heirs, assigns, and successors in interest, and will not be modified or supplemented except as expressly provided in this Agreement or by means of a written amendment signed by both parties; provided that changes to the Manuals made in accordance with this Agreement are binding and do not require any acceptance by you, written or otherwise, to be effective and enforceable. No field representative, salesperson or other person has the right or authority modify this Agreement, or to make any representations or agreements on our behalf, and no such modification, representation and/or agreement shall be binding.

**19.8 Construction.**

A. Section headings are for convenience only and do not define, limit, or construe such provisions.

B. This Agreement may be executed in multiple copies, each of which will be deemed an original.

C. The phrases "sole and absolute discretion" and/or "sole discretion" as used in this Agreement mean an unrestricted right to make decisions and/or take, or refrain from taking, actions, notwithstanding a potential negative and/or financial impact on Licensee or another person/entity.

**19.9 Severability; Substitution of Valid Provisions.**

Each provision of this Agreement, and any portion of any provision, is severable. Each party reserves the right to challenge any law, rule or judicial or other construction which would have the effect of varying or rendering ineffective any provision of this Agreement. To the extent that any provision of this Agreement, or any specification, standard or operating procedure we prescribe, is invalid or unenforceable, you and we agree that such provisions will be modified or enforced to the fullest extent permissible under, and to be compliant with, governing law. This Agreement will be deemed automatically modified to comply with governing law if such law requires: i) a greater time period for notice of the Termination of this Agreement, or a Termination or refusal to renew an Operating Term; or ii) the taking of some other action not described in this Agreement. Such modifications to this Agreement shall be effective only in such jurisdiction. You and we agree that the unenforceability of any provision of this Agreement will not affect the remainder of this Agreement.

#### **19.10 Waivers; Cumulative Rights; Limitation on Licensee.**

Subject to the provisions of Section 19.4, no waiver by either party of any breach, default or unfulfilled condition under this or any other agreement between the parties shall be deemed a waiver of any subsequent or other breach, default or unfulfilled condition. No waiver shall be effective unless in writing and signed by an authorized representative of the signing party. The rights and remedies provided in this Agreement are cumulative, provided that in no event shall Licensee have as a remedy the right to withhold any payment due to us under this Agreement. Except as expressly provided in this Agreement, no party will be prohibited from exercising any rights or remedies provided under this Agreement or permitted under law or equity.

#### **19.11 Choice of Laws.**

Except with respect to the applicability of the Federal Arbitration Act, 9 U.S.C. § 1 et seq., and the effect of federal pre-emption of state law by such Act and except to the extent governed by the United States Trademark Act, 15 U.S.C. § 1051 et seq., and other federal laws and as otherwise expressly provided in this Agreement, this Agreement and all other matters between you and us shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws, excepting however i) the provisions of Section 8.2 shall be construed and enforced in accordance with the laws of the State where the breach of said Section occurs, and ii) the California Franchise Investment Law, the California Franchise Relations Act and the provisions of any other California statute or law regarding licenses or franchises will not apply unless jurisdictional, definitional and other requirements of such statute or law are met independently of this Section, without giving effect to any conflict of laws.

#### **19.12 Application of Agreement to Parties and Others; Joint and Several Liability; Personal Guaranty.**

A. The rights and obligations of this Agreement run directly between you and us and are not intended to create any third-party beneficiary or similar rights or obligations unless specifically expressed in this Agreement; except that the protections which apply to us for the safeguarding of Intellectual Property or relating to indemnification and/or releases shall also apply to any current and/or future Licensor-Related Persons/Entities as if they were expressly named beneficiaries thereof.

B. We have the right to elect in our sole and absolute discretion to not enforce (or to selectively enforce) any provision of this or any Agreement, standard or policy, whether with respect to you and/or any other Licensee or other person, in a lawful manner without liability.

C. If two (2) or more persons/entities are the Licensee at any time, all of their obligations and liabilities under this or any other agreement with us and/or any Licensor-Related Persons/Entities will be joint and several.

D. We have the right to require any or all individuals having a legal or beneficial ownership interest, directly or indirectly, in a Business Entity Licensee to sign our then current form of personal guaranty. The current approved form of Continuing Personal Guaranty is attached as Exhibit 19.12 to this Agreement. We have the right to require any such guarantor's spouse or domestic partner under local law to co-sign any such guaranty.

**19.13 Fundamental Business Intention to Mediate and/or Arbitrate, Severability of Dispute Resolution Provisions, Federal Arbitration Act Governs, etc.**

If any provision of this Section 19 is deemed by a court to be unenforceable for any reason, you and we agree and intend that such provision will be i) modified so as to be enforceable or ii), if that cannot be done, severed. Any remaining portions of this Section 19 shall remain in full force and effect. You and we acknowledge that your and our activities relating to the License relationship are in interstate commerce and that this Agreement is governed by the Federal Arbitration Act.

**19.14 Contractor and Subcontractor Status.**

The parties agree that Licensor shall not be a contractor or subcontractor, agent, or employee of Licensee. Licensee shall be responsible for paying all taxes on payments received pursuant to the License Agreement. Licensee shall properly direct and control its subcontractors and shall have full responsibility for all work, whether performed by Licensee or its subcontractors. In this regard, Licensee shall be responsible for all work performed by, and for the acts, omissions, or negligence of its employees, subcontractors and of all employees or agents of its subcontractors, and for compliance by each of its subcontractors with the requirements of their contract, and all applicable laws, rules, and regulations.

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 23.1**

**WE AND LICENSOR-RELATED PERSONS/ENTITIES, AS APPLICABLE, HAVE AN  
UNRESTRICTED RIGHT TO MODIFY THIS LIST IN ANY MANNER WITHOUT NEED OF  
LICENSEE CONSENT OR AN AMENDMENT TO THIS AGREEMENT**

<u>Trademark Federally Registered by Panda Restaurant Group</u>				
<del>REGISTRATION NUMBER</del>	MARK	<del>PRINCIPAL OR SUPPLEMENTAL REGISTRATION NUMBER</del>	REGISTRATION DATE	<del>PRINCIPAL OR SUPPLEMENTAL REGISTER</del>
<del>4516769</del>	PANDA EXPRESS	<del>Principal</del> <a href="#">1516769</a>	December 13, 1988 (last renewed August 2, 2018)	<a href="#">Principal</a>
<del>1991081</del>	PANDA EXPRESS	<del>Principal</del> <a href="#">1991081</a>	August 6, 1996 (last renewed October 14, 2016)	<a href="#">Principal</a>
<del>2501422</del>	PANDA	<del>Principal</del> <a href="#">2501422</a>	October 30, 2001 (last renewed April 26, 2011)	<a href="#">Principal</a>
<del>3875490</del>	WOK SMART	<del>Principal</del> <a href="#">3875490</a>	November 16, 2010 (last renewed September 21, 2020)	<a href="#">Principal</a>
<del>3757531</del>	SWEETFIRE CHICKEN BREAST	<del>Principal</del> <a href="#">3757531</a>	March 9, 2010 (last renewed on May 18, 2020)	<a href="#">Principal</a>
<del>3757558</del>	ORANGE CHICKEN & Design	<del>Principal</del> <a href="#">3757558</a>	March 9, 2010 (last renewed on November 4, 2020)	<a href="#">Principal</a>
<del>4177201</del>	BEIJING BEEF	<del>Supplemental</del> <a href="#">4177201</a>	July 17, 2012 (last renewed on January 30, 2023)	<a href="#">Supplemental</a>
<del>3186489</del>	Cropped Bear Design	<del>Principal</del> <a href="#">3186489</a>	December 19, 2006 (last renewed on July 26, 2017)	<a href="#">Principal</a>
<del>3340884</del>	PANDA CARD	<del>Principal</del> <a href="#">3340884</a>	November 20, 2007 (last renewed on December 1, 2017)	<a href="#">Principal</a>



<del>2661675- 4511842- PANDA KIDS PANDA EXPRESS GOURMET CHINESE &amp; Design- Principal- Principal-</del>		<del>2661675</del>	December 17, 2002 (last renewed on January 9, 2024) <del>April 8,- 2014-</del>	<a href="#">Principal</a>
<del>4632546-</del>	THE BEST OF BOTH WOKS	<del>Principal</del> <a href="#">4632546</a>	November 4, 2014	<a href="#">Principal</a>
<del>4729407-</del>	FIRECRACKER CHICKEN BREAST	<del>Supplemental</del> <a href="#">4729407</a>	April 28, 2015	<a href="#">Supplemental</a>
<del>4793470-</del>	PANDA EXPRESS CHINESE KITCHEN & Design	<del>Principal</del> <a href="#">4793470</a>	August 18, 2015	<a href="#">Principal</a>
<del>4919042-</del>	PANDA EXPRESS CHINESE KITCHEN & Design	<del>Principal</del> <a href="#">4919042</a>	March 15, 2016	<a href="#">Principal</a>
<del>4876079-</del>	PANDA EXPRESS & Design (Stacked)	<del>Principal</del> <a href="#">4876079</a>	December 22, 2015	<a href="#">Principal</a>
<del>4919308-</del>	WHERE GOOD FORTUNE SMILES	<del>Principal</del> <a href="#">4919308</a>	March 15, 2016	<a href="#">Principal</a>
<del>4886115-</del>	MAKE HAPPY HAPPEN	<del>Principal</del> <a href="#">4886115</a>	January 12, 2016	<a href="#">Principal</a>
<del>5078409-</del>	LOVE YOUR PLANET	<del>Principal</del> <a href="#">5078409</a>	November 8, 2016	<a href="#">Principal</a>
<del>5005155-</del>	PANDA EXPRESS & Design (Centered)	<del>Principal</del> <a href="#">5005155</a>	July 19, 2016	<a href="#">Principal</a>
<del>5005166-</del>	PANDA EXPRESS & Design (Horizontal)	<del>Principal</del> <a href="#">5005166</a>	July 19, 2016	<a href="#">Principal</a>
<del>5141868-</del>	INSPIRING BETTER LIVES	<del>Principal</del> <a href="#">5141868</a>	February 14, 2017	<a href="#">Principal</a>
<del>5146748-</del>	PANDA EXPRESS CHINESE KITCHEN FAMILY OWNED EST 1983	<del>Principal</del> <a href="#">5146748</a>	February 21, 2017	<a href="#">Principal</a>
<del>54346606-</del>	PANDA EXPRESS & Design (Centered)	<del>Principal</del> <a href="#">54346606</a>	November 28, 2017	<a href="#">Principal</a>
<del>5262728-</del>	THE ORIGINAL ORANGE CHICKEN	<del>Supplemental</del> <a href="#">5262728</a>	August 8, 2017	<a href="#">Supplemental</a>
<del>5375577-</del>	PANDA KITCHEN	<del>Principal</del> <a href="#">5375577</a>	January 9, 2018	<a href="#">Principal</a>
<del>5905905-</del>	PANDA EXPRESS & Design (Horizontal)	<del>Principal</del> <a href="#">5905905</a>	October 30, 2018	<a href="#">Principal</a>
<del>5492446-</del>	PANDA EXPRESS & Design (Stacked)	<del>Principal</del> <a href="#">5492446</a>	June 12, 2018	<a href="#">Principal</a>
<del>5508128-</del>	PANDA EXPRESS	<del>Principal</del> <a href="#">5508128</a>	July 3, 2018	<a href="#">Principal</a>
<del>5695304-</del>	CHINESE INSPIRED. AMERICAN MADE	<del>Principal</del> <a href="#">5695304</a>	March 12, 2019	<a href="#">Principal</a>
<del>5741513-</del>	GOOD FORTUNE AWAITS	<del>Principal</del> <a href="#">5741513</a>	April 30, 2019	<a href="#">Principal</a>
<del>5893121-</del>	WOK ON	<del>Principal</del> <a href="#">5893121</a>	October 22, 2019	<a href="#">Principal</a>
<del>5937298-</del>	PANDA	<del>Principal</del> <a href="#">5937298</a>	December 17,	<a href="#">Principal</a>

		8	2019	
<del>5944199</del>	PANDA EXPRESS & Design (Broad Logo)	<del>Principal</del> <a href="#">594419</a>	December 24, 2019	<a href="#">Principal</a>
<del>5950241</del>	PANDA (red circle)	<del>Principal</del> <a href="#">595024</a>	December 31, 2019	<a href="#">Principal</a>
<del>5997214</del>	WE WOK THE TALK	<del>Principal</del> <a href="#">599721</a>	February 25, 2020	<a href="#">Principal</a>
<del>6001744</del>	PANDA (Chinese Characters Vertical)	<del>Principal</del> <a href="#">600174</a>	March 3, 2020	<a href="#">Principal</a>
<del>6011051</del>	BEIJING BEEF	<del>Principal</del> <a href="#">601105</a>	March 17, 2020	<a href="#">Principal</a>
<del>6136162</del>	HOW TO PANDA	<del>Principal</del> <a href="#">613616</a>	August 25, 2020	<a href="#">Principal</a>
<del>6163840</del>	PANDA EXPRESS	<del>Principal</del> <a href="#">616384</a>	September 29, 2020	<a href="#">Principal</a>
<del>6227972</del>	WE WOK FOR YOU	<del>Principal</del> <a href="#">622797</a>	December 22, 2020	<a href="#">Principal</a>
<del>6227662</del>	PANDA EXPRESS	<del>Principal</del> <a href="#">622766</a>	December 22, 2020	<a href="#">Principal</a>
<del>6381935</del>	MAKE SOMEONE SMILE TODAY AND FEEL YOUR HEART SMILE TOO	<del>Principal</del> <a href="#">638193</a>	June 8, 2021	<a href="#">Principal</a>
<del>6412404</del>	GIVE GOOD FORTUNE	<del>Principal</del> <a href="#">641240</a>	July 6, 2021	<a href="#">Principal</a>
<del>6445872</del>	THE ORIGINAL ORANGE CHICKEN	<del>Principal</del> <a href="#">644587</a>	August 10, 2021	<a href="#">Principal</a>
<del>6513848</del>	THE ORIGINAL ORANGE CHICKEN (Design)	<del>Principal</del> <a href="#">651384</a>	October 12, 2021	<a href="#">Principal</a>
<del>7044279</del>	CUB MEAL	<del>Principal</del> <a href="#">704427</a>	May 2, 2023	<a href="#">Principal</a>
<del>7243555</del>	GOOD FORTUNE AWAITS (and Design)	<del>Principal</del> <a href="#">724355</a>	December 12, 2023	<a href="#">Principal</a>
<del>7146510</del>	PANDA REWARDS	<del>Principal</del> <a href="#">714651</a>	August 22, 2023	<a href="#">Principal</a>
<del>7146511</del>	PANDA REWARDS (and Design)	<del>Principal</del> <a href="#">714651</a>	August 22, 2023	<a href="#">Principal</a>
<del>7244001</del>	MAKE MEMORIES WITH WIDE SMILES AND FULL STOMACHS	<del>Principal</del> <a href="#">724400</a>	December 12, 2023	<a href="#">Principal</a>
<del>7012336</del>	PANDA CUB MEAL BEAR (and Design)	<del>Principal</del> <a href="#">701233</a>	March 28, 2023	<a href="#">Principal</a>
<del>7030951</del>	PANDA EXPRESS (and Design)	<del>Principal</del> <a href="#">703095</a>	April 18, 2023	<a href="#">Principal</a>
<del>7159376</del>	PANDA POINTS	<del>Principal</del> <a href="#">715937</a>	September 5, 2023	<a href="#">Principal</a>
<del>7225705</del>	GOOD FORTUNE GIFT	<del>Principal</del> <a href="#">722570</a>	November 21, 2023	<a href="#">Principal</a>

**~~All required affidavits and/or renewals have been filed.~~**

<del>SERIAL-NUMBER</del>	<del>MARK</del>	<del>PRINCIPAL OR SUPPLEMENTAL REGISTER</del>	<del>APPLICATION-DATE</del>
<del>90904074</del>	PANDA CUB MEAL	<del>Principal</del> <a href="#">749584</a>	<del>August</del>

		<u>4</u>	<del>26</del> <u>September 3,</u> 202 <u>14</u>	
<del>90904637</del>	PANDA CUB MEAL (and Design)	<del>Principal</del> <u>749584</u> <u>5</u>	<del>August</del> <u>26</u> <u>September 3,</u> 202 <u>14</u>	<u>Principal</u>
<del>97818605</del>	PANDA CRAFTED BEVERAGES	<del>Principal</del> <u>759059</u> <u>6</u>	<del>March</del> <u>4</u> <u>December 3,</u> 202 <u>14</u>	<u>Principal</u>
<del>97818623</del>	PANDA CRAFTED BEVERAGES (and Design)	<del>Principal</del> <u>761531</u> <u>3</u>	<del>March</del> <u>4</u> <u>December 17,</u> 202 <u>14</u>	<u>Principal</u>
<del>98122792</del>	THE ORIGINAL ORANGE CHICKEN	<del>Principal</del> <u>751960</u> <u>6</u>	<del>August 8</del> <u>October 1,</u> 202 <u>14</u>	<u>Principal</u>

All required affidavits and/or renewals have been filed.

<u>Federal Trademark Applications Owned by Panda Restaurant Group</u>				
<u>MARK</u>		<u>SERIAL NUMBER</u>	<u>APPLICATION DATE</u>	<u>PRINCIPAL OR SUPPLEMENTAL REGISTER</u>
<del>98384898</del>	PANDA PAIL	<del>Principal</del> <u>98384</u> <u>898</u>	January 31, 2024	<u>Principal</u>

We have the right under the License Agreement to change the above lists and to claim and/or license additional Marks as we choose.

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**EXHIBIT 23.2**

**CURRENT SAMPLE FORM GENERAL RELEASE**

**FORM SUBJECT TO CHANGE BY LICENSOR**

(To be executed upon any amendment or change to the License Agreement for an additional location. Appropriate revisions to recitals made for renewal or transfers under the License Agreement.)

THIS GENERAL RELEASE ("Release Agreement") is made by and among Citadel Panda Express, Inc., a California corporation ("Company"), and \_\_\_\_\_, ("Licensee"), effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date") with reference to the following facts:

A. Licensee acquired a License Agreement from Company to open and operate "Panda Express" Chinese style restaurant(s) pursuant to the License Agreement and any related exhibits, amendments, and addenda dated \_\_\_\_\_, 20\_\_\_\_ (collectively the "Franchise Documents"); and

B. Licensee desires to enter into an Addendum to the License Agreement for an additional location with Company for a "Panda Express" Restaurant to be located at: \_\_\_\_\_; and

C. Company has agreed to execute the new location Addendum on condition, among other things, that Releasor (and each of them, as defined below) execute this Release Agreement.

THEREFORE, in consideration of the premises set forth above, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Licensee, and on behalf of all persons or entities having a legal or beneficial ownership interest in Licensee, and the officers, managers, directors, successors and assigns of each of the foregoing (collectively, the "Releasor") and Company hereby agree as follows:

**Definitions.** As used herein, the following capitalized terms have the meanings ascribed to them.

"**Claims**" means all actual and alleged claims, demands, Losses, charges, agreements (whether written or oral), covenants, responsibilities, warranties, obligations, contracts (whether oral or written), debts, violations, suits, counterclaims, cross claims, third party claims, accounts, liabilities, costs, expenses (including attorneys' fees and court costs), rights to Terminate and rescind, rights of action and causes of action of any kind or nature, suits, whether known or unknown, arising in law or equity, anticipated or unanticipated, past, present, contingent or fixed, existing, claimed to exist or which may hereafter exist including, but not limited to, any and all claims arising under any applicable contract or tort laws or any federal, state or local laws, and any and all claims arising out of or related to the offer, sale, execution, performance under the Franchise Documents or any alleged breach thereof, and/or the franchisor- franchisee relationship or other business relationship between Releasor and the Company Released Parties.

**“Company Released Parties”** means Company and each of its Constituents, including, without limitation, Panda Restaurant Group, Inc., Panda Express, Inc. and Citadel Panda Express, Inc.

**“Constituents”** means past, present and future Affiliates, subsidiaries, divisions, partners, members, trustees, receivers, executors, representatives, administrators, owners, shareholders, distributors, parents, predecessors, officers, directors, agents, managers, principals, employees, insurers, successors, assigns, representatives and attorneys and the past, present and future officers, directors, agents, managers, principals, members, employees, insurers, successors, assigns, representatives and attorneys of each of the foregoing.

This Release Agreement is not intended to Terminate or amend the Franchise Documents. This Release Agreement is intended to and does relieve Company and its Constituents of responsibility for its or their failure, if any, to have timely performed or completed obligations which by the terms of the Franchise Documents were to have been performed or completed prior to the Effective Date, but it is not intended to release Company from i) its continuing contractual obligations which arise or continue under and pursuant to the Franchise Documents on and after the date of this Release Agreement, or ii) any Claims arising from representations in any Franchise Disclosure Document (“FDD”) received by Releasor in connection with the new location addendum, or iii) any Claims for violations of federal and/or state franchise registration and disclosure laws, to the extent such a release is precluded by applicable law (**“Excluded Matters”**).

**“Losses”** means all damages, debts, liabilities, accounts, suits, awards, judgments, payments, diminutions in value and other losses, costs and expenses, however suffered or characterized, all interest thereon, all costs and expenses of investigating any Claim, lawsuit or arbitration and any appeal therefrom, all actual attorneys' fees incurred in connection therewith, whether or not such Claim, lawsuit or arbitration is ultimately defeated and, all amounts paid incident to any compromise or settlement of any such Claim, lawsuit or arbitration.

**General Release Agreement.** Except for the performance of the undertakings set forth herein and the Excluded Matters described above, Releasor (and each of them) for itself and its Constituents, hereby releases and forever discharges the Company Released Parties (and each of them) from any and all Claims which Releasor has or may have against the Company Released Parties (and each of them) which are based upon, concern, arise out of or in any way relate to any act, fact, matter, thing or event that occurred or existed on or before the date of this Release Agreement.

#### **Waiver of California Civil Code Section 1542.**

Releasor, for itself and themselves, and on behalf of Releasor Constituents, acknowledges that Releasor is familiar with Section 1542 of the California Civil Code, which reads as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

With respect to those claims being released pursuant to this Agreement, Releasor, for itself and themselves, and on behalf of Releasor's Constituents, acknowledge that Releasor is releasing unknown claims and waives all rights it has or may have under California Civil Code Section 1542 or any other statute or common law principle of similar effect.

Releasor (and each of them) acknowledges that this Release Agreement extends to claims which Releasor (and each of them) does not know or suspect to exist in favor of Releasor (or any of them) at the time of executing this Release Agreement, which if known by Releasor (or any of them) may have materially affected its or their decision to enter into this Release Agreement. It is understood by Releasor (and each of them) that the facts in respect of which this Release Agreement is given may hereafter turn out to be other than or different from the facts in that connection known or believed to be true. Licensee (and each of them), therefore, expressly assumes the risk of the facts turning out to be so different and agrees that this Release Agreement shall be in all respects effective and not subject to termination or rescission by any such difference in facts.

**Representations and Warranties.** Licensee (and each of them) hereby represents and warrants to Company that, in entering into such release, it (i) is doing so freely and voluntarily upon the advice of counsel and business advisor of its own choosing (or declined to do so, free from coercion, duress or fraud); (ii) has read and fully understands the terms and scope of the Release Agreement that such party is entering into; (iii) realizes that it is final and conclusive, and intends to be final and conclusive, as to the matters set forth in the Release Agreement entered into by the party; and (iv) has not assigned, transferred, or conveyed to any third party all or any part of or partial or contingent interest in any of the Claims which are called for to be released by this Release Agreement now or in the future, that it is aware of no third party who contends or claims otherwise, and that it shall not purport to assign, transfer, or convey any such claim hereafter.

**Covenants Not to Sue.** Licensee (and each of them) hereby irrevocably covenants to refrain from, directly or indirectly, asserting any claim or demand, or commencing, initiating or causing to be commenced, any proceeding of any kind against any Company Released Party, based upon any matter purported to be released hereby.

**Indemnity.** Without in any way limiting any of the rights and remedies otherwise available to any Company Released Party, Licensee (and each of them) shall defend, indemnify and hold harmless each Company Released Party from and against all Claims whether or not involving third party Claims, arising directly or indirectly from or in connection with (i) the assertion by or on behalf of Licensee or its Constituents of any Claim or other matter purported to be released pursuant to this Release Agreement, (ii) the assertion by any third party of any Claim or demand against any Company Released Party which Claim or demand arises directly or indirectly from, or in connection with, any Claims or other matters purported to be released pursuant to this Release Agreement; and (iii) any breach of representations, warranties or covenants hereunder by Licensee or its Constituents.

**Miscellaneous.**

This Release Agreement cannot be modified, altered or otherwise amended except by an agreement in writing signed by all of the parties hereto.

This Release Agreement, together with the agreements referenced herein, constitute the entire understanding between and among the parties hereto with respect to the subject matter hereof.

This Release Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

This Release Agreement may be executed by facsimile, and signatures on a facsimile copy hereof shall be deemed authorized original signatures.

This Release Agreement shall be binding upon and inure to the benefit of the parties to this Release Agreement and their respective successors and permitted assigns.

The rule that an agreement is to be construed against the party drafting the agreement is hereby waived by the parties hereto, and shall have no applicability in construing this Release Agreement or the terms of this Release Agreement.

Any provision of this Release Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Each of the parties acknowledges that it had the right and opportunity to seek independent legal counsel of its own choosing in connection with the execution of this Release Agreement, and each of the parties represents that it has either done so or that it has voluntarily declined to do so, free from coercion, duress or fraud.

This Release Agreement supersedes any prior negotiations and agreements, oral or written, with respect to its subject matter. The Release Agreement may not be amended except in a writing signed by all of the parties. No representations, warranties, agreements or covenants have been made with respect to this Release Agreement, and in executing this Release Agreement, none of the parties is relying upon any representation, warranty, agreement or covenant not set forth herein.

This Release Agreement shall be governed by and construed in accordance with the internal laws of the State of California, without reference to conflict of law principles. Any controversy or claim arising out of or relating to this Release Agreement or any alleged breach hereof, including any issues pertaining to the arbitrability of such controversy or claim and any claim that this Release Agreement or any part hereof is invalid, illegal, or otherwise voidable or void, shall be submitted to binding arbitration in the same manner and subject to the same exceptions as provided in the License Agreement, which is hereby incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Release Agreement as of the date set forth above.

“Company”

“Licensee”

CITADEL PANDA EXPRESS, INC.

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

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

**CITADEL PANDA EXPRESS, INC.**  
**LICENSE AGREEMENT**

**SCHEDULE 1**

**ADDENDUM FOR MULTIPLE CONCEPTS IN THE SAME FACILITY**

**ATTACH ONLY IF LICENSEE IS OPERATING MULTIPLE CONCEPTS IN THE SAME FACILITY**

**Addendum to License Agreement dated \_\_\_\_\_**

1. You agree to not commingle products and or staff of Panda Express with any other concept. In addition to maintaining physical separation of each of the Restaurants designated for Panda Express and other concepts, you shall further ensure separation by maintaining operating practices that include but are not limited to:
  - A. ensuring that products which are Panda Express products are not commingled with that of any other concept in the common remote storage facility, by the centralized delivery system, and in the commissary. You shall maintain a separately indicated space(s) within the common remote storage facility designated solely for us. We shall have our own walk-in cooler, walk-in freezer, and dry storage. If you are not permitted or able to provide separate equipment, you can cage our supplies separately, if in a common storage area with capacity sufficient to support quality operations of a Panda Express. You shall maintain a formal documented order placement and fulfillment process for deliveries from the common remote storage facility by the centralized delivery system. We shall have the right to audit delivery records. You shall ensure that products prepared in the commissary for use in the Panda Express be clearly labeled for such use and kept separate from those of other concepts.
  - B. You shall use best efforts to ensure separation of the concept employees and the Panda Express's back of house employees. In no case may the head chef of another concept be permitted access to Panda Express's back-of-house.



LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
Jurisdiction of Formation      Corporation, LLC or Partnership

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**EXHIBIT B TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**FINANCIAL STATEMENTS**

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**CONSOLIDATED FINANCIAL STATEMENTS**  
**THIRTEEN PERIODS ENDED DECEMBER 28, 2024**  
**AND DECEMBER 30, 2023**



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**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
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## INDEPENDENT AUDITORS' REPORT

Shareholder and Management  
Citadel Panda Express, Inc. and its Subsidiary  
Rosemead, California

### ***Opinion***

We have audited the accompanying consolidated financial statements of Citadel Panda Express, Inc. and its Subsidiary, collectively a wholly-owned subsidiary of Panda Express, Inc., which comprise the consolidated balance sheets as of December 28, 2024 and December 30, 2023, and the related consolidated statements of income, shareholder's equity and cash flows for the thirteen periods then ended, and the related notes to the consolidated financial statements.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Citadel Panda Express, Inc. and Subsidiary as of December 28, 2024 and December 30, 2023, and the results of its operations and its cash flows for the thirteen periods then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

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

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

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

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

***Auditors' Responsibilities for the Audit of the Consolidated Financial Statements***

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

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the 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 Citadel Panda Express, Inc. and Subsidiary'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 Citadel Panda Express, Inc. and Subsidiary'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.



**CliftonLarsonAllen LLP**

Pasadena, California  
April 7, 2025

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**CONSOLIDATED BALANCE SHEETS**  
**DECEMBER 28, 2024 AND DECEMBER 30, 2023**

	<u>2024</u>	<u>2023</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and Cash Equivalents	\$ 3,664,078	\$ 950,516
Accounts Receivable	4,829,081	3,633,937
Due from Affiliate	-	11,992,768
Prepaid Taxes	10,900	59,159
Total Current Assets	<u>8,504,059</u>	<u>16,636,380</u>
<b>PROPERTY AND EQUIPMENT, NET</b>	<u>61,495,728</u>	<u>63,637,653</u>
Total Assets	<u><u>\$ 69,999,787</u></u>	<u><u>\$ 80,274,033</u></u>
<b>LIABILITIES AND SHAREHOLDER'S EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Current Portion of Deferred Revenue	\$ 816,591	\$ 545,410
Taxes Payable	102,946	-
Total Current Liabilities	<u>919,537</u>	<u>545,410</u>
<b>LONG-TERM LIABILITIES</b>		
Deferred Revenue, Net of Current Portion	<u>3,293,727</u>	<u>3,474,332</u>
Total Liabilities	4,213,264	4,019,742
<b>SHAREHOLDER'S EQUITY</b>		
Common Stock, No Par Value - 50,000 Shares		
Authorized; 16,000 Shares Issued and Outstanding	160,000	160,000
Additional Paid-in Capital	4,200,000	4,200,000
Retained Earnings	96,736,982	71,894,291
Less: Due from Affiliate	<u>(35,310,459)</u>	<u>-</u>
Total Shareholder's Equity	<u>65,786,523</u>	<u>76,254,291</u>
Total Liabilities and Shareholder's Equity	<u><u>\$ 69,999,787</u></u>	<u><u>\$ 80,274,033</u></u>

See accompanying Notes to Consolidated Financial Statements.

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**CONSOLIDATED STATEMENTS OF INCOME**  
**THIRTEEN PERIODS ENDED DECEMBER 28, 2024 AND DECEMBER 30, 2023**

	<u>2024</u>	<u>2023</u>
<b>NET REVENUES</b>		
Royalty Income	\$ 24,916,622	\$ 22,646,186
License Fees	2,378,044	2,336,303
Initial Fees	816,928	545,411
Rental Income	145,900	145,900
Restaurant Income	10,235	-
Miscellaneous Income (Loss)	(4,870)	45,000
Total Net Revenues	<u>28,262,859</u>	<u>25,718,800</u>
<b>EXPENSES</b>		
Depreciation	2,167,676	2,282,215
Professional Services	339,112	274,595
Salaries and Benefits	143,456	53,227
Loss on Sale of Airplane	-	319,838
Miscellaneous	64,983	13,913
Property Tax	230,723	193,880
Total Expenses	<u>2,945,950</u>	<u>3,137,668</u>
<b>INCOME BEFORE FOREIGN TAX PROVISION</b>	25,316,909	22,581,132
<b>FOREIGN TAX PROVISION</b>	<u>(474,218)</u>	<u>(513,095)</u>
<b>NET INCOME</b>	<u><u>\$ 24,842,691</u></u>	<u><u>\$ 22,068,037</u></u>

See accompanying Notes to Consolidated Financial Statements.



**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDER'S EQUITY**  
**THIRTEEN PERIODS ENDED DECEMBER 28, 2024 AND DECEMBER 30, 2023**

	Common Stock		Additional	Retained	Total
	Shares	Value	Paid-in Capital	Earnings	Shareholder's Equity
<b>BALANCE - DECEMBER 31, 2022</b>	16,000	160,000	4,200,000	49,826,254	54,186,254
Net Income	-	-	-	22,068,037	22,068,037
<b>BALANCE - DECEMBER 30, 2023</b>	<u>16,000</u>	<u>\$ 160,000</u>	<u>\$ 4,200,000</u>	<u>\$ 71,894,291</u>	<u>\$ 76,254,291</u>
Net Income	-	-	-	24,842,691	24,842,691
<b>BALANCE - DECEMBER 28, 2024</b>	<u>16,000</u>	<u>\$ 160,000</u>	<u>\$ 4,200,000</u>	<u>\$ 96,736,982</u>	<u>\$ 101,096,982</u>

*See accompanying Notes to Consolidated Financial Statements.*

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**THIRTEEN PERIODS ENDED DECEMBER 28, 2024 AND DECEMBER 30, 2023**

	2024	2023
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net Income	\$ 24,842,691	\$ 22,068,037
Adjustments to Reconcile Net Income to Net Cash		
Provided (Used) by Operating Activities:		
Depreciation and Amortization	2,167,676	2,282,215
Loss on Sale of Airplane	-	319,838
Effects of Changes in Operating Assets and Liabilities:		
Accounts Receivable	(1,195,144)	(577,809)
Due from Affiliate	(23,317,691)	(26,779,530)
Prepaid Expenses	48,259	(1,317)
Deferred Revenue	90,576	(207,909)
Accrued Liabilities	102,946	-
Net Cash Provided (Used) by Operating Activities	<u>2,739,313</u>	<u>(2,896,475)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of Property and Equipment	<u>(25,751)</u>	<u>-</u>
Net Cash Used by Investing Activities	(25,751)	-
<b>NET CHANGES IN CASH AND CASH EQUIVALENTS</b>	2,713,562	(2,896,475)
Cash and Cash Equivalents - Beginning of Period	<u>950,516</u>	<u>3,846,991</u>
<b>CASH AND CASH EQUIVALENTS - END OF PERIOD</b>	<u><u>\$ 3,664,078</u></u>	<u><u>\$ 950,516</u></u>
<b>SUPPLEMENTAL CASH FLOW INFORMATION:</b>		
Foreign Income Taxes Paid	<u><u>\$ 474,218</u></u>	<u><u>\$ 513,095</u></u>
<b>NONCASH INVESTING AND FINANCING ACTIVITIES:</b>		
Airplane Purchased Paid through Due to Affiliate	<u><u>\$ -</u></u>	<u><u>\$ 6,610,400</u></u>
Proceeds from Sale of Airplane Received by Affiliate	<u><u>\$ -</u></u>	<u><u>\$ 13,489,754</u></u>

See accompanying Notes to Consolidated Financial Statements.

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Nature of Operations**

Citadel Panda Express, Inc. and its wholly owned subsidiary, Citadel Aviation Investments, LLC (collectively, the Company) are collectively a wholly owned subsidiary of Panda Express, Inc. (PEI), which is a wholly owned subsidiary of Panda Restaurant Group (PRG), located in Rosemead, California. The Company has entered into a license agreement with PRG under which it licenses, and has the right to sub-license, the “Panda Express” trade name, trademark, and service marks through April 11, 2031. The Company sub-licenses to “Licensees” through licensing agreements, the right to operate Panda Express restaurants (the Licensed Restaurants) in the United States, Mexico, Guatemala, Korea, Japan, India, Philippines, and certain countries in the Middle East.

**Principles of Consolidation**

The consolidated financial statements as of and for the thirteen periods ended December 28, 2024 and December 30, 2023, include the results of operations of Citadel Panda Express, Inc. and Citadel Aviation Investments, LLC. Citadel Aviation Investments, LLC was incorporated in the state of Nevada in 2018 to own the Company’s airplanes. All intercompany transactions and accounts have been eliminated through consolidation.

**Basis of Presentation**

The consolidated financial statements of the Company are prepared following accounting principles generally accepted in the United States of America (U.S. GAAP).

**Revenue Recognition**

In accordance with Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) No. 2014-09, *Revenue from Contracts with Customers* (Topic 606), the Company recognizes revenue when its customer obtains control of promised goods or services in an amount that reflects the consideration which the Company expects to receive in exchange for those goods or services.

To determine revenue recognition for the arrangements that the Company determines are within the scope of Topic 606, the Company performs the following five steps:

- 1) Identify the contract(s) with a customer;
- 2) Identify the performance obligations in the contract;
- 3) Determine the transaction price;
- 4) Allocate the transaction price to the performance obligations in the contract; and
- 5) Recognize revenue when (or as) the Company satisfies a performance obligation.

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Revenue Recognition (Continued)**

The Company generates revenues primarily through royalties, initial service fees, and licensed restaurant mark-up.

Initial service income represents a nonrefundable initial fee, which the Company recognized upon the store opening, when substantially all of the initial services by the Company had been performed. The initial services include initial development services, generic interior layout assistance, initial training, and provision of operating manuals. In accordance with Topic 606, initial services income is recognized as the Company satisfies the performance obligation over the franchise term on a straight-line basis, which is generally between five to ten years, because the services provided by the Company are highly interrelated with the franchise license and as such are considered to represent a single performance obligation. The unrecognized portion of initial service fees is recorded as deferred initial service income.

The Company recognizes other fees and royalties as earned when the franchises report the associated revenue to the Company.

The Company currently has franchisees throughout United States of America and countries overseas such as Mexico, Guatemala, South Korea, Russia, and Philippines. The franchise arrangement is documented in the form of a franchise agreement. The franchise arrangement requires the Company to perform various activities to support the brand that do not directly transfer goods and services to the franchisee, but instead represent a single performance obligation, which is the transfer of the franchise license. The intellectual property subject to the franchise license is symbolic intellectual property as it does not have significant standalone functionality, and substantially all of the utility is derived from its association with the Company's past or ongoing activities.

The nature of the Company's promise in granting the franchise license is to provide franchisees with access to the brand's symbolic intellectual property over the term of the license. The services provided by the Company are highly interrelated with the franchise license and as such are considered to represent a single performance obligation. The transaction price in a standard franchise arrangement primarily consists of (a) initial service fees; (b) continuing franchise fees (Royalties); and (c) licensed restaurant mark-up fees. Since the Company considers the licensing of the franchising right to be a single performance obligation, no allocation of the transaction price is required.

**Royalties**

The Company collects royalties, as stipulated in the franchise agreement, currently based on a percentage of licensee revenues from 2.75% to 8.00% when the franchisee's sales occur. Royalties are calculated as a percentage of sales over the term of the franchise agreement. The franchise agreement royalties represent sales-based royalties that are related entirely to the Company's performance obligation under the franchise agreement and are recognized as franchisee store level sales occur. Royalties are collected periodically.

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Revenue Recognition (Continued)**

**Initial Service Fees**

The Company requires the entire nonrefundable initial service fee to be paid upon opening of a franchise store. Initial service fees are recognized ratably on a straight-line basis over the term of the franchise agreement commencing with the opening of the franchise store. As these fees are typically received in cash at or near the beginning of the franchise term, the cash received is initially recorded as a contract liability until recognized as revenue over time. The Company's initial services under the franchise agreement include: initial development service, generic interior layout assistance, initial training, and provision of operating manuals. The Company provides no financing to franchisees and offers no guarantees on their behalf. The services provided by the Company are highly interrelated with the franchise license and as such are considered to represent a single performance obligation. The initial fee for new licensees typically ranges from \$7,500 to \$25,000.

**Licensed Restaurant Mark-Up Fees**

License fees represent a markup fee which the Company collects directly from the suppliers for licensees' use of Panda's logo on the supplies. The Company requires the franchisees to purchase from vendors and the vendors would pay the Company a percentage of the markup. The Company performs service for its franchisees on negotiation of agreements for food distribution services and use of license logos on supplies and supports the overall brand network and maximizes the brand quality. The Company concludes that the usage-based mark-up fees should be allocated entirely to the franchise license because the variable consideration related entirely to the franchisor's promise to grant the franchise license. The usage-based mark-up fees are allocated to the franchise license performance obligation and are recognized as the purchase occurs.

**Rental Income**

Rental income is recognized when it is earned.

**Disaggregation of Revenue from Contracts with Customers**

The Company believes that the captions contained on the consolidated statements of income appropriately reflect the disaggregation of its revenue by major type for the thirteen periods ended December 28, 2024 and December 30, 2023. The following table disaggregates the Company's revenue based on the timing of satisfaction of performance obligations for the thirteen periods ended December 28, 2024 and December 30, 2023:

	2024	2023
Performance Obligations Satisfied at a Point in Time	\$ 27,294,666	\$ 24,982,489
Performance Obligations Satisfied Over Time	816,928	545,411
Total Revenues from Contracts with Customers	28,111,594	25,527,900
Rental Income	145,900	145,900
Restaurant Income	10,235	-
Miscellaneous Income (Loss)	(4,870)	45,000
Total Net Revenue	<u>\$ 28,262,859</u>	<u>\$ 25,718,800</u>

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Revenue Recognition (Continued)**

**Rollforward of Accounts Receivable**

Changes in the Company's contract asset for accounts receivable during the thirteen periods ended December 28, 2024 and December 30, 2023 were as follows:

	Accounts Receivable
Balance at December 31, 2022	\$ 3,056,128
Revenue During the Thirteen Periods Ended December 30, 2023	25,718,800
Collected During the Thirteen Periods Ended December 30, 2023	<u>(25,140,991)</u>
Balance at December 30, 2023	3,633,937
Revenue During the Thirteen Periods Ended December 28, 2024	28,262,859
Collected During the Thirteen Periods Ended December 28, 2024	<u>(27,067,715)</u>
Balance at December 28, 2024	<u><u>\$ 4,829,081</u></u>

**Rollforward of Contract Liabilities**

Changes in the Company's contract liability for deferred initial services revenue during the thirteen periods ended December 28, 2024 and December 30, 2023 were as follows:

	Deferred Revenue
Balance at December 31, 2022	\$ 4,227,651
Recognized as Revenue During the Thirteen Periods Ended December 30, 2023	(545,410)
Fees Received and Deferred During the Thirteen Periods Ended December 30, 2023	<u>337,501</u>
Balance at December 30, 2023	\$ 4,019,742
Recognized as Revenue During the Thirteen Periods Ended December 28, 2024	(816,591)
Fees Received and Deferred During the Thirteen Periods Ended December 28, 2024	<u>907,167</u>
Balance at December 28, 2024	<u><u>\$ 4,110,318</u></u>

**Deferred Revenue**

Deferred initial services income represent initial services fees received that have not been fully earned and will be recognized in future periods.

**Cash and Cash Equivalents**

The Company considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Accounts Receivable and Allowance for Credit Losses**

Trade receivables are carried at their estimated collectible amounts. Trade credit is generally extended on a short-term basis; thus, trade receivables do not bear interest, although a finance charge may be applied to such receivables that are past due. Trade accounts receivable are periodically evaluated for collectability based on past credit history with customers and their current financial condition. As of December 28, 2024 and December 30, 2023, an allowance for credit losses was unwarranted.

**Property and Equipment**

Properties purchased are recorded at cost. Depreciation is computed using the straight-line basis over the estimated useful lives of the assets as follows:

Airplanes	15 Years
Buildings and Improvements	10 to 20 Years
Leasehold Improvements	Shorter of Life or Lease Terms
Restaurant Equipment	5 Years
Furniture and Fixtures	7 Years
Vehicles	5 Years

**Income Taxes**

The Company has elected to be taxed as an S Corporation. Pursuant to this election, the Company's net income or losses, deductions, and tax credits are passed through directly to the Company's shareholder; thus, no income taxes are imposed on the Company for the thirteen periods ended December 28, 2024 and December 30, 2023. The California franchise tax is the minimum of \$800 or 1.5% of net income.

The Company has entered into a license agreement with entities in several countries. Withholding tax rates ranging from 0% to 15% apply to payments made by the foreign licensees to the Company which represents a provisional payment of annual tax.

**Concentration of Credit Risk**

Financial instruments that subject the Company to credit risk consist primarily of cash and accounts receivable. The Company maintains cash balances in high quality financial institutions, which are insured up to statutory limits. For the thirteen periods ended December 28, 2024 and December 30, 2023, approximately 25% and 29% of revenue was attributable to two customers, respectively. Four and two customers comprised approximately 54% and 38% of accounts receivable at December 28, 2024 and December 30, 2023, respectively.

**Use of Estimates**

The preparation of consolidated 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 consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Fiscal Year-End**

The Company operates on a 52/53-week fiscal year, consisting of thirteen four-week periods and ending on the Saturday nearest the end of December. The Company's thirteen periods ended December 28, 2024 and December 30, 2023, included 52 and 53 weeks, respectively.

**Leases**

In February 2016, FASB issued ASU 2016-02, *Leases* (ASC 842). The new standard increases transparency and comparability among organizations related to leasing activities. Under the standard, disclosures are required to meet the objective of enabling users of financial statements to assess the amount, timing, and uncertainty of cash flows arising from leases. Implementation of the new standard did not result in material changes to amounts reported in the financial statements but did require enhanced disclosures about the entity's leasing activities.

Starting from December 2004, the Company (as lessor) leased three buildings to PEI. Revenue from lease payments is recognized under the accrual method. Lease payments are included in income as rents become due. Lease payments received in advance are deferred until earned. At the commencement of an operating lease, no revenue is recognized; subsequently, lease payments received are recognized in revenue on the straight-line basis. Lessor costs such as property taxes, insurance and maintenance paid directly by a lessee to third parties on the lessor's behalf are excluded from lease payments.

The Company has elected to apply the practical expedient to combine lease and non-lease components identified in lease contracts. Revenue from lease payments includes consideration received for common area maintenance services provided by the Company.

**Subsequent Events**

The Company has evaluated subsequent events and transactions for potential recognition or disclosure through April 7, 2025, the date that the consolidated financial statements were available to be issued.

**NOTE 2 RELATED PARTY TRANSACTIONS**

**Due to/from Affiliate**

Due to affiliate represents non-interest-bearing advances from PRG, which are due on demand. Due from affiliate represents non-interest-bearing advances to PRG, which are due on demand.

During the period ended December 30, 2023, the Company sold an airplane for \$13,489,754. The proceeds were received by PRG on behalf of the Company. At December 28, 2024, balance due from PRG amounted to \$35,310,459, which is presented as a reduction of equity on the accompanying consolidated balance sheet. At December 30, 2023, balance due from PRG amounted to \$11,992,768,



**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**NOTE 2 RELATED PARTY TRANSACTIONS (CONTINUED)**

**Management Services**

PRG provides management services to the Company without charge.

**Building Leases**

In December 2004, the Company (as lessor) entered into agreements to lease three buildings to PEI. The initial term of the lease is 20 years, which could be extended by PEI (as lessee) for four additional periods of five years each. The lease was extended for additional periods of five years until December 2029. Lease contracts do not include variable lease payments. The annual rent is between \$45,000 and \$55,900 for each building with no scheduled increases. The rental income was \$145,900 annually for each of the thirteen periods ended December 28, 2024 and December 30, 2023.

Following is a maturity analysis of annual undiscounted cash flows to be received from operating leases for the thirteen periods ended December 28, 2024:

<u>Period Ending,</u>	<u>Amount</u>
December 27, 2025	\$ 145,900
December 26, 2026	145,900
December 25, 2027	145,900
December 30, 2028	145,900
December 29, 2029	145,900
Thereafter	2,188,500
Total Minimum Future Rentals	<u>\$ 2,918,000</u>

**NOTE 3 PROPERTY AND EQUIPMENT**

At December 28, 2024 and December 30, 2023, property and equipment consisted of the following:

	<u>2024</u>	<u>2023</u>
Airplanes	\$ 61,157,629	\$ 61,157,629
Land	5,865,000	5,865,000
Buildings and Improvements	4,376,175	4,376,175
Leasehold Improvements	367,055	367,055
Restaurant Equipment	-	60,237
Furniture and Fixtures	7,600	70,286
Vehicles	75,589	75,589
Construction in Progress	25,750	-
Subtotal	<u>71,874,798</u>	<u>71,971,971</u>
Less: Accumulated Depreciation and Amortization	<u>(10,379,070)</u>	<u>(8,334,318)</u>
Total	<u>\$ 61,495,728</u>	<u>\$ 63,637,653</u>

**CITADEL PANDA EXPRESS, INC. AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 28, 2024 AND DECEMBER 30, 2023**

**NOTE 3 PROPERTY AND EQUIPMENT (CONTINUED)**

During the thirteen periods ended December 28, 2024 and December 30, 2023, the airplanes were primarily used by PEI and PRG, who paid for the operating costs. The Company has assumed all depreciation expenses related to buildings and improvements, the use of which is shared by the Companies, PEI and PRG, during the thirteen periods ended December 28, 2024.

In February 2023, PRG made the final payment of \$6,610,400 for the purchase of new airplane N100GA on behalf of the Company. The new airplane was delivered to the Company and put into use on February 10, 2023.

In August 2023, PRG sold an airplane N882PX on behalf of the Company for purchase price of \$13,489,754. PRG received proceeds of \$13,489,754 from the sale on behalf of the Company.

**NOTE 4 NUMBER OF LICENSED LOCATIONS**

At December 28, 2024 and December 30, 2023, the number of licensed locations in operations consisted of the following:

	<u>Domestic</u>	<u>International</u>	<u>Total</u>
Number of licensed locations at December 31, 2022	159	78	237
Opened during the periods ended December 30, 2023	14	17	31
Closed during the periods ended December 30, 2023	<u>(6)</u>	<u>(2)</u>	<u>(8)</u>
Number of licensed locations at December 30, 2023	167	93	260
Opened during the periods ended December 28, 2024	15	9	24
Closed during the periods ended December 28, 2024	<u>(7)</u>	<u>(5)</u>	<u>(12)</u>
Number of licensed locations at December 28, 2024	<u><u>175</u></u>	<u><u>97</u></u>	<u><u>272</u></u>



**EXHIBIT C TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**STATEMENT OF PROSPECTIVE LICENSEE**

## STATEMENT OF PROSPECTIVE LICENSEE

**[Note: Dates and Answers Must Be Completed  
in the Prospective Licensee's Own Handwriting.]**

Prospective Licensee (also called "me," "our," "us," "we" and/or "I" in this document) and Citadel Panda Express, Inc. (also called the "Licensor," "you" or "your") each have an interest in making sure that no misunderstandings exist between them and in verifying that no violations of law might have occurred. I/we understand that the Licensor is relying on the statements I/we make in this document and assure the Licensor as follows:

**A. The following dates and information are true and correct:**

- |   |  |
|---|--|
| 1. _____, 20____<br><b>Initials</b> _____ | The date on which I/we received a Franchise Disclosure Document about a Panda Express License.   |
| 2. _____, 20____<br><b>Initials</b> _____ | The date when I/we received a fully completed copy (other than signatures) of the License Agreement and all other documents I/we later signed.   |
| 3. _____, 20____<br><b>Initials</b> _____ | The earliest date on which I/we signed the License Agreement or <u>any</u> other binding document (not including any Acknowledgment of Receipt). |
| 4. _____, 20____<br><b>Initials</b> _____ | The earliest date on which I/we delivered cash, check or other consideration to the Licensor, or any other person or company.                    |

**B. Representations and Other Matters:**

1. The individuals signing for the "Prospective Licensee" include all of the executive officers, partners, shareholders, investors and/or principals of the Prospective Licensee.

**Prospective Licensee's Initials:** \_\_\_\_\_

2. I understand that licensees are separate and distinct from Licensor and independently owned and operated.

**Prospective Licensee's Initials:** \_\_\_\_\_

3. I acknowledge receiving and signing the receipt page for the Disclosure Document that was delivered to me (the "Receipt"). I confirm that the Franchise Seller Information contained within the Receipt is complete and accurately identifies all of the persons who sold or arranged for the sale of my license and were involved in the franchise sales activities.

**Prospective Licensee's Initials:** \_\_\_\_\_

4. If there are any matters inconsistent with the statements in this document, or if anyone has suggested that I sign this document without all statements being true, correct and complete, I/we will inform an officer of the Licensor and make a written statement regarding such next to my signature below so that the Licensor can address and resolve any such issue(s) at this time and before either party goes forward.

**Prospective Licensee's Initials:** \_\_\_\_\_

I/we understand and agree to all of the foregoing and represent and warrant that all of the above statements are true, correct and complete.

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

**PROSPECTIVE LICENSEE (Individual)**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**PROSPECTIVE LICENSEE (Corp., LLC or Partnership) - Must be accompanied by appropriate personal guaranty(ies)**

\_\_\_\_\_  
Legal Name of Entity

a \_\_\_\_\_  
Jurisdiction of Formation Corporation, LLC or Partnership

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

\_\_\_\_\_  
Signature

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

**PRINCIPALS**

_____	_____
_____	_____

**EXHIBIT D TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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

**California:**

Commissioner of Financial Protection and  
Innovation  
Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013  
(213) 576-7505 or (866) 275-2677  
Website: <http://www.dfpi.ca.gov/>  
Email: Ask.DFPI@dfpi.ca.gov

**Hawaii:**

Department of Commerce and  
Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, HI 96813

**Illinois:**

Office of the Attorney General  
500 South Second Street  
Springfield, IL 62706

**Indiana:**

Indiana Securities Division  
Secretary of State  
302 West Washington Street, Room E-111  
Indianapolis, IN 46204

**Maryland:**

Office of the Attorney General  
Division of Securities  
200 Saint Paul Place  
Baltimore, MD 21202-2020

**Michigan:**

Michigan Attorney General's Office  
Consumer Protection Division  
Franchise Section  
525 W. Ottawa Street  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
Lansing, MI 48913

**Minnesota:**

Minnesota Department of Commerce  
85 7th Place East, Suite 280

**New York:**

Office of the New York Attorney General  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, NY 10005  
(212) 416-8236 (phone)  
(212) 416-6042 (fax)

**North Dakota:**

North Dakota Securities Department  
600 East Boulevard Avenue,  
State Capitol, 14th Floor, Dept 414  
Bismarck, ND 58505-0510  
701-328-4712

**Oregon**

Director  
Department of Consumer & Business Services  
Division of Finance & Corporate Securities  
P.O. Box 14480  
Salem, Oregon 97309-0405  
(503) 378-4140

**Rhode Island:**

Division of Securities  
1511 Pontiac Avenue  
John O. Pastore Complex, Building 69-1  
Cranston, RI 02920-4407

**South Dakota:**

Division of Insurance  
Securities Regulation  
124 S. Euclid, Suite 104  
Pierre, SD 57501-3185  
(605) 773-3563

**Virginia:**

State Corporation Commission  
Division of Securities and  
Retail Franchising  
1300 East Main Street, 9th Floor  
Richmond, VA 23219

**Washington:**

Securities Division,

St. Paul, MN 55101

Department of Financial Institutions  
PO Box 41200  
Olympia, WA 98504-1200

**Wisconsin:**

State of Wisconsin  
Office of the Commissioner of Securities  
4822 Madison Yards Way, North Tower  
Madison, WI 53705

## AGENTS FOR SERVICE OF PROCESS

**The Franchisor has not appointed the agent identified below unless it has registered in that state, as noted on the page following the State Cover page.**

### **California:**

Monte H. Baier  
Citadel Panda Express, Inc.  
1683 Walnut Grove Avenue  
Rosemead, California 91770-3711

Commissioner of Financial Protection and  
Innovation  
Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013  
(213) 576-7505 or (866) 275-2677  
Website: <http://www.dfpi.ca.gov/>  
Email: Ask.DFPI@dfpi.ca.gov

### **Hawaii:**

Commissioner of Securities  
Department of Commerce and  
Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813

### **Illinois:**

Illinois Attorney General  
500 South Second Street  
Springfield, Illinois 62706

### **Indiana:**

Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, Indiana 46204

### **Maryland:**

Securities Commissioner  
200 Saint Paul Place  
Baltimore, Maryland 21202-2020

### **Michigan:**

Department of Attorney General's Office  
Consumer Protection Division  
670 Law Building  
Lansing, Michigan 48913

### **Minnesota:**

Commissioner of Commerce

### **New York:**

New York Department of State  
One Commerce Plaza  
99 Washington Avenue, 6<sup>th</sup> Floor  
Albany, New York 12231-0001  
(518) 473-2492

### **North Dakota:**

Securities Commissioner  
North Dakota Securities Department  
600 East Boulevard Avenue,  
State Capitol, 14th Floor, Dept 414  
Bismarck, ND 58505-0510  
701-328-4712

### **Rhode Island:**

Director of Business Regulation  
Division of Securities  
John O. Pastore Complex 69-1  
1511 Pontiac Avenue  
Cranston, RI 02920

### **South Dakota:**

Director  
Division of Insurance  
Securities Regulation  
124 S. Euclid, Suite 104  
Pierre, South Dakota 57501  
(605) 773-3563

### **Virginia:**

Clerk of the State Corporation Commission  
1300 East Main Street, 1st Floor  
Richmond, Virginia 23219

### **Washington:**

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

### **Wisconsin:**

Administrator  
Department of Financial Institutions  
Division of Securities  
4822 Madison Yards, North Tower

85 7<sup>th</sup> Place E.  
St. Paul, MN 55101

Madison, Wisconsin 53705



**EXHIBIT F TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**SAMPLE ASSET PURCHASE AGREEMENT**

**Panda Express, Inc.**  
Asset Purchase Letter Agreement

To: \_\_\_\_\_ (Buyer)  
From: \_\_\_\_\_ (Seller)

Re: **Sale to Buyer by Seller of one (1) Restaurant location in \_\_\_\_\_  
presently operated by Seller as "Panda Express".**

Seller proposes to sell one (1) Restaurant location (Store) set out in Schedule A-1 to Buyer by way of an Asset Sale to include Store Assets listed on Schedule A-2 and an Assignment of Lease for total consideration of \$\_\_\_\_\_ payable as follows:

- a) Payable by certified check on Closing (full execution of this Letter Agreement and Assumption of Contract).
- b) Buyer shall deposit \$\_\_\_\_\_ upon execution of this Letter Agreement which shall be applied to the amount due at Closing. The Deposit shall be returned to Buyer in the event of the termination of the transaction referred to in this Letter Agreement other than by reason of material default of Buyer, upon the application of Buyer.

The purchase price (not including the value of the inventory) shall be allocated as follows:

<u>Tangible Assets</u>	<u>Portion of Purchase Price</u>
<u>Equipment and Materials</u>	\$_____
<u>Total Tangible Assets</u>	\$_____
<u>Intangible Assets</u>	<u>Portion of Purchase Price</u>
<u>Total Intangible Assets</u>	\$_____
<u>Grand Total (Excluding Inventory)</u>	\$_____

Each of the parties agrees to report this transaction for tax purposes in accordance with this allocation of the purchase price.

The following provisions shall apply to this transaction:

1. All physical Store Assets being used in the operation of Seller's restaurant business, (including POS Systems and inventory) shall be transferred to Buyer free and clear of all encumbrances in working condition but otherwise on an 'as is-where is' basis at Closing. The Store shall be delivered in 'broom clean' condition, reasonable wear and tear only excepted. At the Closing,

the Store will have a sufficient quantity of inventory to carry on business in the usual course, and all inventory will be unadulterated and in fresh, saleable condition.

2. Seller shall operate the Store in the ordinary course of business consistent with past practices until Closing and maintain their insurance coverage in place until two days after closing. In the event that the Store or any equipment being acquired through this Agreement shall be damaged or destroyed by fire or casualty prior to Closing, Seller shall deliver the proceeds of any insurance to Buyer in lieu of replacement or repair.
3. No Trade Marks or trade names of Seller are included in this transaction and any rights to license the operations and any intellectual property shall be covered under a separate License Agreement between Citadel Panda Express, Inc. and Buyer.
4. If Seller has any contracts in the nature of maintenance or service contracts for the assets of the Store that can be assigned, those contracts will be assigned to Buyer at Closing.
5. Sales of the Store and any inventory shall be conditioned upon: (i) the agreement by landlord for Seller to assign the contract to Buyer as evidenced by such landlord's execution (and countersigned by the applicable parties of the Seller) of the Assignment and Assumption Agreement and dated effective as of the Closing Date for such Store (Consent); (ii) representations and warranties by both parties in this Letter Agreement shall be true and correct in all material respects to the satisfaction of the other of them as of the date of Closing; (iii) the parties not being in material breach of the covenants in this Letter Agreement; and (iv) no material adverse changes affecting the Lease or the operation of the Store with respect to the Lease from the date of signing this Letter Agreement to the Closing, provided that neither the 'passage of time' nor 'state of the business' at any location' shall constitute a material change in this paragraph 5(iv). Buyer shall provide to Seller within 2 business days of the signing of this Letter Agreement all that information required by the Lease to assist Seller in obtaining the Consents; provided, however, that any costs or expenses relating to the procurement of the Consents (including any transfer fees or legal costs) shall be at Seller's sole cost and expense. In the event Buyer fails to provide Seller with the required documents to Seller's reasonable satisfaction, Seller shall provide a written notice of default with a reasonable description of what is necessary to cure the default, and Buyer shall have two business days from the receipt of such written notice to cure the default; failure to cure within such time shall constitute a breach of this Letter Agreement. Buyer shall otherwise assist Seller by providing additional information as any Landlord may reasonably request (using commercially reasonable efforts) or otherwise. Seller represents and warrants that the Contract is and will be in good standing and without any defaults at the date of Closing.
6. The Consents shall contain only the following modifications to amend the Contract:
  - a) permitting Buyer to temporarily close its operations at the premises for a reasonable period of time following each Closing to carry out a remodeling of such Property without thereby causing a default under the Contract;

- b) agreeing that any such remodeling under (a) will be sufficient to satisfy any requirement for any additional remodeling or renovation by Buyer as Tenant as may be provided by the present provisions of any Contract;
  - c) permitting Buyer to carry on business as a Panda Express Restaurant;
  - d) permitting the sale of all food items commonly sold in Panda Express Restaurants as set forth in Schedule A-4; and
  - e) changing the address for notices to Tenant to Buyer's office address.
7. Seller will be responsible for all lease matters (including liabilities and expenses) up to and in respect of Closing including all taxes payable on the Store until Closing; Buyer responsibility for the period thereafter. Seller and Buyer will readjust for "year-end lease adjustments" on a pro rata basis referable to calendar year 20\_\_ when the 20\_\_ year-end lease adjustments are delivered by landlords to Buyer in 20\_\_. Additional adjustments as may be necessary under this paragraph shall be made by either party to the other on demand, provided that Seller shall have the right to contest any adjustment item provided such contest does not negatively affect the status of that lease as between Landlord and Buyer (as the ongoing tenant).
8. Buyer shall make all searches, investigations and physical inspections (to be made 'after hours' on reasonable notice to Seller) which a prudent buyer of the Stores would make in the ordinary course of a transaction of this nature; Closing of this transaction by Buyer shall preclude future claims by Buyer against Seller for any matter, absent active concealment, illegal or intentional acts, fraudulent or illegal statements, intentional misrepresentations, or fraudulent or willful act or omissions by Seller or any of them, provided that this inspection will not relieve Seller of its representations and warranties in Paragraph 1, above.
9. Seller represents and warrants that as of the date of execution of this Letter Agreement and the Closing, it has no knowledge or notice of any claim by any third party arising from any matter referable to the operation of Seller's Restaurant or with respect to any of the assets at the location. Any claims or notices received by Seller prior to Closing shall be disclosed to Buyer and shall be responsibility of Seller. Should any claim be made by any third party within the \_\_\_\_ year period after Closing, for any matter for which Seller is responsible, Seller will be responsible for that portion of any such claim referable to any time prior to Closing and Buyers shall be responsible for that portion of any such claim in respect of the period of time after Closing.
10. Seller shall discharge all Store employees as of the date of Closing and take full responsibility for dealing with all matters referable to such employees (including assumption of any liabilities in connection therewith).
11. Buyer shall have the right to hire any of Seller's Store employees as it deems advisable; to assist Buyer, Seller will at request of Buyer separately, if and when (i) Buyer delivers to Seller its irrevocable letter stating that all of Buyer's conditions to a Closing have been satisfied and it will complete the Closing, (ii) Buyer is not in material default, and (iii) the Closing is to be completed in not less than \_\_\_\_ (\_\_\_\_) Business Days, Seller will furnish to Buyer detailed compensation information comprising only the hourly wages, benefits and bonus for each of

Seller' employees that Buyer is interested in employing subsequent to each Closing, but in no case are Seller obligated to provide access to any records reflecting any legally privileged communication.

12. If Consents on terms as set out in paragraph 5 above shall not have been received by Buyer prior to the Closing (Closing Date) either party may terminate the Transaction without any liability whatsoever and, the Deposit shall be returned to Buyer and there shall be no further obligations or liabilities of the parties hereto (other than the confidentiality provisions in the agreements entered into prior to the date hereof). Buyer shall execute the Consents for such Closing (in the form acceptable to each Landlord and Master Landlord, if required, provided that such Consent includes the changes contemplated in paragraph 6 as set forth above and as otherwise set forth in this Letter Agreement) on the applicable Closing Date, and the effectiveness of such Consents shall be dated as of the applicable Closing Date.
13. Seller and Buyer shall verify by respective officers certificates that they have the legal capacity and right to enter into this Letter Agreement and to complete the sale of the Store on the basis set out in this Letter Agreement.
14. Seller represents and warrants that it has been operating the Restaurant in the ordinary course of business consistent with past practices to date and agrees to continue to operate the Restaurant in the same manner until Closing in accordance with applicable laws as such laws apply to Seller and Seller's business operations.
15. Neither party shall be at any disadvantage should any matter in this Letter Agreement be subject of any review or proceeding, by reason only that one or other of the parties provided the initial draft of this Letter Agreement.
16. The Confidentiality and Non-Disclosure Agreement executed by the parties hereto at the inception of their discussions concerning this transaction shall remain in effect according to the terms therein.
17. Any notices to be delivered to Seller or Buyer shall be sufficient as date of confirmed delivery if delivered by Fax or email to the other of them, as follows:

Seller:

Panda Express, Inc.  
Attn: General Counsel  
1683 Walnut Grove Avenue  
Rosemead, CA  
91770-3711 USA  
Fax: 626-372-8800  
Email: Monte.Baier@PandaRG.com

Buyer:

Buyer(s): \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_

\_\_\_\_\_  
Telephone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

With a copy to:

Panda Express, Inc.  
Attn: Vice President, Legal  
1683 Walnut Grove Avenue  
Rosemead, CA 91770-3711  
Email: Donna.Wanser@PandaRG.com

18. Each of Seller and Buyer shall use reasonable commercial efforts on a timely basis to do all things necessary to effect the Closing(s) including transferring title to all assets contemplated by this transaction to Buyer; each party shall execute such further and other documentation as may be reasonably necessary for the completion of this transaction on the basis set out herein.
19. Any matter in dispute under this Letter Agreement shall be referred to arbitration under the rules of the American Arbitration Association in the County of \_\_\_\_\_, State of \_\_\_\_\_. The decision of such arbitrator or panel of arbitrators (as the case may be) shall be final and binding upon the parties.
20. Seller agrees that all of the representations and warranties in this Letter Agreement: (i) are true and correct as of the date of the execution of this Letter Agreement and will be so at the date of each Closing, and (ii) shall not merge on Closing for a period of two years from the date of Closing. In addition to the other representations and warranties made by Seller in other paragraphs of this Letter Agreement, Seller represents and warrants that: (i) Seller is selling Buyer all of the material assets sufficient for the Seller's operation of the Store subject to the Leases including the POS systems and Inventory, (ii) the Store was constructed and is currently being operated in compliance with all applicable laws (including all bulk sales laws if applicable), and (iii) this Letter Agreement is a valid, binding, and enforceable obligation against Seller and that this Letter Agreement does not conflict with any of Seller's other agreements or organizational documents.
21. The prevailing party in any action to enforce, interpret, or pursue rights or remedies under this Letter Agreement between Buyer and Seller shall be entitled to recovery of all of its actual attorney fees and costs reasonably incurred, including any incurred on appeal or enforcing any judgment or order.
22. Buyer and Seller agree that the form of the Consents shall be the Estoppel Certificate and the Assignment and Assumption Agreement forms attached hereto as Schedule A-3.

23. This Letter Agreement as delivered by Seller shall be open for acceptance by Buyer until \_\_\_\_\_ pm \_\_\_\_\_ daylight time on \_(date)\_, and if not by then accepted by the Buyer, shall be deemed to be null and void and of no further force or effect.

We look forward to completing this transaction.

Yours sincerely,

\_\_\_\_\_ (Seller)

By \_\_\_\_\_  
Peggy Cherng, Co-Chairman and Co-CEO

The terms hereof are agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_ (Buyer)

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



**Schedule A-1**

**RESTAURANT AND LOCATION**

Panda Express Restaurant Store Number \_\_\_\_ formerly \_\_\_\_

Location: \_\_\_\_\_

Landlord: \_\_\_\_\_

**Schedule A-2**

**List of Store Assets (To Be Included)**

### Schedule A-3 (i and ii)

#### FORM OF CONSENTS

#### (i) ESTOPPEL CERTIFICATE AND (ii) ASSIGNMENT & ASSUMPTION AGREEMENT

##### ESTOPPEL CERTIFICATE

Re: Lease (the "Lease") between \_\_\_\_\_, as  
Landlord or its assignees ("Landlord"), and \_\_\_\_\_  
\_\_\_\_\_, as Tenant ("Tenant"), dated  
\_\_\_\_\_, 20\_\_ for approximately \_\_\_\_\_ square feet of space in [name,  
city, state of project] \_\_\_\_\_  
\_\_\_\_\_ (the "Project") as amended by the  
following amendments [list; if none, say "None"]:  
\_\_\_\_\_

Landlord understands that XXXXXXXXXX (together with any successors of or assignees from XXXXXXXXXX, the "Tenant") intends to enter into a transaction with consent of Landlord, a copy of such consent attached hereto, permitting Tenant to assign the Lease to a third party (the "Assignee"). Tenant presently leases premises pursuant to the Lease, and, in connection with the foregoing, Landlord hereby certifies, as of the date hereof:

(a) The Lease is in full force and effect; there are no amendments or modifications of any kind to the Lease except as referenced above (if any); there are no other promises, agreements, understandings, or commitments between Landlord and Tenant relating to the premises leased under the Lease; and Tenant has not given Landlord any notice of termination thereunder;

(b) There has not been and is now no subletting of the leased premises, or any part thereof, or assignment by Tenant of the Lease, or any rights therein, to any party;

(c) A security deposit in the amount of \$\_\_\_\_\_ has been given by Tenant under the terms of, or with respect to, the Lease and this amount is held only subject to the written terms of the Lease;

(d) To the best of Landlord's knowledge, no uncured default, event of default, or breach by Landlord exists under the Lease. Tenant has made no claim against Landlord alleging Landlord's default under the Lease

(e) Tenant is in full and complete possession of its leased premises in the Project and has accepted its leased premises in the Project (excluding latent defects), including any work of Landlord performed thereon pursuant to the terms and provisions of the Lease, and all common areas of the Project (including, without limitation, parking areas, sidewalks, access ways and landscaping) are in compliance with the Lease and are satisfactory for Tenant's purposes;

(f) To the best of Landlord's knowledge, there are no rental, lease, or similar commissions payable by either party with respect to the Lease.

(g) Tenant is obligated to pay rent to Landlord at the rate set forth in the Lease. Tenant is current with respect to, and is paying the full rent and other charges stipulated in the Lease (including, without limitation, common area maintenance charges) with no offsets, deductions,

defenses or claims; and Tenant has not prepaid any rent or other amounts to Landlord other than rent and other charges due and payable in the calendar month of this certification, except any overpayment of prepaid escalation costs;

(h) Except as otherwise stated in the Lease, Tenant is not entitled to any concession or rebate of rent or other charges from time to time due and payable under the Lease;

(i) The current monthly estimated "common area maintenance" charge paid by Tenant under the Lease is \$\_\_\_\_\_;

(j) The current monthly estimated charge for taxes paid by Tenant under the Lease is \$\_\_\_\_\_;

(k) The current monthly estimated charge for insurance paid by Tenant under the Lease is \$\_\_\_\_\_;

(l) The monthly base rent under the Lease is \$\_\_\_\_\_ and all rent and charges payable under the Lease have been paid by Tenant through \_\_\_\_\_, 20\_\_;

(m) Tenant is open for business and in operation in the Project;

(n) The undersigned representative of Landlord is duly authorized and fully qualified to execute this instrument on behalf of Landlord thereby binding Landlord;

(o) Tenant acknowledges that the initial term of the Lease commenced on \_\_\_\_\_, 20\_\_, and shall expire on \_\_\_\_\_, 20\_\_, unless sooner terminated in accordance with the terms of the Lease. Tenant has no option to renew or extend the lease term, except as follows (if none, so state):  
\_\_\_\_\_  
\_\_\_\_\_.

(p) Tenant has no option or right to purchase the property of which the demised premises are a part, or any part thereof; and

(q) Landlord acknowledges and agrees that Tenant and Assignee shall be entitled to rely on Landlord's certifications set forth herein.

(r) Landlord acknowledges that Tenant does not waive any rights of recovery from any field audit as permitted in the Lease or reconciliation of prepaid or estimated additional rent.

LANDLORD:

By:

Name:

Title:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made and entered into effective as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and among, *Enter Landlord particulars* ("Landlord"), and Panda Express, Inc., whose address 1683 Walnut Grove Avenue, Rosemead, CA 91770 (as applicable) corporation ("Assignor"), and \_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_ ("Assignee"), who agree as follows.

1. Recitals. This Assignment is made with reference to the following facts and objectives:

a. Landlord and Assignor, as tenant, entered into a written Lease dated \_\_\_\_\_, ("the Lease"), in which Landlord leased to Assignor and Assignor leased from Landlord premises located in the Terminal as space # \_\_\_\_\_ in the City of \_\_\_\_\_, as more particularly described in the Lease ("Premises"). A copy of the Lease and all amendments thereto is attached hereto as Exhibit "A" and incorporated herein by this reference.

b. Assignor now desires to assign all its right, title, and interest in the Lease to Assignee.

c. Landlord shall consent to the proposed assignment on the conditions set forth in this Assignment.

2. Effective date of assignment: The assignment of the Lease shall take effect on \_\_\_\_, 20\_\_, and Assignor shall give possession of the Premises to Assignee on that date.

3. Assignment and assumption: Assignor assigns and transfers to Assignee all its right, title, and interest in the Lease and the related storage lease, if any, and Assignee accepts the assignment and assigns and agrees to perform, as a direct obligation to Landlord, all the obligations of "Lessee" under the Lease arising under the Lease from and after the effective date of this Assignment.

4. Landlord's consent: Landlord consents to the assignment without waiver of the restriction concerning further assignment.

5. Tenant Improvements: Assignee has agreed to perform the tenant improvements required by Landlord attached as Exhibit 1, Landlord on or before \_\_\_\_\_.

6. Assignor's liability: Assignor shall remain liable for the performance of the monetary provisions of the Lease.

7. Assignor's and Landlord's Estoppel: Assignor and Landlord hereby certify to the best of their knowledge the following facts:

a. The copy of the Lease attached as Exhibit "A" is a true and complete copy of the Lease, including all modifications and amendments thereto.

b. The term of the Lease commenced on *Date* and will expire on *Date*.

c. The base rent under the Lease is presently \$\_\_\_\_\_, per month through the end of the term, the additional rent (e.g., Tenant's prorated share of common area

maintenance charges, taxes, and other charges) is presently \$\_\_\_\_\_ per month, and the percentage rent is presently \$\_\_\_\_\_ per month (*modify as necessary to fit each situation*). Assignor is current in its payment obligation respecting rent and any other required payments.

d. Neither Landlord nor Assignor is in default under any provision of the Lease, nor is there any condition which, through the passage of time or otherwise, would constitute a default under the Lease.

e. Assignor and Landlord acknowledge that Assignee may rely upon the representations contained in this Section 7 in entering into and accepting assignment of the Lease.

8. In consideration of the assignment of the Lease to Assignee, the Lease shall be amended as follows:

- a) permitting Assignee to temporarily close its operations at the leased premises for a reasonable period of time beginning \_\_\_\_\_, to carry out a remodeling of the Premises without thereby causing a default under the Lease;
- b) agreeing that such remodeling under (a) will be sufficient to satisfy any requirement for any additional remodeling or renovation by Assignee as Tenant as may be provided by the present provisions of the Lease;
- c) permitting Assignee to carry on business as a Panda Express Restaurant;
- d) permitting the sale of all food items commonly sold in Panda Express Restaurants as set out on the attached Panda Express menu; (ATTACH)
- e) changing the address for notices to Tenant to Assignee's office address. (INSERT)

9. Assignee to hold Assignor harmless: If Assignee defaults under the Lease, Assignee shall indemnify and hold Assignor harmless from all damages resulting from the default. If Assignee defaults in its obligations under the Lease and Assignor pays rent to Landlord or fulfills any of Assignee's other obligations in order to prevent Assignee from being in default, Assignee immediately shall reimburse Assignor for the amount of rent or costs incurred by Assignor in fulfilling Assignee's obligations under this Assignment, together with interest on those sums at the rate of 10% per annum. Notwithstanding the foregoing, however, Assignee shall have no liability to Assignor with respect to any defaults or other matters under the Lease which are attributable to acts or omissions of Assignee prior to the effective date of the Assignment.

10. Default of Lease: Notice to Assignor:

a. Notice to Assignor: Landlord will send to Assignor any notice of default that Landlord sends to Assignee.

b. Assignor's remedies against Assignee. If Assignee defaults under the Lease, Assignor shall have all rights against Assignee that are available by law and those contained in the Lease, including, without limitation, Assignor's right to reenter and retake possession of the Premises from Assignee.

11. Security deposit: The parties acknowledge that Landlord now holds the sum of \$\_\_\_\_\_ (*add only if applicable*), as a security deposit, to be applied subject to the provisions of

the Lease. Assignor releases all claims to that sum, and the sum shall be held by Landlord for the benefit of Assignee, subject to the provisions of the Lease.

12. Amendment of Lease: Landlord and Assignee shall not enter into any agreement that amends the Lease, save and except as specifically referred to herein without Assignor's consent, which consent shall not be arbitrarily or unreasonably withheld unless any financial obligation of Assignor under the Lease shall be increased in any manner. Any amendment of the Lease in violation of this provision without the written consent of Assignor (which shall not be unreasonably withheld, conditioned, or delayed) shall have no force or effect on or against Assignor.

13. Landlord's Representations & Warranties: Landlord represents and warrants to Assignor and Assignee that: (i) Landlord has full corporate power and authority to enter into this Assignment; (ii) no additional signatories, modifications or consents are required to make this Assignment binding and fully enforceable against Landlord; and (iii) Landlord's execution and delivery of this Agreement shall not conflict with or contravene any of Landlord's existing leases or agreements with respect to the \_\_\_\_\_ in which the Premises are located. Landlord agrees to indemnify Assignee in the event of a breach of any of these representations and warranties.

14. Miscellaneous

a. Attorneys' fees. If any party commences an action against any of the parties arising out of or in connection with this Assignment, the prevailing party or parties shall be entitled to recover from the losing party or parties reasonable attorneys' fees and costs of suit.

b. Notice. Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other parties or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other parties shall be addressed to the other parties at the addresses set forth in the introductory paragraph of this Assignment. Any party may change its address by notifying the other parties of the change of address. Notice shall be deemed communicated within three (3) days from the time of mailing if mailed as provided in this paragraph.

c. Successors. This Assignment shall be binding on and inure to the benefit of the parties and their successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment effective as of the date first set forth above.

LESSOR:

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ASSIGNOR:

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ASSIGNEE:

\_\_\_\_\_

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

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

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



**Schedule A-4**

**Panda Express  
Mall Venue Approved Menu Items  
(TO BE ATTACHED)**

**EXHIBIT G TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**LISTS OF CURRENT AND FORMER LICENSEES**

**List of Current and Former Licensees as of ~~12/30/2023~~ 12/28/2024**

These 11~~4~~ Restaurants are owned by independent licensees.

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Aramark	University of Alabama Tuscaloosa PX	751 Campus Drive	Tuscaloosa	AL	35401	
Aramark	University of South Alabama PX	350 Campus Drive	Mobile	AL	36688	
Aramark	Southern Arkansas University	100 East University	Magnolia	AR	71753	
<del>Compass Group USA, Inc.</del> <a href="#">Aramark</a>	Harding University PX	915 E Market Ave., <del>Searcy, AR</del>	Searcy	AR	72143 <del>9</del>	
Gila River Gaming Enterprises, Inc.	Lone Butte Casino PX	1077 S. Kyrene Road	Chandler	AZ	85226	
Gila River Gaming Enterprises, Inc.	Vee Quiva Hotel & Casino PX	15091 South Komatke Lane	Leveene	AZ	85339	
Aramark	Arizona State University- Downtown Phoenix Campus	120 E. Taylor Street	Phoenix	AZ	85004	
Aramark	CSU Bakersfield	9001 Stockdale Highway	Bakersfield	CA	93311	
Compass Group USA, Inc.	CSU East Bay PX	25800 Carlos Bee Blvd.	Hayward	CA	94542	510-885-4733
Aramark	University of California Irvine PX	A232 Student Center	Irvine	CA	92697	949-824-0659
USC	University of Southern California PX	3607 Trousdale Pkwy	Los Angeles	CA	90089	213-740-9904
USC	USC Health Science Center PX	1969 Zonal Ave.	Los Angeles	CA	90006	323-442-1943
Host International Inc.	Los Angeles International Airport	Tom Bradley Terminal West- 1 World Way	Los Angeles	CA	90044	
Host International Inc.	Los Angeles International Airport (Terminal 8)	Terminal 8- 1 World Way	Los Angeles	CA	90045	
SSP	San Diego International Airport PX	3225 North Harbor Drive	San Diego	CA	92101	
Compass Group USA, Inc.	San Jose State University PX	1 Washington Square	San Jose	CA	95192	408-924-1754
Universal Studios LLP	Universal Studio PX	100 Universal City Plaza	Universal City	CA	91608	818-622-3775
Concord Collective Partners, LLC.	LAX Terminal 1 PX	1 World Way	Los Angeles	CA	90045	
<a href="#">Cal Poly Corporation</a>	<a href="#">Cal Poly San Luis Obispo PX</a>	<a href="#">1 Grand Avenue, Building 19</a>	<a href="#">San Luis Obispo</a>	<a href="#">CA</a>	<a href="#">93407</a>	
Concessions International, LLC	Denver International Airport II PX	8500 Pena Blvd	Denver	CO	80249	
Applegreen USA Welcome Centres, LLC	Delaware House Travel Plaza PX	530 JFK Memorial Hwy	Newark	DE	19702	
Compass Group USA, Inc.	University of North Florida	I UNF Drive	Jacksonville	FL	32224	
Compass Group USA, Inc	University of Florida (Reitz Union) PX	686 Museum Road	Gainesville	FL	32611	352-846-1970
Compass Group USA, Inc	University of Florida Health Science PX	1600 SW Archer Road	Gainesville	FL	32611	352-273-6187
Compass Group USA, Inc.	University Of Miami PX	University of Miami	Miami	FL	33124	

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Compass Group USA, Inc.	Florida International University PX	11200 SW 8th Street	Miami	FL	33174	
Lee Wesley Group, Inc.	Orlando Airport Main Terminal PX L	9333 Airport Blvd	Orlando	FL	32827	407-825-3180
Aramark	University of Central Florida	12715 Pegasus Drive	Orlando	FL	92826	
Aramark	University of South Florida	4103 USF Cedar Circle	Tampa	FL	33620	
Delaware North	Tampa International Airport	4100 George J. Bean Parkway, Terminal E	Tampa	FL	33607	
Compass Group USA Inc	Florida Atlantic University PX	777 Glades Rd	Boca Raton	FL	33431	
<del>University of Georgia Department of Food Services</del>	<del>University of Georgia PX</del>	<del>University Of Georgia</del>	<del>Athens</del>	<del>GA</del>	<del>31602</del>	
Aramark	Mercer University PX	Student Center	Macon	GA	31207	
Aladdin Food Management Services, LLC	Georgia Gwinnett College PX	1000 University Center Ln	Lawrenceville	GA	30043	
Compass Group USA,	Boise State University	1515 West University Drive	Boise	ID	83706	208-426-1007
Compass Group USA, Inc.	State Farm South Campus Building H PX	3 State Farm Plaza South	Bloomington	IL	61791	309-763-2426
<del>Compass Group USA, JDDA Concession Management</del> Inc.	University of Illinois at Chicago	750 Halstead Street	Chicago	IL	60607	
Compass Group USA, Inc.	Indiana University- Purdue University Indianapolis	420 University Blvd.	Indianapolis	IN	46202	
Compass Group USA, Inc.	Wichita State University	1845 Fairmount Street	Wichita	KS	67260	
Aramark	University of Kentucky	101 Main Building	Lexington	KY	40506	
Aramark	University of Louisville	2301 S 3 <sup>rd</sup> Street	Louisville	KY	40292	
Aramark	Eastern Kentucky University	521 Lancaster Avenue	Richmond	KY	40475	
Aramark	Western Kentucky University (Relocation) PX	1509 Hilltop Dr	Bowling Green	KY	42101	
Compass Group USA, Inc.	Louisiana State University	Louisiana State University	Baton Rouge	LA	70803	225-578-5772
Aramark	Southeastern Louisiana University PX	Southeastern Louisiana University	Hammond	LA	70402	
Host International, Inc.	Louis Armstrong New Orleans Int. Airport	900 Airline Dr.	Kenner	LA	70062	
Aramark	Boston University	775 Commonwealth Ave	Boston	MA	02215	617-353-2000
Aramark	Towson University	8000 York Road	Towson	MD	21252	
Aramark	Grand Valley State University PX	10670 S Campus Drive	Allendale	MI	49401	
Aramark	Wayne State University PX	5211 Gullen Mall	Detroit	MI	48202	
Compass Group USA, Inc.	Oakland University PX	2200 North Squirrel Road	Rochester	MI	48309	
Aramark	Saginaw Valley State University	7400 Bay Road	University Center	MI	48710	
Compass Group USA	University of Minnesota Coffman Union	321 19th Ave S	Minneapolis	MN	55455	612-625-2037

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Compass Group USA	University of Minnesota - West Bank Campus PX	300 Washington Avenue Southeast	Minneapolis	MN	55455	612-625-1631
Compass Group USA, Inc.	Winona State University	250 W. Howard Street	Winona	MN	55987	
Areas Aero MSP JV, LLC	Minneapolis-Saint Paul Int. Airport	4300 Glumack Dr.	Minneapolis	MN	55450	
AREAS CREWS LAX	Minneapolis Airport Terminal 1- F Gates PX	7150 Humphrey Drive	Minneapolis	MN	55450	
Compass Group USA, Inc.	Southeast Missouri State University PX	One University Plaza	Cape Girardeau	MO	63701	
Compass Group USA, Inc.	Missouri State University PX	Plaster Student Union	Springfield	MO	65807	417-836-8390
Aramark	University of Mississippi	218 Student Union Drive	Oxford	MS	38677	
<a href="#">Aramark</a>	<a href="#">University of Southern Mississippi PX</a>	<a href="#">6553 U.s. 49</a>	<a href="#">Hattiesburg</a>	<a href="#">MS</a>	<a href="#">39401</a>	
Compass Group USA, Inc.	University of North Carolina - Charlotte PX	Cone University Center	Charlotte	NC	28223	
Host	Charlotte Douglas International Airport	Concourse E/Gate 7	Charlotte	NC	28208	
Aramark	W. Carolina University PX	160 University Way #112	Cullowhee	NC	28723	828-227-7177
Aramark	East Carolina University PX	501 East 10 <sup>th</sup> Street	Greenville	NC	27858	252-902-5451
Harrah's	Harrah's Casino - Murphy PX	777 Casino Parkway	Murphy	NC	28906	
Aramark	University of North Carolina Wilmington	601 S. College Rd.	Wilmington	NC	28403	
Aramark	North Carolina Central University PX	500 Nelson St	Durham	NC	27707	
Compass Group USA, Inc.	University of North Carolina Greensboro PX	1400 Spring Garden St	Greensboro	NC	27412	
University of North Dakota	University of North Dakota PX	2901 University Avenue	Grand Forks	ND	58202	
AREAS DFB EWR JV, LLC	Newark Liberty International Airport Terminal B PX	3 Brewster Rd., Space Byb	Newark	NJ	07114	
*Gourmet Dining LLC	Montclair State University PX	Student Center/1 Normal Avenue	Montclair	NJ	07043	
Applegreen USA Welcome Centres, LLC	Woodrow Wilson Travel Plaza PX	Mile Marker 57.8 North	Hamilton Township	NJ	08691	
Applegreen USA Welcome Centres, LLC	Molly Pitcher Travel Plaza PX	Mile Marker 71.9	Cranbury	NJ	08512	
Fresquez Concessions, Inc.	Albuquerque In't Airport PX	2200 Sunport Blvd. SE Loop Southeast	Albuquerque	NM	87106	505-842-4292
Virtual Hospitality Group-West, LLC	Isleta Resort and Casino PX	11000 Broadway Southeast	Albuquerque	NM	87105	
Syracuse University	Syracuse University PX	200 Waverly Ave	Syracuse	NY	13210	
<a href="#">Applegreen</a>	<a href="#">Ramapo Service Area PX</a>	<a href="#">Milepost 33 Southbound.</a>	<a href="#">Sloatsburg</a>	<a href="#">NY</a>	<a href="#">10974</a>	
<a href="#">Applegreen</a>	<a href="#">Sloatsburg Travel Plaza PX</a>	<a href="#">Mile Maker, New York State Thruway, 33 North</a>	<a href="#">Sloatsburg</a>	<a href="#">NY</a>	<a href="#">10974</a>	

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Aramark	University of Akron PX	303 Carroll Street	Akron	OH	44325	
Compass Group USA, Inc.	Bowling Green State University PX	806 Ridge St	Bowling Green	OH	43403	419-372-2641
<del>Aramark</del> <a href="#">Applegreen</a>	<del>University of Cincinnati</del> <a href="#">Erie Islands Travel Plaza PX</a>	<del>1012 North County Road 2600-Clifton Ave., Cincinnati, Oh</del>	<del>Cincinnati</del> <a href="#">Clyde</a>	OH	<del>45221</del> <a href="#">43410</a>	
<a href="#">Applegreen</a>	<a href="#">Commodore Perry Travel Plaza PX</a>	<a href="#">1012 Ohio Turnpike</a>	<a href="#">Vickery</a>	<a href="#">OH</a>	<a href="#">43464</a>	
Pioneer College Catering	Cedarville University PX	251 North Main Street	Cedarville	OH	45314	
Aramark	Temple University PX	1620 North Park Avenue	Philadelphia	PA	19122	
Aramark	University of South Carolina PX	1400 Green St	Columbia	SC	29208	803-348-3270
Aramark	Clemson University PX	105 Sikes Hall, Clemson, Sc	Clemson	SC	29634	864-656-3663
Aramark	University of Tennessee	615 McCallie Avenue	Chattanooga	TN	37403	
<del>Aramark</del>	<del>University of Tennessee PX</del>	<del>1659 Cumberland Avenue</del>	<del>Knoxville</del>	<del>TN</del>	<del>37916</del>	
Aramark	University of Tennessee II PX	915 Volunteer Boulevard	Knoxville	TN	37996	
Compass Group USA, Inc.	University of Memphis	University of Memphis	Memphis	TN	38111	
Aramark	Middle Tennessee State University	1301 E. Main Street	Murfreesboro	TN	37132	
Compass Group USA, Inc.	University of Texas at Arlington	300 W 1st Street	Arlington	TX	76019	215-238-6127
Compass Group USA, Inc.	Lamar University PX	Setzer Student Center	Beaumont	TX	77710	
Four Leaf Ventures	Dallas/Fort Worth International Airport - Terminal B	2141 International Pkwy	Dallas	TX	75261	
Concessions International, Inc.	Dallas/Fort Worth International Airport	2400 Aviation Dr	Dallas	TX	75261	
Compass Group USA, Inc.	Texas A&M - Corpus Christi PX	6300 Ocean Drive	Corpus Christi	TX	78412	
Aramark	University of Houston PX	4455 University Dr Ste 150	Houston	TX	77204	
Aramark	Sam Houston State University PX	1802 Avenue I	Huntsville	TX	77340	
*Compass Group USA, Inc.	Stephen F. Austin State University	222 Vista Dr	Nacogdoches	TX	75962	936-468-5208
Compass Group USA, Inc.	University of Texas - Dallas PX	Student Union Building, 800 W Campbell Road	Richardson	TX	75080	
Compass Group USA, Inc.	Texas State University PX	100 W. Woods Street	San Marcos	TX	78666	
<del>Aramark</del> <a href="#">Compass Group USA Inc.</a>	Baylor University PX	1311 S 5th Street	Waco	TX	76706	254-710-4269
Cediel Concession Management LLC	George Bush Intercontinental Airport -Terminal E5	3950 S. Terminal Road	Houston	TX	77032	832-504-8665
Cediel Concession Management LLC	George Bush Intercontinental Airport - Terminal A	2800 Terminal Road Terminal A	Houston	TX	77032	832-638-8892
Cediel Concession Management LLC	George Bush Intercontinental Airport - Terminal E24	3950 S Terminal Rd	Houston	TX	77032	626-400-8795
Cediel Concession Management LLC	George Bush Intercontinental Airport - Terminal C	2899 N Terminal Rd.	Houston	TX	77032	713-815-8566

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Aramark	The University of Texas at San Antonio PX	1 Utsa Circle	San Antonio	TX	78249	210-458-6972
SSP	Salt Lake City International Airport PX	776 N Terminal Dr.	Salt Lake City	UT	84122	
Aramark	Longwood University PX	201 High Street	Farmville	VA	92309	
Sodexo LLC	HOPS PX	Address unavailable due to confidentiality requirements.	McClean	VA	22101	
Lee Wesley Group, Inc.	Norfolk Naval Station PX	1560 Mall Drive.	Norfolk	VA	23511	757-321-1640
Aramark	James Madison University	261 East Grace Street	Harrisonburg	VA	22807	
Eastern Washington University	Eastern Washington University- Cheney PX	526 5th St	Cheney	WA	99004	
Central Washington University	Central Washington University	401 East Dean Nicholson Blvd	Ellensburg	WA	98926	
University of Wyoming	University of Wyoming PX	1000 E University Ave	Laramie	WY	82071	307-766-6269

\*Gourmet Dining LLC is subsidiary of Compass Group USA, Inc.

These ~~42~~<sup>15</sup> proposed Panda Express Restaurants are not yet open, but a license agreement has been signed.

LICENSEE NAME	PROPOSED STORE NAME	CITY	STATE
<del>Applegreen</del> <a href="#">IOC Design and Consulting, LLC</a>	<del>Ramapo Service Area</del> <a href="#">San Francisco International Airport (SFO)</a>	<del>Sloatsburg</del> <a href="#">San Francisco</a>	<del>NY</del> <a href="#">CA</a>
<del>ELPX, LLC</del> <a href="#">Concessions International, LLC</a>	<del>MCAS New River</del> <a href="#">Denver International Airport</a>	<del>Jacksonville</del> <a href="#">Denver</a>	<del>FL</del> <a href="#">CO</a>
<del>Aramark</del> <a href="#">Compass Group Usa Inc</a>	<del>Cleveland State</del> <a href="#">George Washington University</a>	<del>Cleveland</del> <a href="#">Washington</a>	<del>OH</del> <a href="#">DC</a>
<del>FOCUS GROUP SERVICES</del> <a href="#">ELPX, LLC</a>	Fort <del>Carson</del> <a href="#">Stewart</a>	<del>Colorado Springs</del> <a href="#">Fort Stewart</a>	<del>CO</del> <a href="#">GA</a>
<del>HMS</del> <a href="#">Host Corporation</a>	<a href="#">Honolulu International Airport PX</a>	<a href="#">Honolulu</a>	<a href="#">HI</a>
<del>HMS</del> <a href="#">Host Corporation</a>	<a href="#">Honolulu International Airport PX</a>	<a href="#">Honolulu</a>	<a href="#">HI</a>
<del>Applegreen</del>	<a href="#">Knute Rockne Travel Plaza</a>	<a href="#">Rolling Prairie</a>	<a href="#">IN</a>
<del>FOCUS GROUP SERVICES</del> <a href="#">KWPX, LLC</a>	Fort <del>Hood</del> <a href="#">Campbell</a>	Fort <del>Hood</del> <a href="#">Campbell</a>	<del>TX</del> <a href="#">KY</a>
<del>FOCUS GROUP SERVICES, LLC</del> <a href="#">Compass Group Usa Inc</a>	<del>Sheppard Air Force Base</del> <a href="#">University of North Carolina at Charlotte</a>	<del>Sheppard AFB</del> <a href="#">Charlotte</a>	<del>TX</del> <a href="#">NC</a>
<del>FOCUS GROUP SERVICES</del> <a href="#">ELPX, LLC</a>	<del>Lackland AFB, MCAS New River</del>	<del>San Antonio</del> <a href="#">Jacksonville</a>	<del>TX</del> <a href="#">NC</a>
<del>FOCUS GROUP SERVICES, LLC</del> <a href="#">Focus Group Services LLC</a>	Fort <del>Sam Houston, Dix</del>	<del>Fort Sam Houston, Joint Base MDL</del>	<del>TX</del> <a href="#">NJ</a>
<del>Applegreen</del> <a href="#">HMS <a href="#">Host Corporation</a></a>	<del>Sloatsburg Travel Plaza, Harry Reid International Airport (Las Vegas Airport)</del>	<del>Sloatsburg, Las Vegas</del>	<del>NY</del> <a href="#">NV</a>
<del>Applegreen</del>	<del>Ulster Service Area</del>	<del>Ruby</del>	<del>NY</del>
<del>Compass Group USA Inc</del> <a href="#">Applegreen</a>	<del>State Farm</del> <a href="#">Angola Service Area</a> PX	<del>Bloomington, Angola</del>	<del>IL</del> <a href="#">NY</a>
<del>KWPX</del> <a href="#">FOCUS GROUP SERVICES, LLC</a>	Fort <del>Campbell</del> <a href="#">Cavazos</a>	Fort <del>Campbell</del> <a href="#">Cavazos</a>	<del>KY</del> <a href="#">TX</a>

These ~~54~~<sup>59</sup> Panda Express Restaurants are owned by joint venture licensees.

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
ELPX, LLC	PHOENIX INTERNATIONAL AIRPORT PX	3400 Sky Harbor Blvd., Terminal 4, Space N2-f36	Phoenix	AZ	85034	602-267-9880
ELPX, LLC	PORT HUENEME	130 23 <sup>rd</sup> Ave., Building 2	Port Hueneme	CA	93053	805-985-8818
ELPX, LLC	NAVAL AIR STATION - LEMOORE	796 Reeves Blvd., Building 295-B	Lemoore	CA	93246	559-998-9963



LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
ELPX, LLC	EDWARDS AIR FORCE BASE	203 W. Popson Ave Building #2500	Edwards	CA	93524	661-258-0755
ELPX, LLC	Camp Pendleton II PX	Mainside Center, Marine Mart, Building 15102	Camp Pendleton North	CA	92058	760-512-6000
ELPX, LLC	CAMP PENDLETON PX	20845 Pacific Plaza #106	Camp Pendleton	CA	92055	760-430-7981
ELPX, LLC	32ND STREET NAVAL BASE PX	2260 Callagan Hwy	San Diego	CA	92136	619-236-8718
ELPX, LLC	NAVAL AMPHIBIOUS BASE PX	3238 Guadalcanal Road	San Diego	CA	92155	619-522-2903
ELPX, LLC	NORTH ISLAND NAVAL BASE PX	Building 2017, NAS North Island	San Diego	CA	92155	619-522-2966
ELPX, LLC	MCAS MIRAMAR PX	Building 2260, Suite C, MCAS Miramar Exchange	San Diego	CA	92145	858-693-3033
ELPX, LLC	Travis Air Force Base PX	461 Skymaster Dr. Bldg 648	Travis AFB	CA	94535	707-673-2485
<a href="#">FOCUS GROUP SERVICES, LLC.</a>	<a href="#">Fort Carson PX</a>	<a href="#">6110 Martinez St</a>	<a href="#">Colorado Springs</a>	<a href="#">CO</a>	<a href="#">80913</a>	
FOCUS GROUP SERVICES, LLC.	CT Turnpike Milford SB PX	2 Connecticut Turnpike West	Milford	CT	06460	860-937-9828
ELPX, LLC	PENTAGON	1400 Defense Pentagon	Washington	DC	20301	703-271-4628
ELPX, LLC	Navy Yard	1244 Patterson Ave., Building 22	Washington	DC	20374	202-889-0514
ELPX, LLC	Naval Station Mayport PX	1596 Maine Street	Jacksonville	FL	32228	904-404-9982
ELPX, LLC	PENSACOLA NAVAL AIR STATION PX	250 Saufley St	Pensacola	FL	32508	850-455-7707
ELPX, LLC	Naval Air Station Jacksonville PX	6801 Roosevelt Blvd	Jacksonville	FL	32212	
<a href="#">FOCUS GROUP SERVICES, LLC.</a>	<a href="#">MacDill Air Force Base PX</a>	<a href="#">3108 N Boundry Blvd, Bldg 926</a>	<a href="#">Tampa</a>	<a href="#">FL</a>	<a href="#">33608</a>	
ELPX, LLC	Fort Eisenhower PX	407 B Street, Building 29722	Augusta	GA	30905	760-305-9555
FOCUS GROUP SERVICES, LLC.	Fort Benning	9220 Mame Road	Fort Benning	GA	31905	706-683-0085
FOCUS GROUP SERVICES, LLC.	Fort Benning II	103 Wold Ave., Bldg. 103	Fort Benning	GA	31905	706-641-2951
ELPX, LLC	Fort Stewart PX	Building 419, Vilseck Road	Fort Stewart	GA	31314	912-332-5095
FOCUS GROUP SERVICES, LLC.	Robins Air Force Base PX	982 Macon St	Warner Robins	GA	31098	478-442-7389
HJAIA Concessions, LLC	Atlanta Airport PX	12700 Spine Road Sw	Atlanta	GA	30320	
ELPX, LLC	Naval Base Guam PX	Exchange Road Building 258	Santa Rita	GU	96915	617-564-9887
ELPX, LLC	Pearl Harbor	810 Williamette St., Building 1786, Space 42	Pearl City	HI	96860	808-376-0279
ELPX, LLC	MCAS Kaneohe Bay (MCBH PX)	Building 6919, Unit #118, Selden St.	Mcbh Kaneohe Bay	HI	96863	808-223-7091
ELPX, LLC	Schofield Barracks PX	694 Mccornack Rd.	Schofield Barracks	HI	96857	808-744-0143
ELPX, LLC	Naval Station Great Lakes PX	2601 E Paul Jones St, Building 400	Great Lakes	IL	60088	224-637-8655
ELPX, LLC	Scott AFB PX	207 W Winters Street	Scott Air Force Base	IL	62225	618-825-9288
FOCUS GROUP SERVICES, LLC.	Fort Riley PX	6914 Warren Rd	Fort Riley	KS	66442	
ELPX, LLC	Fort Johnson PX	7742 Colorado Avenue	Fort Polk	LA	71459	337-283-5388
ELPX, LLC	NSA PX	NSA	Annapolis	MD	21402	410-571-5951
ELPX, LLC	BETHESDA NAVAL MEDICAL CENTER PX	8901 Wisconsin Avenue	Bethesda	MD	20889	240-396-6522
ELPX, LLC	NAS Patuxent River PX	22099 Cuddihy Rd, Building 2369	Patuxent River	MD	20670	310-863-8880
ELPX, LLC	Joint Base Andrews PX	Building 1811 G Street	Andrews AFB	MD	20762	310-909-0008
ELPX, LLC	Fort Meade PX	2799 Rose Street, Suite 17	Fort George Meade	MD	20755	410-874-3111

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
FOCUS GROUP SERVICES, LLC.	Fort Leonard Wood PX	Missouri Avenue	Fort Leonard Wood	MO	65473	
ELPX, LLC	Fort Drum PX	10730 Enduring Freedom Drive	Fort Drum	NY	13603	315-777-8201
ELPX, LLC	CAMP LEJEUNE PX	Bldg 1231, Mcx Complex	Camp Lejeune	NC	28547	910-451-8901
ELPX, LLC	Fort Bragg PX	2171 Reilly Rd	Fort Bragg	NC	28307	910-436-3085
ELPX, LLC	Fort Bragg II PX	1017 Canopy Lane	Fort Bragg	NC	28307	
ELPX, LLC	Joint Base Charleston PX	140 Fletcher St, Space #113	Goose Creek	SC	29445	843-990-9974
FOCUS GROUP SERVICES, LLC.	Fort Jackson PX	4110 Moseby St.	Columbia	SC	29207	803-883-9452
ELPX, LLC	Corpus Christi PX	Naval Air Station, Building 335	Corpus Christi	TX	78418	361-353-0947
ELPX, LLC	GEORGE BUSH INTL. AIRPORT - TERM. B	3100 N. Terminal Road, #24	Houston	TX	77032	281-230-3188
<a href="#">FOCUS GROUP SERVICES, LLC.</a>	<a href="#">Sheppard Air force Base PX</a>	<a href="#">Bldg 740, Avenue H</a>	<a href="#">Sheppard Afb</a>	<a href="#">TX</a>	<a href="#">76311</a>	
<a href="#">FOCUS GROUP SERVICES, LLC.</a>	<a href="#">Lackland AFB PX</a>	<a href="#">2180 Reese</a>	<a href="#">San Antonio</a>	<a href="#">TX</a>	<a href="#">78236</a>	
<a href="#">FOCUS GROUP SERVICES, LLC.</a>	<a href="#">Fort Sam Houston PX</a>	<a href="#">3390 William Hardee Road</a>	<a href="#">Fort Sam Houston</a>	<a href="#">TX</a>	<a href="#">78234</a>	
ELPX, LLC	Ft. Myer-Henderson Hall Base PX	Fort Myer - Henderson Hall 931 Pershing Drive, Building 441	Fort Myer	VA	22211	571-312-2712
ELPX, LLC	Fort Lee PX	300 A Avenue 1605 Building	Fort Lee	VA	23801	804-431-5106
ELPX, LLC	PORTSMOUTH NAVAL HOSPITAL PX	620 John Paul Jones Circle	Portsmouth	VA	23708	757-967-8950
KWPX, LLC	NAS OCEANA	1449 Tomcat Blvd	Virginia Beach	VA	23460	747-422-0333
KWPX, LLC	Joint Base Little Creek Fort Story PX	1170 Amphibious Drive, Bldg. 3443	Virginia Beach	VA	23459	757-802-9998
FOCUS GROUP SERVICES, LLC.	Langley Air Force Base PX	61 Spaatz Dr # 290	Hampton	VA	23665	
ELPX, LLC	Joint Base Lewis-McChord PX	11566 41 <sup>st</sup> Division Way	Tacoma	WA	98433	253-964-6088
FOCUS GROUP SERVICES, LLC.	Fort Eustis PX	1386 Washington Blvd, Fort Eustis,	Fort Eustis	VA	23604	
ELPX, LLC	Fort Belvoir PX	8651 John J Kingman Rd Bldg 2321	Fort Belvoir	VA	22060	

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

The following Panda Express Restaurants owned by licensees were closed in the fiscal year ended ~~12/30/23~~ 12/28/2024.

LICENSEE NAME	STORE NAME	ADDRESS	CITY	STATE	ZIP	PHONE
<del>Aramark</del> <u>University of Georgia Department of Food Services</u>	<del>Western Washington University</del> <u>University of Georgia</u> PX	<del>516 High</del> <u>Tate Student Center,</u> <u>3rd Floor Room 362c, 45 Baxter</u> <u>Street</u>	<del>Bellingham</del> <u>Ath</u> <u>ens</u>	<del>WA</del> <u>GA</u>	<del>98225</del> <u>3</u> <u>1602</u>	
<u>Aramark</u>	<u>University of Cincinnati</u> PX	<u>2600 Clifton Ave, Cincinnati, Oh</u>	<u>Cincinnati</u>	<u>OH</u>	<u>45221</u>	
<u>Aramark</u>	<u>University of Tennessee</u> PX	<u>1659 Cumberland Avenue</u>	<u>Knoxville</u>	<u>TN</u>	<u>37916</u>	

**EXHIBIT H TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**PROSPECTIVE LICENSEE  
CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

**PROSPECTIVE LICENSEE  
CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

This Confidentiality and Non-Disclosure Agreement ("Agreement") is effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date"), between **CITADEL PANDA EXPRESS, INC.**, formed under the laws of the State of California and with principal offices in Rosemead, California, and \_\_\_\_\_ ("Prospective Licensee") a \_\_\_\_\_ [corporation/limited liability company] formed under the laws of the State of \_\_\_\_\_ with a principal location at \_\_\_\_\_.

Licensor is the owner of the rights to the "**PANDA EXPRESS**" System (the "System") for establishing and operating businesses ("Licensed Businesses") that prepare and sell at retail for on-premises dining and carry-out of gourmet Chinese food items, beverages and other related menu items.

Licensor has developed certain information that is confidential and part of the System and is referred to as the "Confidential Information" as further described herein.

Prospective Licensee is seeking to purchase a license for a Licensed Business and Licensor will disclose to Prospective Licensee Confidential Information to assist Prospective Licensee in evaluating the license opportunity.

In order to protect the Confidential Information, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

**1. Confidential Information.** "Confidential Information" means any confidential, proprietary and/or trade secret information concerning the System or relating to the development and operation of a Licensed Business, including but not limited to business methods, marketing and advertising methods, market studies and analysis, computer software, customer surveys, layout and design features, employee recruitment and training, site location methods, pricing strategies, merchandising strategies, business plans, marketing plans and strategies, supplier arrangements, contents of operations manuals and other instructional manuals and materials, technical procedures and methods for rendering services, research strategies, projections and forecasts, except to the extent to which Prospective Licensee can establish by legally sufficient evidence such information: (i) was rightfully in Prospective Licensee's possession before receipt from Licensor; (ii) is or becomes a matter of public knowledge through no fault of Prospective Licensee; (iii) is rightfully received by Prospective Licensee from a third party without violation of any duty of confidentiality; or (iv) is or was independently developed by or for Prospective Licensee. Subject to the foregoing exceptions, "Confidential Information" also includes, without limitation, information of a similar nature received by Licensor from third parties and that Licensor is obligated to treat as confidential, and any negotiations between Licensor and Prospective Licensee relating to the license, the terms of a license agreement and/or a proposed Licensed Business.

**2. Restrictions on Use and Non-Disclosure of Confidential Information.** Except as otherwise expressly permitted in writing by Licensor, Prospective Licensee agrees not to: (a) use the Confidential Information for any purpose other than to evaluate the license offer; or (b) directly or indirectly distribute, publish or in any way disclose or reveal Confidential

Information to anyone other than affiliates, employees, partners, officers, agents or consultants who (i) have a need to know in connection with evaluating the license, (ii) have been advised of the information's confidential status, and (iii) agree to abide by the restrictions on use and disclosure included in this Agreement. Prospective Licensee shall be fully responsible for the compliance by such persons and entities with this Agreement.

**3. Disclosures Required by Law.** If Prospective Licensee becomes legally compelled to disclose any Confidential Information, Prospective Licensee shall provide Licensor with prompt written notice so that Licensor may seek a protective order or appropriate remedy. If no such remedy is obtained, or if Licensor waives compliance in writing, Prospective Licensee may furnish only that part of the information that is legally required and will exercise reasonable efforts to obtain confidential treatment of such information.

**4. Term of Agreement; Confidentiality Period.** This Agreement shall terminate upon an execution of a License Agreement by Prospective Licensee and Licensor. If no License Agreement is signed, then Prospective Licensee's obligations hereunder shall remain in effect as to each part of the Confidential Information that meets the legal definition of a "Trade Secret" for as long as it retains its character as a Trade Secret. As to Confidential Information that is not a Trade Secret, or that loses its character as a Trade Secret, the obligations hereunder shall remain in effect for the longer of (a) two years after the effective date of this Agreement or (b) two years after any event that causes the Confidential Information to lose its character as a Trade Secret (the "Confidentiality Period" as applicable under the foregoing). "Trade Secret" has the meaning as defined by California's Trade Secrets Act. Prospective Licensee will destroy or return to Licensor all copies of Confidential Information promptly upon the earlier of (i) Licensor's request at any time or (ii) expiration of the Confidentiality Period.

**5. Equitable Remedies.** Prospective Licensee agrees that a breach of this Agreement may cause continuing and irreparable injury to the Licensor as a direct result of any such violation, for which the remedies at law may be inadequate, and that Licensor shall be entitled to injunctive relief to prevent any violations of this Agreement and to other appropriate remedies and relief.

**6. Governing Law, Jurisdiction and Venue.** This Agreement shall be governed by the laws of the California. The parties agree that the state and federal courts located within California shall have exclusive jurisdiction and venue concerning actions arising under this Agreement and that all claims arising under or relating to this Agreement shall be brought in such courts. Each party hereto submits to the personal jurisdiction of such courts in connection with any action brought under or in relation to this Agreement.

**7. Attorneys' Fees.** The prevailing party in any legal action brought to enforce any rights under or pursuant to this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action.

**8. Not a License Offer.** This Agreement is not an offer of a license and shall be treated as independent of any license offer that may be made to Prospective Licensee. Licensor is not obligated to offer a license to Prospective Licensee, and Prospective Licensee is not obligated to accept any offer of a license, should one be made by Licensor.

**9. NO REPRESENTATION OR WARRANTY.** Licensor nor any of its Representatives makes any representation or warranty regarding the Confidential Information, including, without limitation, the ownership, accuracy, or completeness thereof, and neither

Licensor nor any of its Representatives shall have any liability or obligation of any nature as a result of the possession or use of the Confidential Information.

**PROSPECTIVE LICENSEE**

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

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

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

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

**EXHIBIT I TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**SAMPLE AFFILIATE JOINT VENTURE  
LIMITED LIABILITY COMPANY OPERATING AGREEMENT**



## LIMITED LIABILITY COMPANY OPERATING AGREEMENT

for

### (Name of Company) - Limited Liability Company

#### A Manager-Managed Limited Liability Company

THIS LIMITED LIABILITY COMPANY AGREEMENT (this “*Agreement*”) of (NAME OF COMPANY) Limited Liability Company (the “*Company*”) is entered into on the dates set forth on the signature page(s) below, but is effective as of \_\_\_\_\_, 20\_\_ (the “*Effective Date*”), by and among the parties listed on the signature page(s) below (collectively the “*Members*” and individually as a “*Member*”). Capitalized terms used in this Agreement and not otherwise defined are used as defined in Article 1, below.

### RECITALS

The Company was formed by the filing Articles of Organization with the Secretary of State of (STATE OF FORMATION) \_\_\_\_\_ on \_\_\_\_\_, 20\_\_. The Members desire to adopt this Agreement as a limited liability company operating agreement to complete the organization of the Company.

NOW, THEREFORE, the Members by this Agreement set forth the limited liability company operating agreement for the Company under the law of the State of \_\_\_\_\_, upon the terms and subject to the conditions of this Agreement.

### TERMS

#### Article I DEFINITIONS

When used in this Agreement, the following terms have the meanings set forth below. Any terms used and defined elsewhere in this Agreement will have the meanings set forth elsewhere. The definitions will apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun includes the corresponding masculine, feminine, and neuter forms. Unless the context requires otherwise, the words “include,” “includes” and “including” are used in the non-exclusive sense (that is, as if followed a phrase such as “without limitation” or “but not limited to”).

1.1 “*Act*” means the Uniform Limited Liability Company Act of \_\_\_\_\_ (STATE OF FORMATION AND REGULATIONS) § \_\_\_\_\_, *et seq.*, as the same may be amended from time to time, and any successor to that statute.

1.2 “*Affiliate*” means any individual, partnership, corporation, trust, or other entity or association, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with a person. The term “control” as used in the immediately preceding sentence means, with respect to a corporation or limited liability company, the right to exercise, directly or indirectly, more than 50% of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity, or association, the possession, directly or indirectly, of the power to direct or cause the direction of the controlled person’s management or policies.

1.3 “*Articles*” means the Articles of Organization of the Company filed with the \_\_\_\_\_ (STATE AGENCY) on \_\_\_\_\_, 20\_\_, as amended, modified, or supplemented from time to time.

1.4 “**Bankruptcy**” means: (a) the filing of an application by a Member for, or a Member’s consent to, the appointment of a trustee, receiver, or custodian of the Member’s assets; (b) the entry of an order for relief regarding a Member in proceedings under the United States Bankruptcy Code, as amended or superseded; (c) the Member’s making of a general assignment for the benefit of creditors; (d) the entry of an order, judgment, or decree by any court of competent jurisdiction appointing a trustee, receiver, or custodian of a Member’s assets unless the proceedings and the trustee, receiver, or custodian appointed are dismissed within 90 days; and/or (e) a Member’s failure generally to pay the Member’s debts as they become due within the meaning of § 303(h)(1) of the United States Bankruptcy Code, as determined by the Bankruptcy Court, or the admission in writing of the Member’s inability to pay the Member’s debts as they become due.

1.5 “**Capital Account**” means the capital account that the Company establishes and maintains for a Member pursuant to Section 3.3.

1.6 “**Capital Contribution**” means the total value of cash, the fair market value of property (including promissory notes or other obligations to contribute cash or property) contributed, and/or the fair market value of services rendered or to be rendered to the Company by a Member.

1.7 “**Capital Transaction**” means the sale, exchange, transfer and/or other disposition of the underlying asset of a Strategic Investment resulting in cash proceeds to the Company.

1.8 “**Capital Transaction Proceeds**” mean the gross receipts of the Company from any Capital Transaction in excess of the total of (a) \$2,000,000; *plus* (b) those payments reasonably calculated by the Manager(s) to enable the Company to meet its financial obligations in a timely manner and after payment of all costs and expenses of the Company as the same come due; *plus* (c) all amounts that the Manager(s) deem necessary to place into reserves for customary and usual claims relating to the Company’s business.

1.9 “**Class A Membership Interests**” means Membership Interests that have full voting rights. Except for voting rights, all of the rights, preferences and privileges and the dilutability of the Class A Membership Interests will be identical to the Class B Membership Interests.

1.10 “**Class B Membership Interests**” means Membership Interests that do not have voting rights. Except for the lack of voting rights, the rights, preferences and privileges and the dilutability of the Class B Membership Interests will be identical to the Class A Membership Interests.

1.11 “**Company Minimum Gain**” has the meaning ascribed to the term “Partnership Minimum Gain” in the Regulations § 1.704-2(d).

1.12 “**Contracts**” shall mean all contracts between the Company and \_\_\_\_\_ (LANDLORD OR LEASING AGENCY), or similar entity with respect to the operation of a Restaurant on \_\_\_\_\_ (DESCRIBE SITE OF LOCATION; i.e., Military Base, Airport, Stadium or University, etc.).

1.13 “**Covered Person**” has the meaning set forth in Section 11.1.

1.14 “**Distributable Cash**” means the amount of cash that the Manager(s) deem available for distribution to the Members, taking into account all the Company’s current debts, liabilities, and obligations, and amounts that the Manager(s) deem necessary to place into reserves for customary and usual claims relating to the Company’s business.

1.15 “**Economic Interest**” means the share of a Member (or of an Economic Interest Owner) of one or more of the Company’s Net Profits, Net Losses, and distributions of the Company’s assets pursuant to this Agreement and the Act, but does not include any other rights of a Member (such as the right to vote or participate in

the Company's management, or except as provided in the Act, any right to information concerning the Company's business and affairs).

1.16 **"Economic Interest Owner"** means the owner of an Economic Interest who is not a Member.

1.17 The **"Fiscal Year"** of the Company is a 52/53 week year (divided into 13 periods, generally of 4 weeks each), ending on the last Saturday in December of each year.

1.18 **"Former Member"** has the meaning ascribed to it in Section 8.1.

1.19 **"Former Member's Interest"** has the meaning ascribed to it in Section 8.1.

1.20 **"Gross Asset Value"** of an asset means the asset's fair market value.

1.21 **"IRC"** means the Internal Revenue Code of 1986, as amended, the provisions of any succeeding law, and to the extent applicable, the Regulations.

1.22 **"Majority Interest"** means one or more Class A Members whose Percentage Interests of Class A Membership Interests, taken together, exceed 50% of the aggregate of all Percentage Interests of Members holding Class A Membership Interests.

1.23 **"Manager(s)"** means the person or persons appointed as the Company's manager(s) from time-to-time.

1.24 **"Member"** means each person who (a) is an initial signatory to this Agreement, has been admitted to the Company as a Member in accordance with this Agreement, or is an assignee who has become a Member in accordance with Article 7; and (b) has not been expelled or been the subject of a Triggering Event resulting in the purchase and sale of the person's Membership Interest.

1.25 **"Member Nonrecourse Debt"** has the meaning ascribed to the term "partner nonrecourse debt" in Regulations § 1.704-2(b)(4).

1.26 **"Member Nonrecourse Deductions"** has the same meaning as the term "partner nonrecourse deductions" in Treasury Regulation Sections 1.704-2(i)(1) and (2).

1.27 **"Member Nonrecourse Debt Minimum Gain"** means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if the Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.7042(i)(3) of the Regulations.

1.28 **"Membership Interest"** means a Member's entire interest in the Company including the Member's Economic Interest, the right to vote on or participate in the Company's management, and the right to receive information concerning the Company's business and affairs.

1.29 **"Net Profits"** and **"Net Losses"** mean the Company's income, gain, loss, deductions, and credits in the aggregate or separately stated, as appropriate, determined in accordance with consistently applied accounting principles applied at the close of each fiscal year on the Company's information tax return filed for federal income tax purposes.

1.30 **"Nonrecourse Liability"** has the meaning set forth in Regulations § 1.752-1(a)(2).

1.31 **"Percentage Interest"** means the percentage calculated by taking the total number of all classes of Units of Interest of a Member set forth opposite the name of the Member under the heading "Number of Units of

Interest” in Exhibit A and dividing that number by the total number of Units of Interest held by all Members, as that percentage may be adjusted from time to time pursuant to this Agreement.

1.32 “**Person**” means any individual or entity, including a general partnership, limited partnership, limited liability company, corporation, trust, estate, real estate investment trust, or association.

1.33 “**Regulations**” means, unless the context clearly indicates otherwise, the regulations currently in force as final or temporary issued by the U.S. Department of Treasury pursuant to its authority under the IRC.

1.34 “**Restaurant**” means a Panda Express restaurant operated by the Company pursuant to one of the Contracts on (DESCRIBE SITE OF LOCATION; i.e., Military Base, Airport, Stadium or University, etc.).

1.35 “**Strategic Investment**” mean the direct or indirect capital investments of the Company, including direct acquisitions or indirect investments through vehicles such as limited liability companies, corporations, and joint ventures with third parties.

1.36 “**Tax Matters Member**” is the Member of the Company designated as such in accordance with the IRC § 6231. As of the date of this Agreement, the Tax Matters Member is \_\_\_\_\_ (NAME OF MAJORITY OWNER).

1.37 “**Term**” is the term of this Agreement, which is continuous or “at will” until terminated as provided in this Agreement or by law.

1.38 “**Transfer**” means every method to convey or otherwise dispose of a complete or partial interest, including transfer, assign, bequeath, donate, pledge, convey, sell, exchange, encumber, grant a security interest in, or in any other way alienate.

1.39 “**Triggering Event**” means any event described in Act § 428-601 as causing a Member’s dissociation from the Company.

## **Article 2 ORGANIZATIONAL MATTERS**

2.1 **Formation.** The Company was formed as a \_\_\_\_\_ (STATE OF FORMATION) limited liability company under the Act by filing of the Articles with the \_\_\_\_\_ (STATE AGENCY) State of \_\_\_\_\_, and entering into this Agreement; this Agreement will be deemed effective as of the date the Articles were originally filed. The Company will accomplish all filings, recordings, publishing and other acts necessary or appropriate for compliance with all requirements for the operation of the Company as a limited liability company under this Agreement and the Act, all other laws of the State of \_\_\_\_\_ and all other jurisdictions in which the Manager(s) determine that the Company will conduct business. Each Person admitted to the Company as a Member will promptly execute all relevant certificates and other documents as the Company requests. The Company is not required to mail or otherwise deliver a copy of the Articles or any amendment of the Articles to any Member.

2.2 **Name.** The Company’s name is “\_\_\_\_\_ **Limited Liability Company.**” The Company’s business may be conducted under that name or, in compliance with applicable laws, any other name that the Manager(s) deem appropriate or advisable, provided that the name will always contain the words “Limited Liability Company,” or the letters “L.L.C.” or “LLC.” The Manager(s) will file any fictitious name certificates and similar filings, and any amendments thereto, that the Manager(s) consider appropriate or advisable.

2.3 **Location of Principal Place of Business.** The Company may maintain offices and other facilities at any place or places within or without the State of \_\_\_\_\_ as the Manager(s) consider advisable. The location at which the accounting and other records of the Company are maintained will be the principal place of

business of the Company, unless another location is designated by the Manager(s) as the Company's principal place of business.

**2.4 Registered Office and Registered Agent.** The Company will maintain a registered office in the State of \_\_\_\_\_ at \_\_\_\_\_, or such other location as determined by the Manager(s). The name and address of the Company's registered agent as of the date of this Agreement is:

\_\_\_\_\_.

**2.5 Addresses of Members and Manager(s).** The respective addresses of the Members and the Manager(s) on the date of this Agreement are set forth on Exhibit A.

**2.6 Purpose of the Company.** The Company's purposes are (a) to operate a licensed Panda Express restaurant at \_\_\_\_\_ (LOCATION OF STORE); (b) to operate other licensed Panda Express restaurant(s) at other locations chosen by the Manager(s) from time-to-time; and (c) to engage in any lawful business purpose or activity permitted by the Act and the License Agreement(s) issued to the Company by Citadel Panda Express, Inc.

**2.7 Tax Classification.** The Members intend the Company to be classified as a partnership for federal and, to the maximum extent possible, state income taxes. This classification for tax purposes will not create or imply a general partnership, limited partnership, or joint venture between the Members for state law or any other purpose. Instead, the Members acknowledge the Company's status as a limited liability company formed under the Act, and no Member will take any action inconsistent with the express intent of the parties to this Agreement.

### **Article 3 CAPITAL CONTRIBUTIONS**

**3.1 Initial Capital Contributions.** Each Member will contribute the amount set forth on Exhibit A as the Member's Initial Capital Contribution.

#### **3.2 Additional Capital Contributions.**

(a) The Company has been awarded contracts for Panda Express locations at \_\_\_\_\_ (STORE LOCATION). The Initial Capital Contributions is sufficient to cover the estimated costs of construction at \_\_\_\_\_ (STORE LOCATION) only. As the Company incurs additional construction costs, the Manager will present documentation to the Members of the actual costs of construction. Within 14 days after the Manager (i) notifies the Members of the amount of additional funds needed to continue to develop those facilities, and (ii) delivers to all Members all reasonably-required payment documentation, the Members will contribute additional capital to the Company to cover the additional initial costs of construction of those two facilities in the same 51/49 ratio as their Initial Capital Contribution allocated in the Organizational Resolutions of the Managers of \_\_\_\_\_ (NAME OF LLC) Limited Liability Company Agreement.

Before the Company commits to develop additional Panda Express locations, the manager will present a budget to the Members of the anticipated costs of the development of the additional location(s). If the Members approve of the additional development, the members will also agree on a procedure for funding that development.

(b) Except as provided in subsection (a), above, no Member is required to make any additional Capital Contributions.

(c) No Member has pre-emptive rights. Nonetheless, Members may be permitted to make additional Capital Contributions from time-to-time, if they so desire, to the extent that the Manager(s) determine that the additional Capital Contributions are necessary or appropriate for the conduct of the Company's business, including expansion into additional Panda Express locations.

(d) Exhibit A will be revised from time-to-time to reflect any additional capital contributions made by the Members in accordance with this Section 3.2.

**3.3 Capital Accounts.** The Company will establish an individual Capital Account for each Member, and the Company will determine and maintain each Capital Account in accordance with Regulations § 1.704-1(b)(2)(iv). Each Member's Capital Account will be increased by: (a) the amount of cash contributed by the Member to the Company; (b) the Gross Asset Value of real, personal, tangible, and intangible property or services contributed by the Member to the Company (net of liabilities secured by the contributed property that the Company is considered to assume or take subject to under Section 752 of the IRC); and (c) allocations to the Member of Net Profits and any item of gross income specially allocated pursuant to Section 6.2. Each Member's Capital Account will be decreased by: (x) the amount of cash distributed to the Member by the Company; (y) the Gross Asset Value of property distributed to the Member by the Company (net of liabilities secured by the distributed property that the Member is considered to assume or take subject to under Section 752 of the IRC); and (z) allocations to the Member of Net Losses. The Capital Account of any Member making a contribution of property will be credited with the Gross Asset Value of the property on the date (or dates) of contribution. In the discretion of the Manager(s), the Capital Accounts may also be increased or decreased for any unrealized gains or losses taken into account by the Company upon the occurrence of any of the events described in Regulations § 1.704-1(b)(2)(iv)(e) and (f), including any distribution of property, any admission of new Members, or any liquidation or partial liquidation of a Member's Interest in the Company, *provided that* any gain or loss of this type will be allocated among the Members in accordance with Article 6. If a Member transfers all or a part of the Member's Membership Interest in accordance with this Agreement, the Member's Capital Account attributable to the transferred Membership Interest will carry over to the new owner of the Membership Interest pursuant to Regulations § 1.704-1(b)(2)(iv)(1).

**3.4 No Interest.** No Member will be entitled to receive any interest on the Member's Capital Contributions.

**3.5 Creditors Not Benefited.** The provisions of this Agreement are intended to benefit only the Company, the Manager(s), the Members, and their respective permitted successors and assigns. It is not intended that these provisions benefit, and to the fullest extent permitted by applicable law these provisions are not enforceable by, any creditors of the Company, the trustees in bankruptcy of the Company, or any other Persons (other than the Manager(s) and Members and their permitted successors and assigns).

## **Article 4 MEMBERS**

**4.1 Limited Liability.** Except as required under the Act or as expressly set forth in this Agreement, no Member will be personally liable for any Company debt, obligation, or liability, whether that liability or obligation arises in contract, tort, or otherwise.

**4.2 Classes of Members.** The Company will initially have two classes of Membership Interests: Class A Membership Interests and Class B Membership Interests. Each existing class of Membership Interests has identical rights, except that the holders of Class A Membership Interests have full voting rights and the holders of Class B Membership Interests have no voting rights except as specifically required by the Act or this Agreement.

**4.3 Admission of Additional Members.** The Manager(s) may admit additional Members to the Company with the unanimous consent of the Member(s). Any additional Members will obtain Membership Interests and will participate in the Company's management, Net Profits, Net Losses, and distributions on terms determined by the Manager(s). Notwithstanding the foregoing, substitute members may only be admitted in accordance with Article 7. For the avoidance of doubt, the dilutive effect of the issuance of additional Membership Interests will be proportional among all Class A Membership Interests and Class B Membership Interests as if they were a single class.

**4.4 Termination of Membership Interest.** On the transfer of a Member's Membership Interest in violation of this Agreement or the occurrence of a Triggering Event, a Member's Membership Interest will be

terminated by the Manager(s) or purchased by the Company or remaining Members as provided in Article 8. Each Member acknowledges and agrees that a termination or purchase of a Membership Interest on the occurrence of any of the foregoing events is not unreasonable under the circumstances existing as of the date hereof.

**4.5 Transactions with Company.** Subject to any limitations set forth in this Agreement and with the prior written approval of the Manager(s) after full disclosure of the Member's involvement, a Member may lend money to and transact other business with the Company. Subject to other applicable law, any Member transacting business with the Company will have the same rights and obligations with respect to those transactions as a person who is not a Member. Any loan by a Member to the Company will not be treated as a Capital Contribution by that Member or entitle the Member to an increase in that Member's Percentage Interest. The Members acknowledge that any Member, Manager(s), or Affiliate of a Member or Manager(s) (each a "**Lender**") who loans money to the Company pursuant to this Section 4.5 will have rights (the "**Lender's Rights**"), the exercise of which will be in conflict with the Company's best interests. In that regard, the Members authorize, agree, and consent to the Lender's exercise of any of Lender's Rights under any promissory note, security agreement, or other loan document, even though the Lender's exercise of the Lender's Rights may be detrimental to the Company or the Company's business. Further, the Members agree that any Lender's proper exercise of the Lender's Rights will not be deemed a breach of the Lender's fiduciary duties (if any) to the Company.

**4.6 Remuneration to Members.** Except as otherwise authorized in, or pursuant to, this Agreement, no Member is entitled to remuneration for acting in the capacity of a Member in the Company business, subject to the entitlement of Manager(s) or Members winding up the affairs of the Company to reasonable compensation pursuant to Section 10.2.

**4.7 Members Are Not Agents.** Pursuant to Section 5.2 and the Articles, the management of the Company is vested solely in the Manager(s). No Member acting in the capacity of a Member: (a) is an agent of the Company, nor (b) can bind or execute any instrument on the Company's behalf.

**4.8 Voting Rights.** Except as otherwise expressly set forth in this Agreement or in the Act, in all matters in which a vote, approval, or consent of the Members holding Class A Membership Interests is required, a vote, consent in writing (with or without a meeting), or approval of Members holding a Majority Interest will be required to authorize or approve such act.

**4.9 Meetings of Members.** Meetings of Members will be controlled and conducted as provided in the Act. To the extent not provided by the Act, the Manager will (to the extent feasible) conduct meetings in accordance with the procedures set forth in the \_\_\_\_\_ Business Corporations Act, except that the following rules will apply:

(a) The Manager(s) or any Member or combination of Members holding (in the aggregate) at least 26% of the voting interests in the Company may call meetings at any time.

(b) At least 10 days' notice will be given of all meetings, stating the location and form of the meeting (and whether remote communication is the only form of the meeting or is a permissible way of participating). Notices will be delivered to the last address on file with the Company. Unless otherwise required by the Act, notices of meetings may be given electronically (by e-mail or similar) or telephonically.

(c) Meetings will be conducted in accordance with *Robert's Rules of Order Newly Revised* or any successor Rules of Order, as modified by the Members in writing.

(d) Meetings may be conducted by means of remote communication.

(d) Any action that may be taken at a meeting may be taken by a written consent, signed by Members holding at least the number of voting interests that would have been necessary to have passed the matter if a meeting had been held.

**4.10 Certificate of Membership Interest.** A Membership Interest may be represented by a membership certificate, the exact contents of which may be determined by the Manager(s) but will be issued substantially as follows: numbered serially as they are issued; impressed with the Company seal or facsimile; signed by a Manager or officers; state the Company's name, the fact that the Company is organized as a \_\_\_\_\_ limited liability company, the name of the person to whom issued, the date of issue, and the number of units Membership Interest represented by the certificate. A statement of any designations, preferences, qualifications, limitations, restrictions, and special or relative rights of the Membership Interest will be set forth in full or summarized on the face or back of the certificate, or it may state that such a statement or summary will be furnished to any holder of a Membership Interest on request without charge.

## **Article 5 OPERATIONS AND MANAGEMENT OF THE COMPANY**

**5.1 Management of the Company by Manager(s).** The Company's business, property and affairs will be managed exclusively by the Manager(s). Except for situations in which the Members' approval is expressly required by the Articles or this Agreement, the Manager(s) will have complete and exclusive authority, power, and discretion to manage and control the Company's business, property, and affairs, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business, property and affairs. Any Manager, acting alone, is authorized to endorse checks, drafts, and other evidences of debt made payable to the Company's order, but only for the Company's benefit, and to execute contracts and incur obligations on the Company's behalf, pay all invoices, debts, and payables of the Company, and take all actions on its behalf necessary to manage its affairs, as determined by the Manager(s).

### **5.2 Powers of Manager(s).**

(a) Without limiting the generality of Section 5.1, but subject to Section 5.2(b) and the express limitations elsewhere in this Agreement, the Manager(s) will have all necessary powers to manage and carry out the Company's purposes, business, property, and affairs including the power to exercise on behalf and in the name of the Company the following: (i) to enter into and perform all agreements or contracts and take all actions relating to the Company and/or its business; (ii) to borrow money on behalf of the Company and execute and deliver any security instruments necessary to evidence or perfect a lien on all or part of the Company assets; (iii) to manage, improve, alter, invest and further develop the Company's assets and business and sell, lease, encumber, or convey all or part of the Company's assets and business for consideration and on terms and conditions the Manager(s) deem reasonable; (iv) to pay from Company assets all expenses of organizing and conducting the Company's business, including legal and accounting fees; (v) to execute all other instruments and take all other actions necessary or desirable to carry out the Company's purposes and business; (vi) to employ, retain, or otherwise secure the services of persons or firms deemed necessary by the Manager(s) for the Company's business on terms the Manager(s) deem advisable, and to appoint an agent for service of process for the Company; and (vii) to take all other action permitted by law and customary in or reasonably related to the conduct of the Company's business.

(b) Notwithstanding any other provisions of this Agreement, the Manager(s) will not have authority to cause the Company to engage in any transaction for which the Act requires consent of the Members.

(c) Meetings of the Manager(s) may be called by any Manager or by the chairperson, president, any vice-president or the secretary of the Company. Any action required or permitted to be taken by the Manager(s) may be taken by the Manager(s) without a meeting, if a majority of the Manager(s) individually or collectively consent in writing to the proposed action. Any action by written consent will have the same force and effect as a majority vote of the Manager(s). Nothing in this Section 5.2(c) or in this Agreement is intended to require that meetings of Manager(s) be held, it being the intent of the Members that meetings of Manager(s) are not required. The holding of any meeting of the Manager(s) will not be deemed to create any obligation to do so thereafter.

**5.3 Deadlock.** If the Manager(s) are deadlocked over any matter, the Manager(s) may, at their election, either (a) submit the matter to a vote of the Members, or (b) promptly select a mutually acceptable unrelated and independent individual (an "*Arbiter*") who will, after good faith discussions with the Manager(s),



resolve the deadlocked matter (including, if necessary, by casting his or her vote in favor of a proposed resolution). If the Manager(s) choose to resolve the deadlock through use of an Arbiter, and cannot agree on the selection of the Arbiter, the matter will be submitted to a vote of the Members. Any appointed Arbiter will, after good faith discussions with the Manager(s), resolve the deadlocked matter (including, if necessary, by casting his or her vote in favor of a proposed resolution in the event no consensus can be reached upon the conclusion of discussions). The Company will indemnify and hold harmless any Arbiter selected in accordance with this Section 5.3 to the same extent that the Arbiter would be indemnified under Section 5.6 and Section 11.1 if the Arbiter were a Manager of the Company. In no event, however, will any Arbiter appointed in accordance with this Section 5.3 be designated or construed to be a Manager of the Company.

#### **5.4 Election of Manager(s).**

(a) The Company will initially have a single Manager. As of the date of this Agreement, the Members appoint \_\_\_\_\_ (i.e., **NAME OF OPERATOR**) as that single Manager. The number of Manager(s) of the Company will be fixed from time to time by the affirmative vote or written consent of a Majority Interest, provided that in no instance will there be less than one Manager. Unless a Manager resigns or is removed, each Manager will hold office until a successor has been elected and qualified. Manager(s) will be elected by the affirmative vote or written consent of a Majority Interest. A Manager need not be a Member, an individual, a resident of any particular state, or a U.S. citizen.

(b) Any Manager may resign at any time by giving written notice to the Members and remaining Manager(s) without prejudice to the rights, if any, of the Company under any contract to which the Manager is a party. The resignation of any Manager will take effect on receipt of that notice or at such later time as specified in the notice; and, unless otherwise specified in the notice, the acceptance of the resignation will not be necessary to make it effective. The resignation of a Manager who is also a Member will not affect the Manager's rights as a Member and will not constitute a withdrawal of a Member.

(c) All or any lesser number of Manager(s) may be removed at any time, with or without cause, by the affirmative vote of a Majority Interest at a meeting called expressly for that purpose, or by the written consent of a Majority Interest. Any removal will be without prejudice to the rights, if any, of the Manager under any employment contract and, if the Manager is also a Member, will not affect the Manager's rights as a Member or constitute a withdrawal of a Member. A Manager also may be removed by the affirmative vote or written consent of a majority of the remaining Manager(s) if the Manager becomes incapable of fulfilling the Manager's obligations under this Agreement because of injury or physical or mental illness and the incapacity has continued for 30 working days in the aggregate during any consecutive six-month period.

(d) Any vacancy occurring for any reason in the number of Manager(s) may be filled by the affirmative vote or written consent of Members holding a Majority Interest, subject to necessary approval of the new Manager(s) in accordance with the terms of the Company's License Agreement(s) from Citadel Panda Express, Inc.

**5.5 Members Have No Managerial Authority.** The Members have no power to participate in the Company's management except as expressly authorized by this Agreement or the Articles and except as expressly required by the Act. Unless expressly and duly authorized in writing to do so by a Manager or Manager(s), no Member will have any power or authority to bind or act on the Company's behalf in any way, to pledge its credit, or to render it liable for any purpose.

**5.6 Performance of Duties; Manager(s)' Liability.** A Manager will not be liable to the Company or any Member for any loss or damage sustained by the Company or any Member, except to the extent that the loss is the result of fraud, deceit, gross negligence, or reckless or intentional misconduct. The Manager(s) will perform their managerial duties in good faith, in a manner they reasonably believe to be in the Company's and Members' best interests, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. A Manager who so performs the duties of Manager will not have any liability by reason of being or having been a Manager of the Company. In performing their duties, the Manager(s) will be

entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, received from the following persons or groups:

(a) One or more officers, employees or other agents of the Company whom the Manager(s) reasonably believe to be reliable and competent in the matters presented;

(b) Any attorney, independent accountant, or other person as to matters that the Manager(s) reasonably believe to be within the person's professional or expert competence; or

(c) A committee on which the Manager(s) do not serve, duly designated in accordance with the Articles or this Agreement, as to matters within the committee's designated authority, which committee the Manager(s) reasonably believe to merit competence.

**5.7 Devotion of Time.** The Manager(s) are not obligated to devote all their time or business efforts to the Company's affairs. The Manager(s) will devote whatever time, effort, and skill as they deem appropriate for the proper conduct of the Company's business, seeking to maximize value for the Members.

**5.8 Competing Activities.** The Members, the Manager(s) and their respective officers, directors, shareholders, partners, members, manager(s), agents, employees, and Affiliates may engage or invest in, independently or with others, any business activity of any type or description. Neither the Company nor any Member will have any right in or to such other permitted ventures or activities or to the income or proceeds derived therefrom. The Members and the Manager(s) will not be obligated to present any investment opportunity or prospective economic advantage to the Company, even if the opportunity is such that, if presented to the Company, could be taken by it. The Members and the Manager(s) will have the right to hold any investment opportunity or prospective economic advantage for their own account or to recommend such opportunity to persons other than the Company. Nothing in this Section 5.8 will diminish the obligation of the Manager(s) set forth in Section 5.7.

**5.9 Transactions Between Company and Manager(s).** Notwithstanding any possible conflict of interest, the Manager(s) may, and may cause their Affiliates to, engage in any transaction (including the purchase, sale, lease, or exchange of any property or the rendering of any service, or the establishment of any salary, compensation, or other terms of employment) with the Company so long as the transaction is not expressly prohibited by this Agreement and so long as the transaction, on an overall basis, is fair and reasonable to the Company and at least as favorable to the Company as similar transactions generally available from persons capable of similarly performing them and in similar transactions between parties operating at arm's length. A transaction between the Manager(s) and/or their Affiliates, on the one hand, and the Company will be conclusively determined to constitute a transaction on terms and conditions, on an overall basis, fair and reasonable to the Company and at least as favorable to the Company as generally available in a similar transaction between parties operating at arm's length if a Majority Interest of the Members affirmatively vote or consent in writing to approve the transaction. Notwithstanding the foregoing, the Manager(s) will not have any obligation, in connection with any such transaction between the Company and the Manager(s) or an Affiliate of the Manager(s), to seek the Members' consent.

**5.10 Payments to Manager(s); Compensation.** The Manager(s) may receive reasonable compensation in an amount determined in their reasonable discretion for services actually rendered. The Manager(s) may, but are not required to, submit the amount of the Manager(s)' compensation to the Members for approval; if a Majority Interest of the Members approve the Manager(s)' compensation, that compensation will be conclusively determined to be a reasonable amount.

**5.11 Expenses.** The Company will reimburse the Manager(s) and their Affiliates for the actual cost of goods and materials used for or by the Company. The Company will also pay or reimburse the Manager(s) or their Affiliates for organizational expenses (including legal and accounting fees and costs) incurred to form the Company and prepare the Articles and this Agreement.

**5.12 Acts of Manager(s) as Conclusive Evidence of Authority.** Any contract, certificate, statement, note, mortgage, evidence of debt, conveyance, or other written instrument, and any assignment or endorsement

thereof, executed or entered into between the Company and any other person, when signed by one or more Manager(s) is not invalidated as to the Company by any lack of authority of the signing Manager(s) in the absence of actual knowledge on the part of the other person that the signing Manager(s) had no authority to execute the same.

**5.13 Officers.** The Manager may appoint officers at any time. The officers may include a chairperson, president, chief executive officer (“CEO”), chief financial officer (“CFO”), one or more vice presidents, secretary, and one or more assistant secretaries. The officers will serve at the Manager’s pleasure subject to all rights, if any, of an officer under any employment contract. Any individual may hold any number of offices. No officer need be a U.S. citizen or a resident of any particular state. If the Manager is not an individual, its officers may serve as the Company’s officers. The officers will exercise such powers and perform such duties as specified in this Agreement and as the Manager will determine.

**5.14 Limited Liability.** No person who is a Manager, an officer of the Company, or both a Manager and an officer of the Company will be personally liable under any judgment of a court, or in any other manner, for any debt, obligation, or liability of the Company, whether that liability or obligation arises in contract, tort, or otherwise, solely by reason of being a Manager, an officer of the Company, or both a Manager and an officer of the Company.

**5.15 Fiduciary Duties.** The only fiduciary duties a Manager owes to the Company and the Members are solely the duty of loyalty and the duty of care as described below:

(a) The Manager(s)’ duty of loyalty to the Company and the Members (both in conducting the business of the Company and in winding up the affairs of the Company following a dissolution) is limited to the following: (i) to account to the Company and hold as trustee for the Company any property, profit, or benefit derived by the Manager in conducting the business of the Company or derived from any use by the Manager of Company property; (ii) except as permitted by Section 5.9 or as otherwise provided in this Agreement, to refrain from dealing with the Company as or on behalf of a party having an interest adverse to the Company; and (iii) except as permitted by Section 5.9 or as otherwise provided in this Agreement, to refrain from competing with the Company in the conduct of the Company business. In accordance with Section 5.8, the Managers’ duty of loyalty to the Company and the Members does not require the Manager(s) to present to the Company an opportunity any other business opportunities.

(b) The Manager(s)’ duty of care to the Company and the Members is to perform their managerial duties in good faith, in a manner they reasonably believe to be in the Company’s and Members’ best interests, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances, and to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

## **Article 6**

### **ALLOCATIONS OF NET PROFITS AND NET LOSSES; DISTRIBUTIONS**

#### **6.1 Allocations of Net Profit and Net Loss.**

(a) After giving effect to the special allocations set forth in Section 6.2, Net Profit will be allocated to the Members in proportion to their Percentage Interests.

(b) After giving effect to the special allocations set forth in Section 6.2, Net Loss will be allocated to the Members in proportion to their Percentage Interests, provided that loss allocations will be made only to the extent such loss allocations will not create a deficit Capital Account balance for that Member in excess of an amount, if any, equal to such Member’s share of Company Minimum Gain that would be realized on a foreclosure of the Company’s property. Any loss not allocated to a Member because of the foregoing will be allocated to the other Member(s) (to the extent the other Member(s) are not so limited under this Section 6.1(b)). Any loss so reallocated will be taken into account in computing subsequent allocations of income and losses pursuant to this Article 6 so that the net amount of any item so allocated and the income and losses allocated to each Member pursuant to this Article

6, to the extent possible, will be equal to the net amount that would have been allocated to each Member pursuant to this Article 6 if no reallocation of losses had occurred under this Section 6.1(b).

## **6.2 Special Allocations.**

(a) Except as otherwise provided in § 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Article 6, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member will be specially allocated items of Company income and gain for that Fiscal Year (and, if necessary, in subsequent fiscal years) in an amount equal to the portion of the Member's share of the net decrease in Company Minimum Gain allocable to the disposition of Company property subject to a Nonrecourse Liability, which share of the net decrease will be determined in accordance with Regulations § 1.704-2(g)(2). Allocations pursuant to this Section 6.2(a) will be made in proportion to the amounts required to be allocated to each Member under this Section 6.2(a). The items to be so allocated will be determined in accordance with Regulations § 1.704-2(f). This Section 6.2(a) is intended to comply with the minimum gain chargeback requirement contained in Regulations § 1.704-2(f) and will be interpreted consistently therewith.

(b) Except as otherwise provided in § 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Article 6, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to that Member Nonrecourse Debt, determined in accordance with § 1.704-2(i)(5) of the Regulations, will be specifically allocated items of Company income and gain for the year (and if necessary, subsequent years) in an amount equal to the Member's share of the net decrease in Member Nonrecourse Debt, determined in accordance with Regulations § 1.704-2(i)(4). Allocations pursuant to the previous sentence will be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be allocated will be determined in accordance with §§ 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 6.2(b) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and will be interpreted consistently therewith.

(c) Any nonrecourse deductions (as defined in Regulations § 1.704-2(b)(1)) for any Fiscal Year or other period will be specially allocated to the Members in proportion to their Percentage Interests.

(d) Those items of Company loss, deduction, or IRC § 705(a)(2)(B) expenditures attributable to Member Nonrecourse Debt for any Fiscal Year or other period will be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which the items are attributable in accordance with Regulations § 1.704-2(i).

(e) If a Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations § 1.704-1(b)(2)(ii)(d)(4), (5) or (6), or any other event creates a deficit balance in the Member's Capital Account in excess of the Member's share of Company Minimum Gain, items of Company income and gain will be specially allocated to the Member in an amount and manner sufficient to eliminate the excess deficit balance as quickly as possible. Any special allocations of items of income and gain pursuant to this Section 6.2(e) will be taken into account in computing subsequent allocations of income and gain pursuant to this Article 6 so that the net amount of any item so allocated and the income, gain, and losses allocated to each Member pursuant to this Article 6 to the extent possible, will be equal to the net amount that would have been allocated to each Member pursuant to the provisions of this Section 6.2(e) if the unexpected adjustments, allocations, or distributions had not occurred.

**6.3 IRC 704(c) Allocations.** Notwithstanding any other provision in this Article 6, in accordance with IRC § 704(c) and the Regulations promulgated thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company will, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of the property to the Company for federal income tax purposes and its fair market value on the date of contribution. Allocations pursuant to this Section 6.3 are solely for purposes of federal, state, and local taxes. As such, they will not affect or in any way be

taken into account in computing a Member's Capital Account or share of profits, losses, or other items of distributions pursuant to any provision of this Agreement.

**6.4 Allocation of Deductions From Section 83 Transactions.** Any deduction available to the Company due to the recognition by any Member of taxable income pursuant to the provisions of IRC § 83 will be allocated to the Member recognizing the income, such that the Capital Account of the Member is restored to the amount before the income recognition.

**6.5 Allocation of Net Profits Losses and Distributions In Respect of a Transferred Interest.** If any Membership Interest is transferred, or is increased or decreased by reason of the admission of a new Member or otherwise during any Fiscal Year, each item of income, gain, loss, deduction, or credit of the Company for the Fiscal Year will be assigned pro rata to each day in the particular period of the Fiscal Year to which the item is attributable (*i.e.*, the day on or during which it is accrued or otherwise incurred) and the amount of each item will be allocated to the Member based on the Member's respective Membership Interest at the close of that day. However, for purposes of accounting convenience and simplicity, the Company will treat a transfer of, or an increase or decrease in, a Membership Interest which occurs at any time during a semi-monthly period (commencing with the semi-monthly period including the date of this Agreement) as having been consummated on the last day of the semi-monthly period, regardless of when during the semi-monthly period the transfer, increase, or decrease actually occurs (*i.e.*, sales and dispositions made during the first 15 days of any month will be deemed to have been made on the 15th day of the month, while sales and dispositions made on or after the 16<sup>th</sup> day of each month will be deemed to have been made on the last day of the month). Notwithstanding any provision above to the contrary, the Manager(s) may elect, in their sole discretion, to use another method of accounting for purposes of this Section 6.5, and gain or loss of the Company realized in connection with a sale or other disposition of any of the assets of the Company will be allocated solely to the parties owning Membership Interests as of the date the sale or other disposition occurs.

#### **6.6 Distribution of Assets.**

(a) Subject to applicable law and any limitations contained elsewhere in this Agreement, the Manager(s) will calculate the estimated amount of all Members' anticipated income tax liability on the Company's income taxable to its Members for each taxable year by multiplying the Company's taxable income by the combined maximum federal income tax rate and the maximum state income tax rate applicable to such income, taking into account any impact of the deductibility of state income taxes for purposes of determining federal income taxes. The Manager(s) will distribute Distributable Cash to each Member not later than April 14th of each year in an amount of the Member's estimated tax liability as described above (the "**Tax Distribution**"). The tax rate will be the same for each Member. Each Member agrees that, if there is a change in Percentage Interests of the Company in one taxable year, distributions made in the next following taxable year may, in the discretion of the Manager(s), be made on the basis of the varying Percentage Interest (on a per day/per Percentage Interest basis) of all Members of the Company during the preceding taxable year. Tax Distributions will not offset future distributions of Distributable Cash or be treated as an advance on future distributions. In the event that a contractual obligation prohibits the Company from making a Tax Distribution, the Company will make a good faith effort to have the prohibition imposed by the contractual obligation removed and will cause a distribution of such portion, if any, of the Tax Distribution that is not prohibited to be made *pro rata* to Members based on their Percentage Interest.

(b) Subject to applicable law and any limitations in this Agreement, the Manager(s) will distribute Distributable Cash from general operations of the Company (*i.e.*, other than Capital Transaction Proceeds) to the Members, which distributions will be made all of the Members in proportion to their Percentage Interests.

(c) Notwithstanding Section 6.6(b), and subject to applicable law and any limitations in this Agreement, the Manager(s) will distribute Capital Transaction Proceeds to all of the Members in proportion to their Percentage Interests.

(d) All distributions will be made only to the persons who, according to the Company's books and records, are the record holders of the Economic Interests in respect of which distributions are made on the

actual date of distribution. Neither the Company nor the Manager(s) will incur any liability for making distributions in accordance with this Section 6.6.

**6.7 Form of Distribution.** A Member, regardless of the nature of the Member's Capital Contribution, has no right to demand and receive any distribution from the Company in any form other than money. No Member may be compelled to accept from the Company a distribution of any asset *in kind* in lieu of a proportionate distribution of money being made to other Members. Except on a dissolution and the winding up of the Company, no Member may be compelled to accept a distribution of any asset in kind.

**6.8 Restriction on Distributions.** No distribution will be made if, after giving effect to the distribution: (a) the Company would not be able to pay its debts as they become due in the usual course of business, or (b) the Company's total assets would be less than the sum of its total liabilities plus, unless this Agreement provides otherwise, the amount that would be needed if the Company were to be dissolved at the time of the distribution to satisfy the preferential rights of other Members, if any, on dissolution that are superior to the rights of the Member receiving the distribution.

(a) The Manager(s) may base a determination that a distribution is not prohibited on (a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances, (b) a fair valuation, or (c) any other method that is reasonable in the circumstances. Except as provided in the Act, the effect of a distribution will be measured as of the date it is authorized if the payment occurs within 120 days after the date of authorization, and will be measured as of the date payment is made if the payment occurs more than 120 days after the date of authorization.

(b) A Member or Manager who votes for a distribution in violation of this Agreement or the Act is personally liable to the Company for the amount of the distribution that exceeds what could have been distributed without violating this Agreement or the Act, but only if it is established that the Member or Manager did not act in compliance with Section 6.8(a) or Section 10.4. Any Member or Manager who is liable under this Section 6.8(b) may compel contribution from (a) each other Member or Manager who also is so liable and (b) each Member for the amount the Member received with knowledge of facts indicating that the distribution was made in violation of this Agreement or the Act.

**6.9 Return of Distributions.** Except for distributions made in violation of the Act or this Agreement, no Member or Economic Interest Owner will be obligated to return any distribution to the Company or pay the amount of any distribution for the Company's account or to any Company creditor. The amount of any distribution returned to the Company by a Member or Economic Interest Owner or paid by a Member or Economic Interest Owner for the Company's account or to an Company creditor will be added to the account(s) from which it was subtracted when it was distributed to the Member or Economic Interest Owner.

**6.10 Obligations of Members to Report Allocations.** The Members are aware of the income tax consequences of the allocations made by this Article 6 and agree to be bound by its provisions in reporting their shares of Company income and loss for income tax purposes.

**6.11 Withholding.** The Company will comply with withholding requirements under federal, state, and local law and will remit amounts withheld to and file required forms with the applicable jurisdictions. To the extent the Company is required to withhold and pay over any amounts to any authority with respect to distributions or allocations to any Member, the amount withheld will be deemed to be, at the option of the Tax Matters Partner, either a distribution to or a demand loan by the Company to that Member in the amount of the withholding. In the event of any claimed over-withholding, Members will be limited to an action against the applicable jurisdiction. If the amount was deemed to be a demand loan, the Company may, at its option, (a) at any time require the Member to repay the loan in cash, (b) at anytime reduce any subsequent distributions by the amount of the loan or (c) as of the end of any accounting period, treat the amount withheld as a distribution to the Member and adjust the Member's Capital Account accordingly. Each Member agrees to furnish the Company with any representations and forms

reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, its withholding obligations.

## **Article 7**

### **TRANSFER AND ASSIGNMENT OF INTERESTS**

**7.1 Transfers.** Except as provided in Section 7.4, no Member may Transfer all or part of the Member's Membership Interest except with the prior written consent of the Manager(s), which consent may be given or withheld, conditioned or delayed (as allowed by this Agreement or the Act) as the Manager(s) may determine in their absolute discretion. Transfers in violation of this Article 7 will only be effective to the extent set forth in Section 7.7. After consummation of any Transfer of all or part of a Membership Interest, the Membership Interest so Transferred will continue to be subject to the terms and provisions of this Agreement and any further Transfers will be required to comply with this Agreement.

**7.2 Further Restrictions on Transfer.** In addition to other restrictions in this Agreement, no Member may Transfer all or part of the Member's Membership Interest: (a) without compliance with Section 12.9, or (b) if the Manager(s) reasonably determine that the Membership Interest to be Transferred, when added to the total of all other Membership Interests Transferred in the preceding 12 consecutive months, has a substantial likelihood of causing the Company's termination under the IRC.

**7.3 Substitution of Members.** A transferee of a Membership Interest will have the right to become a substitute Member only if (a) the securities and tax requirements of this Agreement and applicable law are met, (b) the transferee executes an instrument satisfactory to the Manager(s) accepting and adopting this Agreement, (c) the transferee is approved in accordance with the terms of the Company's License Agreement(s) from Citadel Panda Express, Inc., and (d) the transferee pays any reasonable expenses in connection with admission as a new Member. The admission of a substitute Member will not result in the release of the Member who assigned the Membership Interest from any liability that the [former] Member may have to the Company.

**7.4 Family and Affiliate Transfers.** Subject to the provisions of Section 7.7, a Member may transfer his Economic Membership Interest, but not his Membership Interest, by *inter vivos* gift or bequest upon the death of the Member, outright or in trust, to or for the benefit of the Member's spouse and/or the lineal ancestors, descendants, or nieces and nephews of the Member or his or her spouse. However, no Transfer pursuant to this Section 7.4 will be valid unless and until the transferee acknowledges in writing that the transferee will be bound by all of the terms, conditions, and provisions of this Agreement.

**7.5 Effective Date of Permitted Transfers.** Any permitted Transfer of all or part of a Membership Interest or Economic Interest will be effective as of the date provided in Section 6.5 following the date on which the requirements of Sections 7.1, 7.2 and 7.3 have been met. The Manager(s) will provide all Members with written notice of the transfer as promptly as possible after the requirements of those Sections have been met. Any transferee of a Membership Interest or Economic Interest will be subject to the restrictions on transfer imposed by this Agreement.

**7.6 Rights of Legal Representatives.** If a Member who is an individual dies or is adjudged by a court of competent jurisdiction to be incompetent to manage the Member's person or property, that Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of that Member's rights for the purpose of settling that Member's estate or administering that Member's property, including any power that the Member has under the Articles or this Agreement to give an assignee the right to become a Member, or complying with that Member's obligations under this Agreement. If a Member is an entity and is dissolved or terminated, that Member's legal representative or successor will be likewise empowered.

**7.7 Effect to Transfers in Violation.** If a Member attempts to make a Transfer of a Membership Interest in violation of this Article 7, the following provisions will apply:

(a) The transferee will have no right to vote or otherwise participate in the management of the Company's business, property, and affairs or to exercise any rights of a Member. The transferee will only be entitled to become an Economic Interest Owner and thereafter will only receive the share of the Company's Net Profits, Net Losses, and distributions of the Company's assets to which the transferor of the Economic Interest would otherwise be entitled. Notwithstanding the foregoing sentences, if, in the Manager(s)' determination, a transfer in violation of this Article 7 would cause the Company's termination under the IRC, in the Manager(s)' sole discretion, the transfer will be null and void and the purported transferee will not become either a Member or an Economic Interest Owner.

(b) The Company will have the option to acquire from the transferring Member the balance of the rights associated with the Membership Interest transferred by the Member (that is, all rights other than the Economic Interest, including the rights of the Member to vote or participate in the management of the Company's business, property, and affairs) for a purchase price of \$10. The Manager(s) will promptly notify the transferring Member if this option will be exercised. A purchase and sale pursuant to this Section 7.7(b) will not result in the release of the transferring Member from any liability to the Company arising before the date of the purchase. Each Member acknowledges and agrees that the right of the Company to purchase the remaining rights and interests from a Member who permits or suffers a Transfer of a Membership Interest in violation of this Article 7 is not unreasonable under the circumstances existing as of the date of this Agreement.

## **Article 8 TRIGGERING EVENT**

**8.1 Triggering Event.** On the occurrence of a Triggering Event, the Company will purchase (or cause to be purchased), and the Member who is the subject of the Triggering Event ("**Former Member**") or the Former Member's legal representative, will sell the Membership Interest owned by the Former Member (the "**Former Member's Interest**") as provided in this Article 8.

**8.2 Purchase Price on Triggering Event.** The purchase price for the Former Member's Interest will be the fair market value of the Former Member's Interest, discounted for minority interests and lack of marketability (the "**Purchase Price**"). The Purchase Price will be determined jointly by the Company and the Former Member. If the Company and the Former Member are unable to determine the Purchase Price within 15 days, then Purchase Price will be determined by an appraisal as provided below. Notwithstanding the foregoing, if the Triggering Event results from a breach of this Agreement by the Former Member, the Purchase Price will be reduced by an amount equal to the damages suffered by the Company or the remaining Member(s) as a result of the breach.

If it is necessary to determine the Purchase Price through appraisal, the Company and the Former Member will endeavor to jointly select an independent appraiser. The determination of the Purchase Price (including fair market value and discounts for minority interest and lack of marketability) by the appraiser chosen by the Company and the Former Member will be binding and conclusive on all parties to this Agreement. If the Former Member and the Company are unable to agree on the selection of an appraiser within 30 days after the Triggering Event, each will select an independent appraiser within ten days after expiration of the 30-day period. The two appraisers selected will each independently appraise the Former Member's Interest in accordance with this Agreement and, as long as the difference in the two appraisals does not exceed 10% of the lower of the two appraisals, the Purchase Price will be conclusively deemed to equal the average of the two appraisals. If either party fails to select an appraiser within the time required by this provision, the Purchase Price will be conclusively deemed to equal the appraisal of the independent appraiser timely selected by the other. If the difference between the two appraisals referred to above exceeds 10% of the lower of the two appraisals, the two appraisers selected will select a third appraiser who will independently appraise the Former Member's Interest and whose appraisal will be conclusively deemed to be the Purchase Price. The appraiser(s) appointed under this Agreement will consider all opinions and relevant evidence submitted to them by the parties, or otherwise obtained by them, and will set forth their determination in writing together with their opinions and the considerations on which the opinions are based, with a signed counterpart to be delivered to each party, within 60 days after commencing the appraisal. The Former Member and the Company will each pay one-half of the cost of any appraisal(s).



**8.4 Determination of Purchaser.** Within ten days after the Purchase Price is determined, the Manager(s) will notify the Members other than the Former Member (the “**Remaining Member(s)**”) as to the Purchase Price as determined in accordance with Section 8.2. Within ten days after the Manager(s) give notice of the Purchase Price, each Remaining Member will notify the Manager(s) in writing of that Member’s desire to purchase a portion of the Former Member’s Interest. The failure of any Remaining Member to submit a notice within this period will constitute an election by that Member not to purchase any of the Former Member’s Interest. Each Remaining Member electing to purchase will be entitled to buy a portion of the Former Member’s Interest in the same proportion that the Percentage Interest of the Remaining Member bears to the aggregate of the Percentage Interests of all the Remaining Member(s) electing to buy the Former Member’s Interest.

If in accordance with this Section 8.4 any Remaining Member elects to purchase none or less than all that Remaining Member’s pro rata share of the Former Member’s Interest, the other Remaining Member(s) can elect to purchase more than their pro rata share. If the Remaining Member(s) fail to purchase the entire interest of the Former Member, the Company will purchase any remaining portion of the Former Member’s Interest.

**8.5 Payment of Purchase Price.** The Purchase Price will be paid by the Company or the Remaining Member(s), as the case may be, by either of the following methods, each of which may be selected separately by the Company and each of the Remaining Member(s):

(a) The Company or the Remaining Member(s) will at the closing pay in cash the total purchase price for the Former Member’s Interest; or

(b) The Company or the Remaining Member(s) will pay at the closing one-fifth of the Purchase Price, in which case the balance of the Purchase Price will then be paid in four equal annual principal installments, plus accrued interest, payable each year on the anniversary date of the closing. The unpaid principal balance will accrue interest at the current applicable federal rate as provided in the IRC for the month in which the initial payment is made, but the Company and the Remaining Member(s) may prepay in full or in part at any time without penalty. The obligation to pay will be evidenced by a promissory note, and if purchased by a Remaining Member, secured by a pledge of the Membership Interest being purchased.

**8.6 Closing of Purchase of Former Member’s Interest.** The closing for the sale of a Former Member’s Interest pursuant to this Article 8 will be held at 10:00 A.M. at the Company’s principal office within 60 days after determination of the Purchase Price, except that if the closing date falls on a Saturday, Sunday, or legal holiday, it will be held on the next succeeding business day. At the closing, the Former Member or the Former Member’s legal representative will deliver to the Company or the Remaining Member(s) an instrument of transfer (containing warranties of title and no encumbrances) conveying the Former Member’s Interest. The Former Member or the Former Member’s legal representative, the Company, and the Remaining Member(s) will do all things and execute and deliver all papers necessary fully to consummate such sale and purchase in accordance with this Agreement.

**8.7 Purchase Terms Varied by Agreement.** Nothing contained in this Article 8 will prohibit Members from agreeing on other terms and conditions for the purchase by the Company or Member(s) of the Membership Interest of any Member desiring to retire, withdraw, or resign as a Member in whole or part.

**8.8 Separate Agreements.** Nothing in this Agreement will be construed to prohibit one or more of the Members from entering into separate agreements agreeing upon the terms and conditions of the purchase of the Membership Interest of a Member by the Company or any Member upon events specified in such agreement.

## **Article 9**

### **ACCOUNTING, RECORDS, REPORTING BY MEMBERS**

**9.1 Books and Records.** Proper and complete records and books of account will be kept by the Company, in which will be entered fully and accurately all transactions and other matters relative to the Company’s business as are usually entered into records and books of account maintained by persons engaged in businesses of a

like character, including the Capital Account established for each Member. The Company's books and records will be kept in accordance with consistently applied accounting principles. The books and records will at all times be maintained at the principal office of the Company and will be open to the inspection and examination of the Members or their duly authorized representatives for a proper purpose during reasonable business hours and at the sole cost and expense of the inspecting or examining Member. The Company will maintain at its principal office and make available to any Member or any designated representative of any Member a list of names and addresses of, and Membership Interests in the Company owned by, all Members.

**9.2 Annual Reports.** Within three hundred fifteen (315) days after the end of each Fiscal Year, the Manager(s) will cause the Company to send to each Person who was a Member at any time during the Fiscal Year, (i) financial statements (which will be prepared in accordance with generally accepted accounting principles), including a balance sheet and statement of income and changes in financial position showing the cash distributed in the Fiscal Year and the balance of the Member's Capital Account at the end of the Fiscal Year and the manner of its calculation, and (ii) a copy of Schedule K-1 to Internal Revenue Service Form 1065 (or any successor form), indicating the Member's share of the Company's income, loss, gain, expense, and other items relevant for Federal income tax purposes.

**9.3 Financial and Other Information.** The Manager(s) will provide such financial and other information relating to the Company or any other person in which the Company owns, directly or indirectly, an equity interest, as a Member may reasonably request. The Manager(s) will distribute to the Members, promptly after the preparation or receipt thereof by the Manager(s), any financial or other information relating to any person in which the Company owns, directly or indirectly, an equity interest, including any filings by the person under the Securities Exchange Act of 1934, as amended, that is received by the Company with respect to any equity interest of the Company in the person.

**9.4 Filings.** The Manager(s), at Company expense, will cause the Company's income tax returns to be prepared and timely filed with the appropriate authorities. The Manager(s), at Company expense, will cause to be prepared and timely filed, with appropriate federal and state bodies, amendments to or restatements of the Articles and all reports required to be filed by the Company with those entities under the Act or other applicable laws, rules, and regulations. If the Manager(s) are required by the Act to execute or file any document fails, after demand, to do so within a reasonable period of time or refuses to do so, any other Manager or Member may prepare, execute and file that document with the appropriate authorities.

**9.5 Bank Accounts.** The Manager(s) will maintain the Company's funds in one or more separate bank accounts in the Company's name, and will not permit its funds to be commingled in any fashion with the funds of any other person.

**9.6 Accounting Decisions; Reliance on Others.** All decisions as to accounting matters, except as otherwise specifically set forth herein, will be made by the Manager(s). The Manager(s) may rely on the advice of the Company's accountants as to whether such decisions are in accordance with accounting methods followed for federal income tax purposes.

**9.7 Tax Matters.** The Manager(s) will from time to time cause the Company to make such tax elections as the Manager(s) deem to be in the Company's and Members' best interests. The Tax Matters Partner, as defined in IRC § 6231, will represent the Company (at its expense) in connection with all examinations of its affairs by tax authorities, including resulting judicial and administrative proceedings, and will expend Company funds for professional services and costs associated therewith. The Tax Matters Partner will oversee Company tax affairs in the Company's overall best interests. If for any reason the Tax Matters Partner can no longer serve in that capacity or ceases to be a Member or Manager, as the case may be, Members holding a Majority Interest may designate another Member to be the Tax Matters Partner.

## **Article 10**

### **DISSOLUTION AND WINDING UP**

**10.1 Dissolution.** The Company will be dissolved, its assets will be disposed of, and its affairs wound up on the first to occur of the following: (a) upon the entry of a decree of judicial dissolution under § 428-801 of the Act; (b) the vote of the Members holding at least 75% of the voting interests; (c) the termination or natural expiration of all Contracts held by the Company; or (d) the sale of all or substantially all the Company's assets, unless the Members holding a Majority Interest elect to continue the business of the Company.

**10.2 Winding Up.** On occurrence of any event specified in Section 10.1, the Company will continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors, all in accordance with Act §§ 428-803 *et seq.* The Members that have not wrongfully dissociated from the Company will be responsible for overseeing the Company's winding up and liquidation, will take full account of its liabilities and assets, will either cause its assets to be sold or distributed, and if sold as promptly as is consistent with obtaining the fair market value thereof, will cause the proceeds of the sale, to the extent sufficient, to be applied and distributed as provided in Section 10.4. The Members winding up the Company's affairs will give written notice of the commencement of winding up by mail to all known creditors and claimants whose addresses appear on the Company's records. The Members winding up the Company's affairs will be entitled to reasonable compensation for their services.

**10.3 Distributions in Kind.** Any non-cash asset distributed to one or more Members will first be valued at its fair market value to determine the Net Profit or Net Loss that would have resulted if it were sold for that value. The Net Profit or Net Loss will then be allocated pursuant to Article 6, and the Members' Capital Accounts will be adjusted to reflect those allocations. The amount distributed and charged to the Capital Account of each Member receiving an interest in the distributed asset will be the fair market value (net of any liability secured by the asset that a Member assumes or takes subject to). The asset's fair market value will be determined by the Manager(s) or by the Members or if any Member objects by an independent appraiser (any such appraiser must be recognized as an expert in valuing the type of asset involved) selected by the Manager(s) or liquidating trustee and approved by the Members.

**10.4 Order of Payment of Liabilities on Dissolution.** After determining that all known Company debts and liabilities in the process of winding-up, including debts and liabilities to Members who are creditors of the Company, have been paid or adequately provided for, the remaining assets will be distributed to the Members in accordance with the priorities set forth in Section 6.6, after taking into account income and loss allocations for the Company's taxable year during which liquidation occurs. The liquidating distributions will be made by the end of the Company's taxable year in which the Company is liquidated, or, if later, within 90 days after the date of the liquidation. The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either (a) payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the U.S. government or any agency thereof, and the provision, including the financial responsibility of the person, was determined in good faith and with reasonable care by the Members or Manager(s) to be adequate at the time of any distribution of the assets pursuant to this Section, or (b) the amount of the debt or liability has been deposited. This Section 10.4 will not prescribe the exclusive means of making adequate provision for debts and liabilities.

**10.5 Compliance with Regulations.** All payments to the Members on the Company's winding up and dissolution will be strictly in accordance with the positive capital account balance limitation and other requirements of Regulations § 1.704-1(b)(2)(ii)(d).

**10.6 Limitations on Payments Made in Dissolution.** Except as otherwise specifically provided in this Agreement, each Member will only be entitled to look solely at the Company's assets for the return of the Member's positive Capital Account balance and will have no recourse for the Member's Capital Contribution and/or share of Net Profits (on dissolution or otherwise) against the Manager(s) or any other Member except as provided in Article 11.

**10.7 Articles of Termination.** As soon as possible after the occurrence of the events specified in Act § 428-805(a), the Members will file Articles of Termination with the Department of Commerce and Consumer Affairs.

**10.8 No Action for Dissolution.** Except as expressly permitted in this Agreement, a Member will not take any voluntary action that directly causes the dissolution of the Company. The Members acknowledge that irreparable damage would be done to the Company's goodwill and reputation if any Member should bring an action in court to dissolve it under circumstances where dissolution is not required by Section 10.1. This Agreement has been drawn carefully to provide fair treatment of all parties and equitable payment in liquidation of the Economic Interests. Accordingly, except where the Manager(s) have failed to liquidate the Company as required by this Article 10, each Member waives and renounces the Member's right to initiate legal action to seek the appointment of a receiver or trustee to liquidate the Company or to seek a decree of judicial dissolution of the Company on the ground that (a) it is not reasonably practicable to carry on its business in conformity with the Articles or this Agreement, or (b) dissolution is reasonably necessary for the protection of the rights or interests of the complaining Member. Damages for breach of this Section 10.8 will be monetary damages only (and not specific performance), and damages may be offset against distributions by the Company to which the offending Member would otherwise be entitled.

## **Article 11 INDEMNIFICATION AND INSURANCE**

**11.1 Exculpation.** Notwithstanding any other terms of this Agreement, whether express or implied, or obligation or duty at law or in equity, neither the Members, the Manager(s), nor any of their respective officers, directors, shareholders, partners, employees, representatives or agents nor any officer, employee, representative, or agent of the Company or its Affiliates (individually, a "**Covered Person**" and collectively, the "**Covered Persons**") will be liable to the Company or any Member for any act or omission (in relation to the Company, this Agreement, any related document, or any transaction or investment contemplated hereby or thereby) taken or omitted in good faith by a Covered Person and in the reasonable belief that the act or omission is in or is not contrary to the best interests of the Company and is within the scope of authority granted to the Covered Person by this Agreement, provided that the act or omission does not constitute fraud, willful misconduct, bad faith, or gross negligence.

**11.2 Indemnification.** To the fullest extent permitted by law, the Company will indemnify each Covered Person (but only to the extent of the company's Assets) from and against any and all losses, claims, demands, liabilities, expenses, judgments, fines, settlements, and other amounts arising from any and all claims, demands, actions, suits, or proceedings, civil, criminal, administrative, or investigative, in which the Covered Person may be involved, or threatened to be involved, as a party or otherwise, by reason of its management of the affairs of the company or which relates to or arises out of the Company, its property, its business, or its affairs. A Covered Person will not be entitled to indemnification under this Section with respect to any claim, issue, or matter in which the Covered Person has engaged in fraud, willful misconduct, bad faith, or gross negligence. To the fullest extent permitted by law, expenses (including legal fees) incurred by a Covered Person in defending any claim, demand, action, suit, or proceeding will, from time to time, be advanced by the Company before the final disposition of the claim, demand, action, suit, or proceeding upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay the amount if it is determined that the Covered Person is not entitled to be indemnified as authorized in this Section.

**11.3 Insurance.** The Company may purchase and maintain insurance on behalf of any person who is or was an agent of the Company against any liability asserted against the person and incurred by the person in that capacity, or arising from the person's status as an agent, whether the Company would have power to indemnify the person against the liability under Section 11.2 or under applicable law.

## **Article 12**

### **INVESTMENT REPRESENTATIONS**

Each Member represents and warrants to and agrees with the Manager(s), the other Members, and the Company as follows:

**12.1 Pre-existing Relationship or Experience.** The Member has a pre-existing personal or business relationship with the Company or one or more of its officers, Manager(s) or control persons; or by reason of the Member's business or financial experience, or by reason of the business or financial experience of the Member's financial advisor who is unaffiliated with and who is not compensated, directly or indirectly, by the Company or any Affiliate or selling agent of the Company, the Member is capable of evaluating the risks and merits of an investment in the Membership Interest and of protecting the Member's own interests in connection with this investment.

**12.2 No Advertising.** The Member has not seen, received, been presented with, or been solicited by any leaflet, public promotional meeting, newspaper or magazine article or advertisement, radio or television advertisement, or any other form of advertising or general solicitation regarding the sale of the Membership Interest

**12.3 Investment Intent.** The Member is acquiring the Membership Interest for investment purposes for the Member's own account only and not with a view to or for sale in connection with any distribution of all or any part of the Membership Interest. No other person will have any direct or indirect beneficial interest in or right to the Membership Interest

**12.4 Residency.** The Member is a resident of the state listed on Exhibit A.

**12.5 Economic Risk.** The Member is financially able to bear all economic risks, including a total loss, of an investment in the Membership Interest

**12.6 No Registration of Membership Interest.** The Member acknowledges that the Membership Interest has not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), or qualified under any other applicable blue sky laws in reliance, in part, on the Member's representations, warranties, and agreements herein.

**12.7 Membership Interest is Restricted Security.** The Member understands that the Membership Interest is a "restricted security" under the Securities Act, in that the Membership Interest will be acquired from the Company in a transaction not involving a public offering, and that the Membership Interest may be resold without registration under the Securities Act only in certain limited circumstances and that otherwise the Membership Interest must be held indefinitely. In this connection, the Member understands the resale limitations imposed by the Securities Act and is familiar with SEC Rule 144, as presently in effect, and, to the extent this Rule applies, the conditions which must be met in order for that Rule to be available for resale of "restricted securities," including the requirement that certain securities must be held for at least one year after purchase thereof from the Company prior to resale (two years in the absence of publicly available information about the Company) and the condition that there be available to the public current information about the Company under certain circumstances. The Member understands that the Company has not made such information available to the public and has no present plans to do so.

**12.8 No Obligation to Register.** The Company and the Manager(s) are under no obligation to register or qualify the Membership Interest under the Securities Act or under any state securities law, or to assist a Member in complying with any exemption from registration and qualification.

**12.9 No Disposition in Violation of Law.** Without limiting the representations set forth above, and without limiting Article 7, the Member will not make any disposition of all or part of the Membership Interest which will result in the violation by the Member or by the Company of the Securities Act or any other applicable securities

laws. Without limiting the foregoing, the Member agrees not to make any disposition of all or any part of the Membership Interest unless and until:

(a) There is then in effect a registration statement under the Securities Act covering the proposed disposition and the disposition is made in accordance with the registration statement and any applicable requirements of state securities laws; or

(b) The Member has notified the Company of the proposed disposition and has furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition; and if reasonably requested by the Manager(s), the Member has furnished the Company with a written opinion of counsel, reasonably satisfactory to the Company, that the proposed disposition will not require registration of any securities under the Securities Act or the consent of or a permit from appropriate authorities under any applicable state securities law.

(c) In the case of any disposition of all or part of the Membership Interest pursuant to SEC Rule 144, in addition to the matters required by this Agreement, the Member will promptly forward to the Company a copy of any Form 144 filed with the SEC regarding the disposition and a letter from the executing broker satisfactory to the Company evidencing compliance with SEC Rule 144. If SEC Rule 144 is amended or if the SEC's interpretations thereof in effect at the time of any the disposition have changed from its present interpretations thereof, the Member will provide the Company with any additional documents the Manager(s) may reasonably require.

**12.10 Legends.** The Member understands that the certificates (if any) evidencing the Membership Interest may bear any legend required by applicable state securities laws and/or the following: "The securities represented by this certificate have not been registered under the Securities Act of 1933 nor registered nor qualified under any state securities laws. These securities may not be offered for sale, sold, delivered after sale, transferred, pledged, or hypothecated unless qualified and registered under applicable state and federal securities laws or unless, in the opinion of counsel satisfactory to the Company, that qualification and registration is not required. Any transfer of the securities represented by this certificate is further subject to other restrictions, terms, and conditions set forth on this certificate or in the Company's Operating Agreement."

**12.11 Investment Risk.** The Member acknowledges that the Membership Interest is a speculative investment involving a substantial degree of risk of loss by the Member of the Member's entire investment in the Company, the Member understands and takes full cognizance of the risk factors related to the purchase of the Membership Interest, and the Company is newly organized and has no financial or operating history.

**12.12 Investment Experience.** The Member is an experienced investor in unregistered and restricted securities of limited liability companies or limited partnerships.

**12.13 Restrictions on Transfer.** The Member acknowledges that there are substantial restrictions on the transferability of the Membership Interest pursuant to this Agreement, there is no public market for the Membership Interest and none is expected to develop, and, accordingly, it may not be possible for the Member's to liquidate the Member's investment in the Company.

**12.14 Information Reviewed.** The Member has received and reviewed all information the Member considers necessary or appropriate for deciding whether to purchase the Membership Interest. The Member has had an opportunity to ask questions and receive answers from the Company and its officers, Manager(s) and employees regarding the terms and conditions of purchase of the Membership Interest and regarding the Company's business, financial affairs, and other aspects, and has further had the opportunity to obtain all information (to the extent the Company possesses or can acquire the information without unreasonable effort or expense) that the Member deems necessary to evaluate the investment and to verify the accuracy of information otherwise provided to the Member.

**12.15 No Representations by Company.** Neither the Manager(s), any agent or employee of the Company or of the Manager(s), or any other Person has at any time expressly or implicitly represented, guaranteed, or warranted to the Member that the Member may freely transfer the Membership Interest, that a percentage of profit

and/or amount or type of consideration will be realized as a result of an investment in the Membership Interest, that past performance or experience on the part of the Manager(s) or its Affiliates or any other Person in any way indicates the predictable results of the ownership of the Membership Interest or of the overall Company business, that any cash distributions from Company operations or otherwise will be made to the Members by any specific date or will be made at all, or that any specific tax benefits will accrue as a result of an investment in the Company.

**12.16 Consultation with Attorney.** The Member has been advised to consult with the Member's own attorney regarding all legal matters concerning an investment in the Company and the tax consequences of participating in the Company, and has done so, to the extent the Member considers necessary.

**12.17 Tax Consequences.** The Member acknowledges that the tax consequences to the Member of investing in the Company will depend on the Member's particular circumstances, and neither the Company, the Manager(s), the Members, nor the partners, shareholders, members, Manager(s), agents, officers, directors, employees, Affiliates, or consultants of any of them will be responsible or liable for the tax consequences to the Member of an investment in the Company. The Member will look solely to, and rely on, the Member's own advisers regarding the tax consequences of this investment.

**12.18 No Assurance of Tax Benefits.** The Member acknowledges that there can be no assurance that the IRC or the Regulations will not be amended or interpreted in the future in such a manner so as to deprive the Company and the Members of some or all the tax benefits they might now receive, nor that some of the deductions claimed by the Company or the allocations of items of income, gain, loss, deduction, or credit among the Members may not be challenged by the Internal Revenue Service.

**12.19 Indemnity.** The Member will indemnify the Company, each Manager, each other Member, and any officers, directors, shareholders, Manager(s), members, employees, partners, agents, attorneys, registered representatives, and control persons and Affiliates of any of them who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of or arising from any misrepresentation or misstatement of facts or omission to represent or state facts made by the Member including the information in this Agreement, against losses, liabilities, and expenses of the Company, each Manager, each other Member, and any officers, directors, shareholders, Manager(s), members, employees, partners, attorneys, accountants, agents, registered representatives, and control persons and Affiliates of any of them (including attorneys' fees, judgments, fines, and amounts paid in settlement, payable as incurred) incurred by the person in connection with the action, suit, proceeding, or the like.

## **Article 13 MISCELLANEOUS**

**13.1 Complete Agreement.** This Agreement and the Articles constitute the complete and exclusive statement of agreement among the Members and the Manager(s) with respect to their subject matters and replace and supersede all prior written and oral agreements or statements by and among the Members and the Manager(s) or any of them. No representation, statement, condition or warranty not contained in this Agreement or the Articles will be binding on the Members or the Manager(s) or have any effect whatsoever. To the extent that any provision of the Articles conflict with any provision of this Agreement, the Articles will control. Nothing in this Agreement or in any related agreement, however, is intended to disclaim the representations Citadel Panda Express, Inc. made in the franchise disclosure document that furnished to Company.

**13.2 Binding Effect.** Subject to the provisions of this Agreement that limit the rights of the Members to Transfer their Membership Interests in the Company and other rights under this Agreement, this Agreement will bind and inure to the benefit of the respective heirs, assigns, personal representatives, and successors of the Members and the Manager(s).

**13.3 Parties in Interest.** Except as expressly provided in the Act, nothing in this Agreement will (a) confer any rights or remedies under or by reason of this Agreement on any persons other than the Members and the Manager(s) and their respective successors and assigns, (b) relieve or discharge the obligation or liability of any

third person to any party to this Agreement, or (c) give any third person any right of subrogation or action over or against any party to this Agreement.

**13.4 Interpretation.** Reference to any law or regulation includes all amendments, modifications, or replacements of the specific sections and provisions concerned. All headings are for convenience of reference and will not be considered in the construction or interpretation of any provision of this Agreement. Any recitals above, and any exhibits or schedules referred to and/or attached to this Agreement, are incorporated by reference into this Agreement. Numbered or lettered articles, and (sub)sections contained in this Agreement refer to articles and (sub)sections of this Agreement unless otherwise expressly stated. If any claim is made by any Member relating to any conflict, omission, or ambiguity in this Agreement, no presumption or burden of proof or persuasion will be implied by virtue of the fact that this Agreement was prepared by or at the request of a particular person or the person's counsel. The remedies under this Agreement are cumulative and will not exclude any other remedies to which any person may be lawfully entitled.

**13.5 Governing Law.** This Agreement will be construed and enforced in accordance with laws of the State of \_\_\_\_\_ without regard to conflict of laws principles.

**13.6 Disputed Matters.** Except as otherwise provided in this Agreement, any controversy or dispute arising out of this Agreement, the interpretation of any of the provisions hereof, or the action or inaction of any Member or Manager(s) hereunder will be submitted to binding arbitration in \_\_\_\_\_ County, \_\_\_\_\_, under the commercial arbitration rules then existing of the American Arbitration Association ("AAA") or its successor. Any award or decision obtained from any such arbitration proceeding will be final and binding on the parties, and judgment on any award thus obtained may be entered in any court having jurisdiction thereof. No action at law or in equity based on any claim arising out of or related to this Agreement will be instituted in any court by any Member except an action to compel arbitration pursuant to, or an action to enforce an award obtained in an arbitration proceeding in accordance with, this Section 13.6.

**13.7 Attorneys' Fees.** If any dispute between the Company and the Members or among the Members results in litigation or arbitration, the prevailing party will be entitled to recover from the others all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including reasonable attorneys' fees, costs, and expert witnesses' fees.

**13.8 Severability.** If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will remain in full force and effect.

**13.9 Additional Documents and Acts.** Each Member and Manager will execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate, carry out, and perform this Agreement and the transactions contemplated by this Agreement.

**13.10 Notices.** Any notice to be given or to be served on the Company or any Member or Manager in connection with this Agreement must be in writing (which may include facsimile) and will be deemed to have been given and received (a) when delivered to the address in Exhibit A specified by the party to receive the notice, (b) when delivered to the address in Exhibit A by nationally recognized delivery service with tracking confirmation; or (c) when three business days have elapsed following deposit in the U.S. mail, certified or registered mail, return receipt requested, first-class postage prepaid, addressed to the address indicated in Exhibit A. Any party may, at any time by giving five days prior written notice to the other parties, designate any other address in substitution of the foregoing address to which notice will be given. Transmission to a fax machine specified in a notice of this type will be acceptable provided a further copy is transmitted using another agreed upon delivery methodology.

**13.11 Amendments.** All amendments to this Agreement must be approved by the Manager(s) and will be in writing and signed by the Manager(s); provided that, any amendment that (i) varies a Member's economic



interest in the Company, (ii) varies a Member's required Capital Contributions to the Company, or (iii) varies a Member's voting rights in the Company, must be approved by Member(s) holding a Majority Interest so affected.

Notwithstanding the foregoing, amendments may be made to this Agreement from time to time by the Manager(s), without the consent or approval of the Members; (a) to add to the duties or obligations of the Manager(s), or surrender any right or power granted to the Manager(s) in this Agreement; (b) to cure any ambiguity, to correct or supplement any provision in this Agreement that is inconsistent with any other provision in this Agreement or to make any other provisions with respect to matters or questions arising under this Agreement which will not be inconsistent with the provisions of this Agreement; (c) to delete or add any provision of this Agreement required to be so deleted or added by the staff of the Securities and Exchange Commission or other federal agency or by a state securities commissioner or similar such official, which addition or deletion is deemed by the commission, agency, or official to be for the benefit or protection of the Members; (d) to change the name, or the location of the principal executive office, of the Company; (e) to reflect reductions in the Capital Contributions of the Members resulting from the return of capital to the Members in accordance with the provisions of this Agreement; (f) to reflect increases or reductions in the Percentage Interests of the Members resulting from the admission of new Members or withdrawal or buyout of existing Members in accordance with the provisions of this Agreement (g) to admit new and substituted Members; (h) to establish new or additional classes of Membership Interests; and (i) to make a change which is necessary to qualify the Company as a limited liability company under the laws of any state.

**13.12 Reliance on Authority.** If a Member is not a natural person, neither the Company nor any Member will (a) be required to determine the authority of the individual signing below to make any commitment or undertaking on behalf of the entity or to determine any fact or circumstance bearing on the existence of the authority of the individual or (b) be responsible for the application or distribution of proceeds paid or credited to individuals signing this Agreement on behalf of the entity.

**13.13 No Interest in Company Property; Waiver of Partition.** No Member or Economic Interest Owner has any interest in specific property of the Company. Each Member and Economic Interest Owner irrevocably waives during the Company's term any right that person may have to maintain any action for partition with respect to the Company's property.

**13.14 Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

**13.15 Confidentiality.** The Manager(s) and Members acknowledge and agree that all information provided to them by or on behalf of the Company concerning the business of the Company will be deemed strictly confidential and will not, except as required by law, be disclosed to any person (other than a Member) without prior consent of the Members. The Manager(s) and Members hereby consent to the disclosure by each Member of Company information to such Member's accountants, attorneys, and similar advisors bound by a duty of confidentiality. Moreover, the foregoing requirements of this Section 13.15 will not apply to a Member with regard to any information that becomes publicly known or available in the absence of any improper or unlawful action on the part of the Member or another Member with whom the Member is acting in concert (including, without limitation, any action in violation of this Section 13.15). The terms of the preceding sentence will not be applied to release any Manager or Member from legal, regulatory, contractual, or similar obligations applicable to the Company and/or the Manager or Member arising other than under this Agreement.

**[Agreement concludes, and signatures appear, on next page.]**

**13.16 Counsel to Company.** The Company has initially selected the Law Offices of \_\_\_\_\_ (NAME OF COUNSEL OR LAW FIRM) (“\_\_\_\_\_”) as legal counsel to the Company. Each Member acknowledges that \_\_\_\_\_ does not represent any Member or Manager in connection with the Company in the absence of a clear and explicit written agreement to that effect between the Member, Manager, and \_\_\_\_\_, and that in the absence of an agreement of that type, \_\_\_\_\_ will owe no duties directly to a Member or Manager. If any dispute or controversy arises between any Members and the Company, or between any Members or the Company, on the one hand, and the Manager (or an Affiliate of a Manager), on the other hand, each Member agrees that \_\_\_\_\_ may represent either the Company or such Manager (or the Manager’s Affiliate), or any of them, in any such dispute or controversy to the extent permitted by the applicable rules of professional conduct, and each Member consents to that representation.

Signed and agreed on the dates set forth by each Member’s signature, effective, however, as of \_\_\_\_\_, 20\_\_.

MEMBER:

\_\_\_\_\_, Member

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

MEMBER:

PANDA RESTAURANT GROUP, INC.,  
a California corporation

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

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

Its: Co-Chairperson

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

MEMBER:

\_\_\_\_\_, Member

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

**EXHIBIT A**

to

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT**

for

\_\_\_\_\_ **Limited Liability Company**

**LISTING OF MANAGER(S) AND MEMBERS**

**Manager.** By a majority vote of the Members the following Manager(s) were elected to operate the Company pursuant to Section 5.4 of the Agreement:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, ZIP \_\_\_\_\_

The above listed Manager agrees to serve as Manager until he is removed for any reason by a majority vote of the Members as defined by Section 5.4 or upon his voluntary resignation.

Signed and Agreed as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

**Members.** As of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the following is a list of the Members of the Company:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, ZIP \_\_\_\_\_

Number of Units of Interest	51,000
Capital Contribution	\$ _____
Class of Membership Interest	Class A
Initial Capital Account	\$ _____
Existing Percentage Interest	51%

Name	Panda Restaurant Group, Inc.
Address	1683 Walnut Grove Ave.
City, State, ZIP	Rosemead, CA 91770

Number of Units of Interest	49,000
Capital Contribution	\$ _____
Class of Membership Interest	Class B
Initial Capital Account	\$ _____
Existing Percentage Interest	49%

EXHIBIT J TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT

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STATE ADDENDA

**ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT FOR USE IN THE FRANCHISE  
REGISTRATION STATES**

The following only applies in *California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin*:

Required NASAA Statement. 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.

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

### **CALIFORNIA ADDENDUM TO THE LICENSE AGREEMENT**

This is the California Addendum to the Citadel Panda Express License Agreement (the "Agreement") with an effective date of \_\_\_\_\_ by and between Citadel Panda Express, Inc. ("We" or "us"), a California corporation, and \_\_\_\_\_, a \_\_\_\_\_ ("Licensee" or "you"), a California licensee. The terms of this Addendum shall survive the termination or expiration of the Agreement.

**1. To the extent that Sections 14 ("Transfer"), 15 ("Successor Rights") and 16 ("Termination and Default"), 17 ("Certain Rights and Obligations on Transfer, Termination and/or Expiration of the Agreement and/or an Operating Term"), 18 ("Disposition of Product and Inventory on Certain Terminations") and any other terms of the Agreement are inconsistent with the California Franchise Relations Act (CA. Bus. & Prof. Code §20020, et. seq.), the terms of the statute will control and the applicable Section shall be modified only to the extent required to comply with such law. The parties agree that in no event shall a reasonable opportunity to cure to the extent required under such statute be greater than seventy five (75) days.**

2. The following language is added as subsections 15) and 16) of Section 14.3 A. of the Agreement:  
"15) You shall deliver to us by business courier or receipted U.S. mail, written notice of your intent to Transfer, which notice shall include the proposed transferee(s)' name and address and shall be accompanied by a copy of all agreements and related documents pertaining to the proposed Transfer; and

16) You shall deliver to us the transferee's completed application, which shall include all forms, financial disclosures, related documentation and such other information as then may be required to complete our evaluation of prospective new Panda Express Restaurant licensees, and shall respond to any request from us for additional information within fifteen (15) days of receipt of such request."

3. The first 2 sentences of Section 14.5 B. are hereby deleted and the following language is substituted:

"We will give you written notice of our decision to exercise our right of first refusal or to permit or decline to permit your proposed Transfer to proceed within sixty (60) days from the date of our receipt of the offer, ancillary documents and other information we request from you regarding the proposed Transfer or transferee. We shall notify you in writing by business courier or U.S. receipted mail, and if we elect not to exercise our right of first refusal and consent to the proposed Transfer, then you shall be authorized to complete the proposed transaction with the proposed transferee on the terms contained in the original notice to us and subject to satisfaction of the conditions contained in this Section 14. If you are in default, we can require that any defaults be cured before the 60-day period begins."

The remainder of Section 14.5 B. remains as originally written.

4. The following sentence is hereby added to the end of Section 16.2 C:

"We shall not prevent you from retaining control of the principal place of the Licensed Business or any of your Restaurants if this Agreement is mutually terminated pursuant to Section 16.2 C."

5. Section 16.3 is hereby deleted and the following language is substituted:

"16.3 Defaults by You; Termination of Agreement by Us. This Agreement will automatically Terminate upon delivery of our written notice of Termination to you without further action by us if you:

A. abandon your Restaurant business by failing to operate one or more of your Restaurant(s) for five (5) consecutive days during which you are required to operate, or for any shorter period after which it is not unreasonable for us to conclude that you do not intend to continue operating;

B. experience a seizure or foreclosure of the Licensed Business or Restaurant premises by a government official or by a creditor or lessor and a final judgment against you is unsatisfied for 30 days, or a levy of execution is made upon any property used in the Licensed Business and not discharged within five (5) days;

C. make any material misrepresentation or omission in the application for the License;

D. are (or the Licensed Business is) the subject of an order for relief in bankruptcy, judicially determined to be insolvent or admit you/the Licensed Business are unable to pay debts as they become due; or make an assignment for the benefit of creditors;

E. are (or a director of principal officer is) convicted of, or plead no contest to, a felony, or any other criminal misconduct relevant to the operation of your Licensed Business;

F. engage in any conduct which reflects materially and unfavorably upon your Licensed Business, the System or the goodwill associated with the Marks;

G. fail to comply with any law or regulation applicable to the operation of the Licensed Business for a period of 10 days after notification of non-compliance, including without limitation, health, safety, building, and labor laws and regulations;

H. after curing a failure to comply with this Agreement, as provided in Sections 16.3. J. or K., below, engage in the same non-compliance, whether or not corrected after notice, or repeatedly fail to comply with one or more requirements of this Agreement or the Manuals, whether or not corrected after notice;

I. operate the Licensed Business or a Restaurant such that we reasonably determine that the continued operation of the Licensed Business and/or any Restaurant can result in imminent danger to public health and/or safety;

J. fail to pay any amount due us or an Affiliate of ours when due and do not correct such failure within five (5) days after we give you written notice of such default; or

K. fail to comply with any provision of this Agreement other than those described in Section 16.3 A – J, above, or any other agreement with us and/or any Affiliate of ours, or any System Standard or mandatory requirement prescribed in the Manuals within sixty (60) days after receipt of our written notice of default. If any such default cannot reasonably be corrected within such sixty (60) day period, then you must undertake diligent efforts within such sixty (60) day period to come into full compliance and furnish, at our request, proof acceptable to us of such

efforts. In any event, all such defaults must be fully cured within seventy five (75) days after delivery of the initial written notice to you.

A breach as provided under Sections 16.3 A through K, above, is deemed by the parties to be a failure by you to substantially comply with lawful License Agreement requirements."

6. The following language is added to the end of Section 16 of the Agreement:

"If we publish an announcement that we have determined that continued franchising in the state or in the standard metropolitan statistical area (as established by the United States Office of Management and Budget) within the state in which a Restaurant of yours is located is not appropriate for reasons that relate to our economic or other interests and that we are completely withdrawing from all franchise activity in such state/area (provided that we can continue to service existing Licensees under outstanding agreements), then we will be considered to have made a general market area withdrawal, will have no liability to you for termination of this Agreement therefore and will not be required to offer you any renewal license or similar rights (a "Market Withdrawal"). In that event we shall not prevent you from retaining control of the principal place of the Licensed Business or your Restaurant(s) involved in the Market Withdrawal. You agree that if any statute or court decision requires "good cause" (or any similar standard) for non-renewal, our compliance with the provisions of this clause will be deemed to be good cause."

7. Section 18.2 is hereby deleted and the following substituted therefore:

"We shall have the right upon terminating or not renewing your License for any or all of your Restaurants to purchase from you at the value of price paid by you, minus depreciation, your inventory, supplies, equipment, fixtures and furnishings (the "Items") purchased or paid for under the terms of this Agreement or an agreement ancillary hereto by you to us or to our approved suppliers that are possessed or used by you in the Licensed Business at the time of termination or non-renewal. For the purposes of this provision and compliance under and construction of the California Franchise Relations Act (CFRA), the parties agree that such depreciation shall be calculated based on whichever of the two (2) methods prescribed herein results in a lower valuation of the Items: i) the Modified Accelerated Cost Recovery System (MACRS) method applied in accordance with the applicable standard U.S. Internal Revenue Service (IRS) schedules effective for the calendar year immediately preceding the calendar year in which the applicable License terminated or expired and was not renewed; or ii) depreciation schedules last filed by you in an IRS income tax return for the Licensed Business in a fiscal year prior to the fiscal year in which the applicable License terminated or expired and was not renewed. You shall provide us a true and complete copy of such income tax return and related schedules within five (5) business days of our request. You shall further provide us clear title to and possession of any such Items. We can offset against the amounts owed to you any amounts owed by you to us. You agree to bear all the costs of de-identification of any Terminated or not renewed Restaurant as provided in Section 17.2 of this Agreement.

In the event a court or arbitrator finds that we terminated or failed to renew this Agreement for any or all Restaurants in violation of the CFRA, the parties agree that the fair market value of the applicable licensed business/Restaurant(s) and related assets (the "FMV") for purposes of compliance with the CFRA shall be established in accordance with the following procedure: You and we shall mutually select an independent Certified Business Appraiser within thirty (30) days of such court/arbitrator finding. If unable to identify a mutually agreeable Certified Business Appraiser, you and we each shall select a person within forty five (45) days of such court/arbitrator finding who is an independent Certified Business Appraiser (the "Designees") and such Designees promptly shall mutually agree to a third independent Certified Business Appraiser whose determination of the FMV shall be final and binding on the parties. The parties shall share equally the costs of establishing the FMV. This provision shall survive the termination or expiration of the License Agreement."



IN WITNESS WHEREOF, you and we have executed and delivered this Addendum in \_\_\_\_\_ counterparts on the day and year first above written.

THIS ADDENDUM WILL NOT BECOME EFFECTIVE UNLESS AND UNTIL SIGNED BY AN AUTHORIZED REPRESENTATIVE OF LICENSOR. NO FIELD REPRESENTATIVE OR OTHER PERSON IS AUTHORIZED TO EXECUTE THIS AGREEMENT FOR LICENSOR.

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

### **CALIFORNIA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

California Business and Professions Codes sections 20000 through 20043 provide rights to the Franchisee concerning termination, transfer or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).

The binding arbitration (and any litigation) and any arbitration appeal will take place in Rosemead, California. You and we will generally bear each of our own costs in any dispute, but the arbitrator can assess costs (but not attorney's fees) against a losing party.

Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as business and professions code section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

Section 31125 of the California Corporations Code requires us to give you a disclosure document approved by the Department of Corporations prior to a solicitation of a proposed material modification of an existing franchise unless an exemption from registration applies.

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

The California Franchise Investment Law requires that a copy of all proposed agreements relating to the sale of the franchise be delivered if the delivery of a disclosure document is required under law.

Our Uniform Resource Locator ("URL") address is **[www.pandaexpress.com](http://www.pandaexpress.com)**

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [WWW.DBO.CA.GOV](http://WWW.DBO.CA.GOV) ([HTTP://WWW.DFPI.CA.GOV](http://WWW.DFPI.CA.GOV)).

The License Agreement requires you to execute a general release of claims upon renewal or transfer of the franchise agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive compliance with any provision of that law or any rule or order thereunder is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 31000-31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000-20043).

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**HAWAII ADDENDUM  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT AND LICENSE AGREEMENT**

**THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF REGULATORY AGENCIES OR A FINDING BY THE DIRECTOR OF REGULATORY AGENCIES THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.**

**THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE OFFERING CIRCULAR, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.**

**THIS OFFERING CIRCULAR CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.**

No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ILLINOIS ADDENDUM  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT AND LICENSE AGREEMENT**

1. The license agreement will not in any way prevent you from submitting claims arising under the Illinois Franchise Disclosure Act of 1987 to the jurisdiction of the courts of Illinois.
2. The conditions under which your franchise can be terminated and your rights upon non-renewal may be affected by Illinois Law 815 ILCS 705/19 and 705/20.
3. The Illinois Franchise Disclosure Act will govern with respect to venue and choice of law provisions. Therefore any provisions specifying venue or choice of law outside of the state of Illinois may not be enforceable.

4. Section 19.3 of the Franchise Agreement is amended to include as follows:

To the extent validly required by Illinois law, the waiver of jury trial provisions of the License Agreement are subject to (and superseded by) Section 41 of the Illinois Franchise Disclosure Act, and the rules promulgated thereunder.

5. Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act or any other law of Illinois is void.

6. No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**KANSAS ADDENDUM  
TO THE CITADEL PANDA EXPRESS, INC.  
FRANCHISE DISCLOSURE DOCUMENT AND LICENSE AGREEMENT**

If you are a resident of Kansas and to the extent Kansas law is required to apply, the following provisions of Kansas law (K.S.A. Chapter 16, Article 1, Section 16-121) shall supersede any provision in this Agreement to the contrary:

1. Any litigation, arbitration or other dispute resolution proceeding arising from the franchise agreement shall be conducted in Kansas.

2. In the event of a conflict of laws, the provisions of the laws of the state of Kansas shall apply to and govern every franchise agreement to be performed in Kansas (K.S.A. Chapter 16, Article 1, Section 16-121).

3. A provision in a franchise agreement is not enforceable to the extent it requires the promisor to indemnify the promisee for the promisee's negligence or intentional acts or omissions.

4. A provision in a franchise agreement is not enforceable to the extent it requires a party to provide liability coverage to another party, as an additional insured, for such other party's own negligence or intentional acts or omissions.

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT.  
WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

**MARYLAND ADDENDUM  
TO THE CITADEL PANDA EXPRESS, INC.  
FRANCHISE DISCLOSURE DOCUMENT, LICENSE AND OTHER AGREEMENTS**

You should note that the Maryland Securities Commissioner has imposed a financial condition on our franchise exemption filing in Maryland. Item 5 of the Disclosure Document is amended to state that payment of initial fees is deferred until such time as we have completed all of our initial obligations to you and you have commenced doing business.

Section 9.1 of the License Agreement is amended to include the following:

You should note that the Maryland Securities Commissioner has imposed a financial condition on our franchise exemption filing in Maryland. Section 9.1 is amended to provide that payment of the initial license fee is deferred until such time as we have completed all of our initial obligations to you and is payable to us upon demand as soon you are open and operating the Licensed Business.

The License Agreement and Statement of Prospective Licensee are amended to include the following statement:

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

Item 17 of the Disclosure Document and Section 19.2 of the License Agreement are amended to include the following:

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

Item 17 of the Disclosure Document and Section 19.11 of the License Agreement are amended to include the following:

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

Items 5 and 17 of the Disclosure Document and Sections 9.1, 14.3, 14.4, 14.5 and 15.3 of the License Agreement shall be amended to include the following:

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

| The following is added to the Disclosure Document and as a new Section ~~ef~~ of the License Agreement

Required NASAA Statement. 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.

Section 22 of the License Agreement is deleted in its entirety and replaced with the following:

**22. ACKNOWLEDGMENTS AND REPRESENTATIONS, ENTIRE AGREEMENT, NO FIDUCIARY RELATIONSHIP**

A. In signing this Agreement, you acknowledge the importance of operating your Restaurants in conformity with Panda Express standards.

B. You and we agree that this Agreement along with concurrently signed writings, such as but not limited to addenda, exhibits, releases, Statement of Prospective Licensee, and any other related documents (collectively, the Related Documents) contain the final, complete and exclusive expression of the terms of your and our agreement. Except for our representations in the Franchise Disclosure Document and your written representations in any license application, any oral or written understandings, agreements or representations which are not fully expressed in this Agreement and the Related Documents are expressly disclaimed by you and us.

C. You represent and warrant to us, as an inducement to our entering into this License relationship, that you have made no misrepresentations or material omissions in any license application or otherwise in obtaining the License. You understand and acknowledge that we have offered Licenses in the past, may currently be offering Licenses and/or may offer Licenses in the future, on economic and/or other terms, conditions and provisions which may significantly differ from those offered under this Agreement and any related documents and may be more favorable than the terms provided herein. We may, from time to time, deal with our Licensees on differing economic and/or other terms (including making special arrangements for payments of amounts due, waiving defaults and/or otherwise) to suit individual business circumstances, in each case in our sole and absolute discretion and without being required to offer similar terms to other Licensees, such flexibility being a practical necessity to respond to distinct business situations.

D. You and we acknowledge and agree that the officers, directors, managers, employees, and agents of the parties to this Agreement act only in a representative capacity and not in an individual capacity and shall not be individually bound by the terms of this Agreement, except as may be provided in any personal guaranty or other agreement executed independently of this Agreement.

E. You and we further acknowledge that there is not a fiduciary relationship between you and us or between you and any Licensors-Related Persons/Entities. You and we acknowledge that you are an independent contractor. Neither party shall hold itself out as a partner, joint-venturer, agent, employee, or legal representative of the other. Neither party is authorized to make any agreement, warranty, covenant, or other representation, nor to create any obligation, express or implied, on behalf of the other party nor represent any right or power to do so.

F. YOU REPRESENT AND ACKNOWLEDGE THAT YOU RECEIVED OUR FRANCHISE DISCLOSURE DOCUMENT AT LEAST FOURTEEN (14) DAYS BEFORE THE DATE ON WHICH THIS AGREEMENT AND ALL OTHER RELATED AGREEMENTS WERE EXECUTED, OR ANY CONSIDERATION WAS PAID (WHICHEVER HAPPENED FIRST).

G. You represent and warrant that you meet and will continue to meet the following checked and initialed Exemption, if applicable:

Fractional Franchise Exemption

**(Federal Trade Commission Rule exemption and South Dakota exemption):** You or any of your current directors or officers, or any current directors or officers of a parent or Affiliate of yours, has more than 2 years of experience in a Similar Business (as defined in Section 23). If applicable, identify your Similar Business and the business it conducts:

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You hereby certify that, when the Restaurant becomes a part of your Similar Business, the total sales in dollar volume from the proposed Restaurant on an annual basis will be less than 20% of total dollar volume sales for your Similar Business (including the Restaurant) for a period of at least one year after opening.

- **Note in Illinois, Indiana, Michigan, Minnesota and Wisconsin, the experiences of directors and officers of parent or Affiliate do not qualify and cannot be relied upon in claiming the above exemption.**
- **Note in Michigan and Minnesota the dollar volume sales qualifier requiring that the Restaurant generate less than 20% of the total dollar volume sales for your Similar Business is ongoing and not limited to the first year. In Minnesota and Wisconsin the franchisee must already be in the same type of business as the franchise. Michigan also requires the delivery of a Disclosure Document if the franchisor has one that is compliant under federal or another state's law.**
- **Note the fractional franchise exemption criteria in California and New York are as follows:** You or your current officers, directors or managing agents who have held their respective positions for more than 24 months prior to the date of this Agreement, if applicable, have been in a Similar Business for more than 24 months prior; AND
  - You represent that the products and services to be offered from the Restaurant represent a new line and are substantially similar to those offered from your existing Similar Business; AND



- You represent that the Restaurant will operate at the same location as your “Similar Business”; AND
- You hereby certify that, when the Restaurant becomes a part of your Similar Business, the total sales in dollar volume from the proposed Restaurant on an annual basis will be less than 20% of total dollar volume sales for your Similar Business (including the Restaurant); AND
- You represent that you are not controlled by the Franchisor.

**Note the fractional franchise exemption criteria in Rhode Island are as follows:** You must have been in a Similar Business for more than 24 months prior; AND

- You represent that the products and services to be offered from the Restaurant are substantially similar to those offered from your existing Similar Business; AND
- You represent that the Restaurant will operate at the same location as your “Similar Business”; AND
- You hereby certify that, when the Restaurant becomes a part of your Similar Business, the total sales in dollar volume from the proposed Restaurant will be less than 20% of total dollar volume sales for your Similar Business (including the Restaurant) at least in the first year; AND
- You represent that you are not controlled by the Franchisor.

**Note the fractional franchise exemption criteria in Virginia are as follows:**

- You hereby certify that, when the Restaurant becomes a part of your principal business, the total sales from the proposed Restaurant will be less than 20% of gross sales for your principal business (including the Restaurant).

**Note a fractional franchise exemption does not apply in Hawaii, Maryland, North Dakota, and Washington.**

Initial: \_\_\_\_\_

Large Franchisee Exemption (Federal Trade Commission Rule Exemption Only)

- You (or your parent or any affiliates)
  - Have been in business for at least 5 years.
  - Have a net worth of at least \$6,165,500

Initial: \_\_\_\_\_

Insider Exemption (Federal Trade Commission Rule Exemption Only)

- Within 60 days of the sale, one or more individuals with at least 50% ownership interest in the franchise
  - have been an officer, director, general partner or had management responsibility for the offer and sale of Panda Express franchises or been administrator of the franchised network for at least 2 years; or
  - have been an owner of at least a 25% interest in the Franchisor for at least 2 years.

Initial: \_\_\_\_\_

Large Investment Exemption (Federal Trade Commission Rule Exemption Only)

- At least one individual in the franchise investor group is going to invest a minimum of \$1,233,000 towards the franchise build out and development and in the first 3 months of operation (exclusive of financing received from Panda Express and any unimproved land costs).
- If applicable, you acknowledge the following:
  - "The franchise sale is for more than \$1,233,000 - excluding the cost of unimproved land and any financing received from the franchisor or an affiliate - and thus is exempted from the Federal Trade Commission's Franchise Rule disclosure requirements, pursuant to 16 CFR 436.8(a)(5)(i)"

**Initial:** \_\_\_\_\_

Other	Statutory	Exemption:
_____ (if applicable, identify type and specify State)		

**Initial:** \_\_\_\_\_

If No Exemption Is Applicable, Initial Below.

No Exemption:

**Initial:** \_\_\_\_\_

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

Name

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

**MINNESOTA ADDENDUM  
TO THE CITADEL PANDA EXPRESS, INC.  
FRANCHISE DISCLOSURE DOCUMENT AND LICENSE AGREEMENT**

1. Minnesota Statutes §80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Disclosure Document or Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of jurisdiction.
2. With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes Section 80C.14, Subdivisions 3, 4 and 5 which require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the License Agreement.
3. Item 13 of the Franchise Disclosure Document and Article 7 of the License Agreement are modified with respect to Minnesota Franchisees as follows: The Minnesota Department of Commerce requires that the Franchisor indemnify Minnesota Franchisees against liability to third parties resulting from claims by third parties that the Franchisee's use of the Franchisor's trademarks or service marks infringes trademark rights of some third party. The Franchisor does not indemnify against the consequences of the Franchisee's use of the Franchisor's trademark except in accordance with the requirements of the franchise (and to the extent validly required as a condition to registration), and, as a condition to indemnification, the Franchisee must provide notice to the Franchisor of any such claim within 10 business days and tender the defense of claim to the Franchisor. If the Franchisor accepts the tender of defense, the Franchisor has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim.
4. Minn. Rule 2860.4400J prohibits a franchisee from waiving its rights to a jury trial or waiving its rights to any procedure, forum or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes. To the extent the License Agreement is inconsistent with this Rule, to the extent applicable, the Rule will control.
5. Any releases required as a condition of renewal and/or assignment/transfer will not apply to claims that may arise under the Minnesota Franchises Law.
6. Section 19.1 H of the Agreement and of the attachment to Personal Guaranty (Exhibit 19.12 to the Agreement) are modified to state that either party shall be entitled to seek preliminary or interim injunctive or provisional relief by a court or by arbitration (including, but not limited to, a temporary restraining order and preliminary injunction, all without bond, unless a court or arbitrator determines a bond is required) without showing or proving any actual damage, until such time as a final and binding determination is made by the arbitrator.
7. Section 5 of the Prospective Licensee Confidentiality and Non-Disclosure Agreement (Exhibit H of the Disclosure Document) is modified to provide that Prospective Licensee agrees that a breach of the Agreement may cause continuing and irreparable injury to the Licensor as a direct result of any violation,

for which the remedies at law may be inadequate, and that Licensor shall be entitled to seek injunctive relief to prevent any violations of this Agreement and other appropriate remedies and relief.

8. [NSF checks are governed by Minnesota Statute 604.113, which puts a cap of \\$30 on service charges.](#)

89. No statement, questionnaire, or acknowledgement 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 with the franchise.

Dated: \_\_\_\_\_

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

**NEW YORK ADDENDUM  
TO THE CITADEL PANDA EXPRESS, INC.  
FRANCHISE DISCLOSURE DOCUMENT**

1. The cover page of the Franchise Disclosure Document is amended to include to the following:

Please consider the following RISK FACTORS before you buy this franchise:

**1. THE LICENSE AGREEMENT PROVIDES THAT ARBITRATION OR LITIGATION WILL TAKE PLACE IN THE COUNTY IN WHICH OUR THEN-CURRENT HEADQUARTERS IS LOCATED (CURRENTLY, LOS ANGELES, CALIFORNIA). OUT OF STATE OR AREA ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO ARBITRATE WITH US IN THE LOCATION WE SELECT THAN IN YOUR HOME STATE.**

**2. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.**

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

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

The name and address of the Franchisor's agent for service of process in New York is: Secretary of State of the State of New York, 99 Washington Avenue, 6<sup>th</sup> Floor, Albany, New York 12231-0001.

2. Item 3 of the Franchise Disclosure Document is amended to include the following:

Except as follows, neither the franchisor, its predecessors, nor any person identified in Item 2 has pending an any administrative, criminal or material civil action (or a significant number of civil actions irrespective of materiality) alleging a violation or any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations.

Neither franchisor nor any person identified in Item 2 above has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-year period immediately preceding the application for registration, has been convicted of a misdemeanor or pleaded nolo contendere to a misdemeanor charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such misdemeanor conviction or charge or civil action, complaint or other legal proceeding involved violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations.

Neither franchisor nor any person identified in Item 2 above is subject to any injunctive or restrictive order or decree relating to franchises or under any federal, state or Canadian franchise, securities, anti-trust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency. Neither franchisor nor any person identified in Item 2 above is subject to any currently effective order of any national securities association (as defined in the Securities and Exchange Act of 1934) suspending or expelling such persons from membership in such association or exchange.

3. Item 4 of the Franchise Disclosure Document is amended to include the following:

Neither franchisor nor any predecessor, officer or general partner of franchisor, nor any of the persons listed in Item 2 above has, during the 10 years prior to the date of this disclosure document, ever been adjudged bankrupt or reorganized due to insolvency nor has any of them ever been a principal officer of any company or a general partner in any partnership that was adjudged bankrupt or reorganized due to insolvency during or within 1 year after the period that such officer or general partner of the franchisor held such a position in such company or partnership, or is otherwise subject to any pending bankruptcy or reorganization proceeding.

4. Item 17 of the Franchise Disclosure Document is amended to read as follows:

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

This table lists certain important provisions of the franchise and related agreements pertaining to renewal, termination, transfer and dispute resolution. You should read these provisions in the agreement attached to this disclosure document.

5. The following is added to Item 17 in the Summary column opposite provision D: "You may terminate the Franchise Agreement on any grounds available to you by law."

6. The following is added to Item 17 in the Summary Column opposite provision W: "The foregoing choice of law should not be considered a waiver of any right conferred upon you by the GBL of the State of New York, Article 33."

7. No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

**NORTH DAKOTA ADDENDUM**  
**TO THE FRANCHISE DISCLOSURE DOCUMENT AND LICENSE AGREEMENT**  
**OF CITADEL PANDA EXPRESS, INC.**

Item 17 (c) of the Disclosure Document and Section 15.3 of the License Agreement require the franchisee to sign a general release upon renewal of the franchise agreement. The Commissioner has determined this to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. These provisions are unenforceable in North Dakota.

Item 17 (i) of the Disclosure Document and Section 17.4 of the License Agreement require the franchisee to consent to liquidated damages. The Commissioner has determined this to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. This provision is unenforceable in the State of North Dakota.

Section 19.3 of the License Agreement requires the franchisee to consent to a waiver of trial by jury. The Commissioner has determined this to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. This provision is unenforceable in the State of North Dakota.

Section 19.4 of the License Agreement requires the franchisee to consent to a limitation of damages. The Commissioner has determined this to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. This provision is unenforceable in the State of North Dakota.

Items 17 (u) and 17 (v) of the Disclosure Document and Section 19.1 of the License Agreement provide that the franchisee must agree to the arbitration of disputes in Los Angeles County, California. The Commissioner has determined this to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. This provision is unenforceable in the State of North Dakota, and therefore Item 17 (u) of the Disclosure Document and Section 19.1 of the Franchise Agreement are amended to provide the site of arbitration or mediation be agreeable to all parties.

Item 17 (w) of the Disclosure Document and Section 19.11 of the License Agreement provides that the agreement shall be construed according to the laws of the State of California. The Commissioner has held that franchise agreements, which specify that they are to be governed by the laws of a state other than North Dakota, are unfair, unjust, or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. The Franchise Agreement shall be construed according to the laws of the State of North Dakota.

No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Dated: \_\_\_\_\_

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title



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**VIRGINIA ADDENDUM  
TO THE CITADEL PANDA EXPRESS, INC.  
FRANCHISE DISCLOSURE DOCUMENT**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure:

The following statements are added to Item 17.h.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute "reasonable cause," as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

**WASHINGTON ADDENDUM TO THE ~~CITADEL PANDA EXPRESS, INC.~~  
FRANCHISE DISCLOSURE DOCUMENT ~~AND LICENSE~~, THE FRANCHISE AGREEMENT,  
AND ALL RELATED AGREEMENTS**

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Franchise Disclosure Document, the franchise agreement, and all related agreements regardless of anything to the contrary contained therein. This Addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

1. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
2. **Franchisee Bill of Rights.** RCW 19.100.180 may supersede provisions in the franchise agreement ~~in or related agreements concerning~~ your relationship with the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions ~~which may that~~ supersede the franchise agreement ~~in or related agreements concerning~~ your relationship with the franchisor. Franchise agreement provisions, including the areas of termination and renewal of your franchise those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.
3. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. **General Release.** A release or waiver of rights ~~executed by in the franchise agreement or related agreements purporting to bind the~~ franchisee ~~shall not include rights to~~ waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, ~~in accordance with RCW 19.100.220(2).~~ In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).
5. **Statute of Limitations and Waiver of Jury Trial.** Provisions ~~such as those which contained in the franchise agreement or related agreements that~~ unreasonably restrict or limit the statute of limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act ~~such as a~~ right to a jury trial, may not be enforceable.
6. **Transfer Fees.** Transfer fees are collectable only to the extent that they ~~reflect~~ reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
7. **Termination by Franchisee.** The franchisee may terminate the franchise agreement under any grounds permitted under state law.

8. **Certain Buy-Back Provisions.** Provisions in franchise agreements or related agreements that permit the franchisor to repurchase the franchisee's business for any reason during the term of the franchise agreement without the franchisee's consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.

9. **Fair and Reasonable Pricing.** Any provision in the franchise agreement or related agreements that requires the franchisee to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).

10. **Waiver of Exemplary & Punitive Damages.** RCW 19.100.190 permits franchisees to seek treble damages under certain circumstances. Accordingly, provisions contained in the franchise agreement or elsewhere requiring franchisees to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).

11. **Franchisor's Business Judgement.** Provisions in the franchise agreement or related agreements stating that the franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.

12. **Indemnification.** Any provision in the franchise agreement or related agreements requiring the franchisee to indemnify, reimburse, defend, or hold harmless the franchisor or other parties is hereby modified such that the franchisee has no obligation to indemnify, reimburse, defend, or hold harmless the franchisor or any other indemnified party for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.

13. **Attorneys' Fees.** If the franchise agreement or related agreements require a franchisee to reimburse the franchisor for court costs or expenses, including attorneys' fees, such provision applies only if the franchisor is the prevailing party in any judicial or arbitration proceeding.

~~6.~~ 14. **Noncompetition Covenants.** Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for ~~inflation~~inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for ~~inflation~~inflation). As a result, any provisions contained in the franchise agreement or elsewhere that ~~conflict~~conflicts with these limitations ~~are~~is void and unenforceable in Washington.

~~7.~~ 15. **Nonsolicitation Agreements.** RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

~~8.~~ 16. **Questionnaires and Acknowledgments.** No statement, questionnaire, or acknowledgment signed or agreed to by ~~a Franchisor~~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~~the Franchisee. This provision supersedes any other term of any document executed in connection with the franchise.

Dated: \_\_\_\_\_

17. **Prohibitions on Communicating with Regulators.** Any provision in the franchise agreement or related agreements that prohibits the franchisee from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

18. **Advisory Regarding Franchise Brokers.** Under the Washington Franchise Investment Protection Act, a “franchise broker” is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. If a franchisee is working with a franchise broker, franchisees are advised to carefully evaluate any information provided by the franchise broker about a franchise.

LICENSOR:

Citadel Panda Express, Inc.  
a California corporation

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

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

|

LICENSEE (Corp., LLC or Partnership)

\_\_\_\_\_  
Legal Name of Licensee Entity

a \_\_\_\_\_  
(Corporation, LLC or Partnership)

Organized under the laws of:

\_\_\_\_\_  
(Jurisdiction of Formation)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(NOTE: WE HAVE NOT REGISTERED TO SELL FRANCHISES IN THIS STATE UNLESS A REGISTRATION IS NOTED ON THE LIST OF STATE REGISTRATIONS FOLLOWING THE COVER PAGE TO THIS DOCUMENT. WE MAY AWARD A FRANCHISE IN THIS STATE IF WE ARE REGISTERED IN THIS STATE OR A TRANSACTION IS QUALIFIED UNDER AN AVAILABLE EXEMPTION FROM REGISTRATION)

**WISCONSIN ADDENDUM**  
**TO THE CITADEL PANDA EXPRESS, INC.**  
**FRANCHISE DISCLOSURE DOCUMENT**

In connection with Item 17 of the Franchise Disclosure Document, the following paragraph is included pursuant to Wisconsin law:

The conditions under which the Franchise Agreement can be terminated or not renewed may be affected by the Wisconsin Fair Dealership Law, Wisconsin Statutes, 1981-82, Title XIV-A, Chapter 135.

No statement, questionnaire, or acknowledgment signed or agreed to by Franchisor 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 Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**EXHIBIT K TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**SAMPLE LOAN AGREEMENTS  
(PROMISSORY NOTE, SECURITY AGREEMENT AND GUARANTEE)**

## PROMISSORY NOTE

\$ \_\_\_\_\_

Month \_\_, 20\_\_

FOR VALUE RECEIVED, *Franchisee*, a \_\_\_\_\_ (herein called the "**Company**"), hereby promises to pay to the order of \_\_\_\_\_, a \_\_\_\_\_ ("**Lender**") or its assigns (hereinafter referred to as the "**Holder**"), the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or so much thereof as remains outstanding from time to time and interest thereon as provided below. Payment of the principal of and interest on this Note will be made in currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, at such address or to such account, as applicable, as shall be designated to the Company by the Holder.

SECTION 1. **Definitions.** As used herein, the following terms will be deemed to have the meanings set forth below:

**"Bankruptcy Code"** means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.).

**"Business Day"** means any day that is not a Saturday, Sunday, or other day on which national banks are authorized or required to close.

**"Company"** has the meaning set forth in the introductory paragraph of this Note and includes any Person that succeeds to or assumes the obligations of the Company under this Note.

**"Interest Rate"** means a rate per annum equal to 7% due on the 1<sup>st</sup> of each month and payable on the unpaid principal amount (see Schedule A attached hereto) from the date hereof until the earlier of the Maturity Date and the entire balance of this Note is paid in full.

**"Maturity Date"** means *Month \_\_, Year*.

**"Note"** means this promissory note issued by the Company.

**"Person"** means any person, corporation, general or limited partnership, joint venture, trust, limited liability company, association or other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

**"Threshold Amount"** means \$ \_\_\_\_\_.

**"Triggering Event"** means:

- (a) Failure by the Company to make any payment hereunder within ten (10) days from when due and payable; or



(b) The Company defaults in the performance of or compliance of any term in this Note or any other agreement, instrument, guaranty or other document now or hereafter evidencing or securing any of the Obligations, being collectively referred to herein as the "**Financing Documents**") or the License Agreement dated as of *Month* \_\_, 20\_\_, between the Company or Lender and any of its subsidiaries or affiliates.

(c) there is entered against the Company or any subsidiary or affiliate (1) one or more final judgments or orders for the payment of money in any aggregate amount (as to all such judgments or orders) more than the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) or (2) any one or more non-monetary final judgments or orders that have, or could reasonably be expected to have, individually, or in the aggregate, a material adverse effect on the business, financial condition or results of operations of the Company and, in either case, (A) enforcement proceedings are commenced by any creditor upon any such judgment or order, or (B) there is a period of 10 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect.

**"Triggering Event Rate"** means a per annum interest rate equal to five percentage points above the Interest Rate.

SECTION 2. **Payments.** (a) Starting on *Month* \_\_, 20\_\_ and continuing until the principal balance and any accrued interest of the Notes, as well as any other fees and expenses thereon, have been repaid in full, on the 1<sup>st</sup> day of each month, the Company shall pay to Holder the amount of \$\_\_\_\_\_. All payments shall be first applied to interest and thereafter to principal. This Note may be prepaid in whole or in part at any time without premium or penalty. All prepayments shall be applied to interest, and then to principal payments in the order of their maturity. (b) In the event a payment due under this Note is made after but within ten (10) days from when due, the Company shall pay an additional late fee in the amount of \$500; in the event a payment due under this Note is not made within ten (10) days from when due, the Company shall pay interest at the Triggering Event Rate and is subject to Acceleration (as defined below). All payments due under this Note shall be sent to Lender at the following address:

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

SECTION 3. **Acceleration.** Upon the occurrence of a Triggering Event and during the continuation thereof, the entire principal balance of this Note, together with all accrued and unpaid interest payable hereunder, and any applicable fees and expenses, shall, at the Holder's election, immediately become due and payable, without presentment, notice, or demand of any kind.

#### SECTION 4. Miscellaneous.

(a) Any notice required by the provisions of this Note shall be given in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested to the Holder or the Company, as the case may be, at its address set forth on the signature page hereof. All notices sent in accordance with this section shall be deemed received on the earlier of the date of actual receipt or three (3) Business Days after the deposit thereof in the mail.

(b) In no event shall the interest rate or rates payable under this Note exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. The Company by its issuance hereof and the Holder by its acceptance hereof intend to legally agree upon the rate of interest and manner of payments stated herein; provided, however, that, anything contained herein to the contrary notwithstanding, if said rate or rates of interest or manner of payment exceeds the maximum rate allowable under applicable law, then, ipso facto as of the date of this Note, the Company is and shall be liable only for the payment of such maximum amount as allowed by law, and payment received from the Company in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of this Note to the extent of such excess.

(c) The Company and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand, and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

(d) The Company agrees to pay to the Holder any and all costs and expenses, including attorneys' fees and expenses, that the Holder may incur in connection with (a) the collection of all sums payable hereunder or (b) the exercise or enforcement of any of the rights, powers or remedies of the Holder under this Note or applicable law (including in connection with any bankruptcy proceeding or workout). Any such amounts shall be payable on demand, with interest at the rate provided above for overdue principal and interest.

(e) No failure or delay on the part of the Holder in the exercise of any power, right or remedy under this Note shall impair such power, right or remedy or shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or remedy preclude other or further exercise of such or any other power, right or remedy. No amendment of any provision of this Note (including a waiver thereof or consent relating thereto) shall be effective unless the same shall be in writing and signed or consented to by the Holder.

(f) This Note is intended by the Company as a final expression of its agreement regarding the subject matter hereof and contains a complete and exclusive statement of the terms and conditions of such agreement.

(g) THE VALIDITY OF THIS NOTE, THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF, AND THE RIGHTS OF THE

COMPANY AND THE HOLDER WITH RESPECT TO MATTERS ARISING HEREUNDER OR RELATED HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA. THE COMPANY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS NOTE SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA OR, AT THE SOLE OPTION OF THE HOLDER HEREOF, IN ANY OTHER COURT IN WHICH THE HOLDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. THE COMPANY WAIVES, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH. **THE COMPANY HEREBY FURTHER WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE COMPANY REPRESENTS THAT IT HAS REVIEWED THIS WAIVER AND KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.** IN THE EVENT OF LITIGATION, A COPY OF THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(h) The execution and delivery of this Note have been authorized by the Manager(s)/Board of Directors of the Company and by any necessary vote or consent of the members/shareholders/partners of the Company.

(i) This Note shall be binding upon the successors and assigns of the Company and inure to the benefit of the Holder and its successors, endorsers and assigns; provided, however, that the Company may not assign this Note without the prior written consent of the Holder and any assignment in violation hereof shall be void ab initio.

(j) Nothing in this Note or in any related agreement, however, is intended to disclaim the representations Citadel Panda Express, Inc. made in the franchise disclosure document that furnished to Company.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the undersigned has/have executed this Note effective as of the date first above written.

***Franchisee Name***

a \_\_\_\_\_  
(Jurisdiction & Entity Type)

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

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

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

Address for Notices:

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

Attention: \_\_\_\_\_

**Exhibit A**  
**Amortization Schedule**

## SECURITY AGREEMENT

SECURITY AGREEMENT dated as of \_\_\_\_\_, 20\_\_ between \_\_\_\_\_, a \_\_\_\_\_ (the "Creditor"), and the other party or parties named on the signature pages hereof (collectively, the "Obligor").

### 1. GENERAL DEFINITIONS.

1.1 As used herein, "UCC" means the Uniform Commercial Code as in effect from time to time in the State of California.

1.2 All capitalized terms contained in this Agreement, but not specifically defined in this Agreement, shall have the meanings provided by the UCC to the extent the same are used or defined therein. Without limitation, the following terms are used herein as defined in the UCC: Account, Chattel Paper, Deposit Accounts, Documents, Equipment, General Intangibles, Goods, Instruments, Inventory, Investment Property, Letter-of-Credit Rights, Payment Intangibles, Proceeds, and Supporting Obligations.

1.3 As used herein:

(a) "Agreement" means this Security Agreement, as the same from time to time may be amended, supplemented or modified.

(b) "Government Contract" means all contracts with the United States Government or with any agency thereof, and any amendments supplement or modifications thereto.

(c) "Loan Documents" means the Promissory Note, this Agreement, the Guaranty and all certificates, documents and instruments required by, referred to in, or delivered pursuant to, this Agreement.

(d) "Note" means the Promissory Note dated as of the date thereof between Creditor and Obligor.

(e) "Other Obligor" means any other person obligated as direct or indirect obligor or guarantor of any Obligations, or of any indebtedness, obligations and liabilities guaranteed by the Obligor.

(f) "Person" means any individual, corporation, partnership, limited liability company, trust, unincorporated organization, or any other entity or organization.

(g) "Receivable" means any right to payment, including any Account, whether or not evidenced by an Instrument or Chattel Paper and whether or not it has been earned by performance.

2. OBLIGATIONS SECURED. The Collateral (as defined below) shall secure any and all indebtedness, obligations and liabilities of the Obligor to the Creditor, including, without limitation:

(a) all unpaid principal of and interest on, and all other obligations or liabilities of the Obligor which may arise under or in connection with, all loans, advances and other financial accommodations made, issued or extended by the Creditor to or on behalf of the Obligor,

(b) all indebtedness, obligations and liabilities of Obligor under any guaranty issued to Creditor;

(c) all interest, fees, costs, expenses, reimbursement obligations, indemnities and other liabilities relating to any of the foregoing, including attorneys' fees and costs or expenses incurred in connection with collection and enforcement and sums advanced by the Creditor to protect the Collateral or otherwise as permitted to be made by the Creditor under this Agreement; and

(d) all indebtedness, obligations and liabilities under this Agreement;

in each case, whether now existing or hereafter arising, joint or several, absolute or contingent, liquidated or unliquidated, and however arising (all such indebtedness, obligations and liabilities being collectively referred to herein as the "Obligations"; and this Agreement, the Note, the Guaranty and any other agreement, instrument, guaranty or other document now or hereafter evidencing or securing any of the Obligations, being collectively referred to herein as the "Financing Documents").

3. GRANT OF SECURITY INTEREST. To secure the punctual payment and performance of the Obligations when due whether at the stated maturity, by acceleration or otherwise), the Obligor hereby grants to the Creditor a security interest in and to, and a lien upon (the "Security Interest"), all right, title and interest of the Obligor in and to the following property, whether now owned and existing or hereafter acquired or arising, and wherever located (collectively, the "Collateral"):

(a) All Accounts and other rights to the payment of money, whether due or to become due, and whether or not earned by performance;

(b) All Chattel Paper, including electronic chattel paper;

(c) All Instruments, including promissory notes, whether due or to become due, and whether or not earned by performance;

(d) All General Intangibles, including all contracts, purchase orders or other supplements thereto, rights to moneys, choses in action, goodwill, tax refunds, Software, intellectual property, patents, copyrights, tradenames and trademarks;

(e) All Goods;

(f) All Inventory, including all Goods held for sale or lease or to be furnished under contract of service or so leased or furnished, and all parts, raw materials, work in process, and supplies relating thereto;

- (g) All Equipment;
- (h) All Documents, including all negotiable and nonnegotiable Documents covering any Inventory, Equipment or other Collateral;
- (i) All rights under insurance contracts covering any Inventory, Equipment, Documents or other Collateral;
- (j) All Investment Property, including all certificated and uncertificated securities;
- (k) All Deposit Accounts;
- (l) All Letter-of-Credit Rights;
- (m) All Payment Intangibles;
- (n) All Supporting Obligations;
- (o) All other property of the Obligor now or hereafter in the possession, custody or control of the Creditor;
- (p) All Records, including all books and records pertaining to any of the foregoing, including any computer-readable memory and any computer hardware or software necessary to process such memory; and
- (q) All Proceeds of any of such property in whatever form, whether derived from voluntary or involuntary disposition, all products of any of such property, all renewals, replacements, substitutions, additions, accessions, rents, issues, royalties and profits of, to or from any such property and all dividends or other income from Investment Property, collections thereon or distributions or payments with respect thereto.

The Security Interest created herein is subject to any applicable restriction to the creation of a Security Interest to the extent that such restriction is not made ineffective by UCC Sections 9-406, 9-407, 9-408, or 9-409.

4. REPRESENTATIONS AND WARRANTIES. The Obligor represents and warrants to the Creditor that:

4.1 Authority. The Obligor has full power and authority to grant security interests in the Collateral and to execute, deliver, and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other person (including without limitation [ ] Bank (the “Prior Lender”)), except as may have been specifically disclosed to the Creditor in writing.

4.2 Absence of Other Encumbrances. The Collateral is free and clear of all liens and adverse claims other than the Security Interest, which shall be a first lien on the



Collateral except for (i) purchase money security interests on Inventory or Equipment not financed by the Creditor, (ii) liens imposed by law such as materialmen's, suppliers', mechanics', carriers', repairmen's or other like liens imposed in the ordinary course of business, and (iii) liens for taxes, assessments or governmental charges not yet due or delinquent. The Collateral will be subject to a lien subordinate in interest to the Security Interest, in favor of the Prior Lender, as more fully described in Exhibit A.

4.3 Information Regarding Names. The Obligor has disclosed to the Creditor in Exhibit B complete and correct information regarding the Obligor's exact legal name and all prior or current names and trade names used by the Obligor, as well as the name, address and contact information of the Prior Lender.

4.4 Location of Collateral and Principal Place of Business. All Collateral which is tangible and all related books and records related to the Collateral are located solely in the State of \_\_\_\_\_ (the "Collateral State"), except for Inventory in transit to Obligor and, in the case of other Collateral which is movable, as required in the operation of the Obligor's business consistent with past practices. No inventory of any Person other than the Obligor is located on any premises owned or leased by the Obligor. The Obligor's principal place of business is located in the State of \_\_\_\_\_.

4.5 Jurisdiction of Incorporation/Organization. The Obligor is duly incorporated/organized in the State of \_\_\_\_\_.

5. COVENANTS AND AGREEMENTS OF THE OBLIGOR. The Obligor covenants and agrees as follows:

5.1 Restriction on Further Encumbrances. The Obligor shall not, without the prior written consent of the Creditor, create, grant or suffer to exist any other liens in or to any of the Collateral except for liens described in Section 4.2 above.

5.2 Records and Inspection. The Obligor shall keep and cause to be kept accurate and complete records of the Collateral and its proceeds at its principal place of business, which Collateral and records will be made available for inspection and copying upon such premises by the Creditor at any reasonable time.

5.3 Restrictions on Removal of Collateral. The Obligor shall not remove Collateral or any related books and records from the Collateral State except for removal of incidental items of Collateral in the ordinary course of the Obligor's business, consistent with past practice.

5.4 Restriction on Changing State of Organization. The Obligor shall not change the state of its incorporation or its jurisdiction of organization (as applicable) or convert into a different type of entity.

5.5 Information Regarding Names. At least 30 days before changing its name or adopting a new name, the Obligor shall give written notice to the Creditor of any new name or trade name of the Obligor.

5.6 Information on Collateral and Business. The Obligor shall deliver to the Creditor such other data and information (financial and otherwise) as the Creditor from time to time may reasonably request bearing upon or related to the Collateral or the Obligor's business operations or financial condition (including, without limitation, audited financial statements, at least quarterly), and shall permit and provide information as requested so that Creditor may perform a credit check from time to time.

5.7 Duty of Care. The Obligor shall be responsible for preserving and maintaining the Collateral, and the Creditor shall have no duty of care with respect to the Collateral, except that the Creditor shall have an obligation to exercise reasonable care with respect to Collateral in its possession; provided that (i) the Creditor shall be deemed to have exercised reasonable care if Collateral in its possession is accorded treatment substantially comparable to that which the Creditor accords its own property or treatment substantially in accordance with actions requested by the Obligor in writing, although the Creditor shall not be obligated to comply with any such requests and (ii) the Creditor shall not be obligated to take steps to preserve rights for or against any other parties or property.

5.8 Taxes. The Obligor shall pay when due all governmental taxes, assessments or charges upon, or related to, the Collateral.

5.9 Further Assurances and Authority of Creditor. The Obligor shall from time to time execute, deliver, file and record all such further agreements, instruments, financing statements, notices and other documents (collectively, "Supplemental Documentation") as may be requested by the Creditor to perfect or preserve the Security Interest, to enable the Creditor to notify any third parties of the existence of the Creditor's Security Interest, or otherwise to carry out the intent of this Agreement and the Financing Documents. The Obligor authorizes the Creditor to file financing statements where desirable in the Creditor's judgment to perfect the Security Interest without the signature of the Obligor. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument, Certificated Security or Chattel Paper, such Instrument, Certificated Security or Chattel Paper shall be immediately delivered to the Creditor, duly indorsed in a manner satisfactory to the Creditor, to be held as Collateral pursuant to this Agreement.

5.10 Power of Attorney. The Obligor hereby irrevocably makes, constitutes and appoints the Creditor (and all persons designated by the Creditor for that purpose) as the Obligor's true and lawful attorney-in-fact (and agent-in-fact), which power is coupled with an interest to (i) sign the name of the Obligor on any Supplemental Documentation and to deliver any Supplemental Documentation to such persons as the Creditor, in its sole discretion, may elect and (ii) to obtain, hold, direct or redirect delivery of or otherwise administer, and control any agreement, instrument or document evidencing any portion of the Collateral or the Obligor's rights with respect thereto, including documents of title, warehouse receipts and security agreements (collectively "Special Collateral"), as the Creditor, in its sole discretion, may elect.

5.11 Insurance. The Obligor shall, at its sole expense, maintain the Collateral insured against such risks and in such amounts, subject to such reasonable and customary

deductibles, and for such periods as is customarily carried by other owners or users of such properties comparable to the Obligor in similar businesses. Within 30 days after the date of this Agreement, such policies shall be endorsed to provide that: (i) the insurance carrier shall give at least 30 days prior notice to the Creditor before any such policy shall be altered or canceled, (ii) no act or default of the Obligor shall affect the right of the Creditor to recover under such policy in case of loss or damage, and (iii) from and after the date, if any, on which the insurance carrier receives notice from the Creditor that an "Event of Default" has occurred under this Agreement, all proceeds payable under such policy shall be payable directly to the Creditor (subject to the rights of any other secured Creditor disclosed to the Creditor before the date hereof). Any amounts received under such policies may be applied by the Creditor to the Obligations in such order and at such times as the Creditor may determine or, at the option of the Creditor, released to the Obligor, provided that no such application or release shall cure or waive any Event of Default and no amount released shall be deemed a payment of any obligations. In the event the Obligor at any time fails to maintain any of the policies of insurance required above or equivalent replacement policies or fails to pay any premium in whole or in part, then the Creditor, without waiving or releasing any of the Obligations or any Event of Default, may (but shall be under no obligation to) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto that the Creditor deems advisable.

5.12 Copies of Government Contracts. Obligor will promptly furnish to Creditor, at the request of Creditor, a copy of each Government Contract of Obligor in which Creditor has a Security Interest which changes the price of such contract or the amount funded to pay for such contract.

5.13 Books and Records; Access; Location. Obligor shall keep and maintain adequate and proper records and books of account pertaining to the Collateral, in which complete entries are made in accordance with generally accepted accounting principles consistently applied and in accordance with all laws, regulations, orders and other requirements of any court, tribunal, arbitrator or governmental authority, reflecting all financial and other transactions of Obligor pertaining to the Collateral normally and customarily included in records and books of account of companies engaged in the same or similar businesses and activities as Obligor.

5.14 Collateral. Subject to Section 7, Obligor shall not sell, lease, assign, pledge or otherwise dispose of any of the Collateral, whether now owned or hereafter acquired, unless such Collateral is replaced with property of a similar or like kind which is in as good or better condition as that which is replaced, except that Obligor may make such disposals as are made in the ordinary course of business and for the fair market value of the Collateral so disposed.

## 6. REMEDIAL PROVISIONS.

6.1 Right to Satisfy Other Claims and Taxes. If the Obligor fails to pay any governmental taxes, assessments or other charges when due, or fails to pay any claims secured by any lien against any Collateral when due, the Obligor shall so advise the Creditor in writing and the Creditor may, without waiving or releasing any obligations of the Obligor or any Event of Default, in its sole discretion (and without any obligation to do so), make such payment or any

part thereof or obtain such discharge and take any other action with respect thereto that the Creditor deems advisable.

6.2 Certain Matters Relating to Receivables. The Creditor shall have the right to make test verifications of the Receivables in any manner and through any medium that it reasonably considers advisable, and the Obligor shall furnish all such assistance and information as the Creditor may require in connection with such test verifications. At any time and from time to time, upon the Creditor's request, at any time after the occurrence and during the continuance of an Event of Default and at the expense of the Obligor, the Obligor shall cause independent public accountants or others satisfactory to the Creditor to furnish to the Creditor showing reconciliations, aging and test verifications of, and trial balances for, the Receivables. At the Creditor's request, the Obligor shall deliver to the Creditor all original and other documents evidencing, and relating to, the agreements and transactions which gave rise to the Receivables, including, without limitation, all original orders, invoices and shipping receipts. The Creditor in its own name or in the name of others may at any time communicate with obligors under the Receivables to verify with them to the Creditor's satisfaction the existence, amount and terms of any Receivables, provided that the Creditor will not make communications in its own name unless an Event of Default has occurred and is continuing. Anything herein to the contrary notwithstanding, the Obligor shall remain liable under each of the Receivables to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. The Creditor shall not have any obligation or liability under any Receivable (or any agreement giving rise thereto), by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating thereto, nor shall the Creditor be obligated in any manner to perform any of the obligations of the Obligor under or pursuant to any Receivable (or any agreement giving rise thereto) to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

7. RELEASE OF COLLATERAL. Except for (i) sales or other dispositions of Inventory made prior to the occurrence of an Event of Default that are in the ordinary course of the Obligor's business and not prohibited by any provision contained in the Financing Documents and (ii) sales or other dispositions of Collateral for which the Obligor obtains the prior written consent of the Creditor (collectively, "Permitted Sales"), the Obligor shall not sell, lease, license or otherwise dispose of the Collateral, or any part thereof or any interest therein. Concurrently with any Permitted Sale, the Security Interest shall automatically be released from the property so disposed of; provided, however, that the Security Interest shall continue in the proceeds thereof.

8. EVENTS OF DEFAULT. Each of the following shall constitute an Event of Default by the Obligor:

(a) The failure of the Obligor to pay any Obligation of the Obligor to the Creditor within 10 days from when due;

(b) The failure of any Other Obligor to pay any Obligation, liability or indebtedness of such Other Obligor to the Creditor when due;

(c) Any other failure to observe or perform any of the nonmonetary covenants or obligations imposed upon the Obligor or any Other Obligor by any of the Financing Documents, or the License Agreement dated as of \_\_\_\_\_, 20\_\_ (the “License Agreement”) between Obligor and Creditor or its affiliates, which failure is unremedied for more than 10 days after receipt of notice thereof from the Creditor;

(d) The occurrence or existence of any other default or Event of Default under any Financing Document. Written notice provided to Creditor of anything that constitutes an Event of Default and of any loss or damage to the Collateral, however occasioned, immediately upon the occurrence of such Event of Default or loss or damage;

(e) Any representation or warranty contained in any Financing Documents or any financial statements, certificates, schedules or other information now or hereafter furnished by the Obligor or any Other Obligor proves false or misleading in any material respect;

(f) The termination of existence or cessation of business by the Obligor or any Other Obligor or Obligor (i) ceases or fails to be solvent, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; or (ii) voluntarily ceases to conduct its business in the ordinary course;

(g) The making of an assignment for the benefit of creditors by the Obligor or any Other Obligor;

(h) The commencement of any case or proceeding by or against the Obligor or any Other Obligor under Title 11 of the United States Code (Bankruptcy) or of any other proceeding, suit or action (at law, in equity, in Bankruptcy or otherwise) for adjudication as a bankrupt, reorganization, composition, extension, arrangement, receivership, liquidation or dissolution by, of, or against the Obligor or any Other Obligor;

(i) The appointment of a receiver, trustee, custodian or similar officer for or over the Obligor or any Other Obligor or any of its property, which is not vacated within 10 days thereafter;

(j) The levy of any writ of execution or other judicial process upon any of the property of the Obligor or any Other Obligor which is not released within 10 days thereafter;

(k) The uninsured damage to or material decline in the market value of the Collateral unless immediately replaced or supplemented by the Obligor;

(l) The failure by the Obligor or any Other Obligor to make any payment when due (subject to any applicable grace period), whether by acceleration or otherwise, of any other indebtedness for borrowed money of, or guaranteed by, the Obligor or any Other Obligor,

or default by the Obligor or any Other Obligor in the performance or observance of any obligation or condition with respect to any such other indebtedness if the effect of such default is to accelerate the maturity of any such indebtedness or to permit the holder or holders thereof, or any trustee or agent for such holders, to cause such indebtedness to become due and payable prior to its expressed maturity.

(m) Any franchise, license, permit, certificate, consent, approval, authorization, agreement, or contract that is material to the operation of Obligor's business as it currently is being operated, whether existing or hereafter granted to or obtained by Obligor, shall be suspended, revoked, or terminated and such suspension, revocation, or termination shall not be fully remedied or cured within 60 days thereafter or otherwise stayed by legal proceedings;

(n) the occurrence of (i) an issuance by the Obligor, or sale by a stockholder of, capital stock (or indebtedness convertible into capital stock) of the Obligor, exchange offer or other transaction, including, without limitation, a merger, consolidation, tender offer or recapitalization, in each case, as a result of which the stockholders of the Obligor prior to such transaction would hold less than 50% of the voting power of the surviving or resulting entity (or its direct or indirect parent) immediately following the consummation of such transaction or (ii) a sale of all or substantially all of the assets of the Obligor in one transaction or a series of related transactions;

(o) any provision of any of the Financing Documents ceases to be a legally enforceable obligation or contract of the Obligor, any subsidiary or affiliate thereof or \_\_\_\_\_ any such person challenges the validity, binding nature or enforceability of such obligation or contract; or

(p) there is entered against the Obligor or any subsidiary or affiliate (i) one or more final judgments or orders for the payment of money in any aggregate amount (as to all such judgments or orders) more than \$100,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) or (ii) any one or more non-monetary final judgments or orders that have, or could reasonably be expected to have, individually, or in the aggregate, a material adverse effect on the business, financial condition or results of operations of the Obligor and, in either case, (A) enforcement proceedings are commenced by any creditor upon any such judgment or order, or (B) there is a period of 10 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect.

## 9. RIGHTS AND REMEDIES OF THE CREDITOR UPON EVENT OF DEFAULT.

9.1 Effect of Event of Default Remedies. If any Event of Default described in Sections 8(g), 8(h) or 8(i) above shall occur, all Obligations secured this Agreement shall become immediately due and payable, all without notice of any kind; and, in the case of any other Event of Default, the Creditor may declare the Obligations secured by this Agreement to be due and payable, whereupon such Obligations shall become immediately due and payable, all without notice of any kind. The Creditor shall promptly advise the Obligor of any such declaration, but failure to do so shall not impair the effect of such declaration. In addition, upon

the occurrence of an Event of Default, the Creditor may exercise the rights, powers and remedies set forth below.

(a) In addition to all of its other rights, powers and remedies under this Agreement, the other Financing Documents, the License Agreement, and other applicable law, the Creditor shall have all of the rights, powers and remedies of a secured party under the Uniform Commercial Code of the state in which such rights, powers and remedies are asserted.

(b) The Creditor shall have the right: (i) to enter upon the premises of the Obligor or any other place or places where Collateral is located through self-help and without judicial process or giving the Obligor notice; (ii) to prepare, assemble, or process Collateral for sale, lease, or other disposition; (iii) to remove Collateral to the premises of the Creditor or any agent of the Creditor, for such time as the Creditor may desire, in order to collect or dispose of Collateral; and (iv) to require the Obligor to assemble Collateral and make it available to the Creditor at a place to be designated by the Creditor.

(c) Until the Creditor is able to effect a sale, lease, or other disposition of Collateral or any part thereof, the Creditor shall have the right to use, process or operate Collateral or any part thereof to the extent that it deems appropriate for the purpose of preserving Collateral or its value or for any other purpose deemed appropriate by the Creditor.

(d) The Creditor shall have the right to sell, lease, license, or otherwise dispose of all or any Collateral in its then existing condition, or after any further assembly, manufacturing, or processing thereof, at public or private sale or sales, in lots or in bulk, for cash or on credit, all as the Creditor, in its sole discretion, may deem advisable. Without limitation, the Creditor may specifically disclaim any warranties of title and the like. The Creditor shall not be obligated to clean up or otherwise prepare the Collateral for sale. Such sales may be adjourned and continued from time to time with or without notice. The Creditor shall have the right to conduct such sales on the Obligor's premises or elsewhere and shall have the right to use the Obligor's premises without charge for such sales (or preparation for sales) for such time or times as the Creditor deems necessary or advisable. The Creditor is hereby granted a license or other right to use, without charge, the Obligor's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, and advertising matter, or any property of a similar nature as it pertains to Collateral, in advertising for sale or lease or the disposition of any Collateral. The Creditor may purchase all or any part of the Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price may set off the amount of such Obligations whether or not such Obligations are matured. The Obligor agrees that any sale of Collateral conducted by the Creditor in accordance with the foregoing provisions of this Section shall be deemed to be a commercially reasonable sale under the UCC. The Creditor may comply with any applicable laws and regulations in connection with any exercise of remedies hereunder and such compliance shall not be considered to adversely affect the commercial reasonableness of such exercise of remedies.

9.2 Application of Proceeds. Subject to the rights of any prior security party, any proceeds received by the Creditor in respect of any sale of collection from, or other realization upon all or any part of the Collateral following the occurrence of an Event of Default may, in the discretion of the Creditor, be held by the Creditor as collateral for, and/or then or at

any time thereafter applied by the Creditor as follows: (i) first, to pay all costs, expenses and charges of every kind (including attorneys' fees and costs) for pursuing, searching, protecting, taking, removing, storing, safekeeping, caring, preparing for sale, advertising, selling and delivering the Collateral and otherwise enforcing this Agreement and the other Financing Documents; (ii) second, to pay the Obligations in order determined by the Creditor in its sole discretion; and (iii) third, to pay the remaining funds, if any, after payment of all the Obligations in full, to the Obligor or to whomever may be lawfully entitled to receive such surplus. Payments received from any third party on account of disposition of Collateral shall not reduce the Obligations until paid in cash to the Creditor. The application of proceeds by the Creditor shall be without prejudice to the Creditor's rights as against the Obligor or other persons with respect to any Obligations which may remain unpaid. Any such deficiency shall be paid forthwith to the Creditor by the Obligor.

9.3 Notice. Any notice required to be given by the Creditor of a sale, lease, or other disposition of Collateral, or any other intended action by the Creditor, which is sent pursuant to Section 15 hereof at least 10 days prior to such proposed action, or such longer period as shall be specified by applicable law, shall constitute commercially reasonable and fair notice thereof to the Obligor.

9.4 Appointment of Creditor as Lawful Attorney; Other Rights Upon Event of Default. The Obligor hereby irrevocably makes, constitutes and appoints the Creditor and all persons designated by the Creditor true and lawful attorney-in-fact (and agent-in-fact) upon and after the occurrence of an Event of Default for the purposes set forth in the following sentences of this Section. Upon and after the occurrence of an Event of Default, the Creditor or its agent may, without notice to the Obligor and at such time or times thereafter as the Creditor or said agent in its sole discretion may determine, in the Obligor's or the Creditor's name: (i) give notice to account debtors and other obligors and demand payment of Accounts or other obligations included in the Collateral; (ii) enforce payment and exercise all of the Obligor's rights and remedies with respect to the collection of Accounts, any Special Collateral and any other obligations by legal proceedings or otherwise; (iii) settle, adjust, compromise, discharge, release, extend or renew Accounts and other obligations; (iv) prepare, file and sign the Obligor's name on any proof of claim or similar document in any insolvency or similar case against any Account debtor or any person indebted to the Obligor; (v) endorse or sign the name of the Obligor upon any checks, drafts, chattel paper, document, instrument, invoice, freight bill, bill of lading, or similar document or agreement relating to Accounts, Inventory, or Special Collateral; (vi) use the Obligor's stationery and sign the name of the Obligor to verifications of Accounts and other obligations to Account debtors and other obligor; (vii) use the information recorded on or contained in any data processing equipment and computer hardware and software to which the Obligor has access relating to Accounts, Inventory, or Special Collateral; (viii) open any lock box; (ix) transfer into the name of the Creditor or the name of the Creditor's agent or nominee any of the Collateral; (x) make, settle and adjust claims under policies of insurance, endorse or sign the name of the Obligor on any check or other item of payment for the proceeds of such policies of insurance, and make all determinations and decisions with respect thereto and (xiii) receive and direct the disposition of any proceeds of any Collateral.



10. CREDITOR'S EXPENSES, INCLUDING ATTORNEYS' FEES. Regardless of the occurrence or existence of an Event of Default, the Obligor shall pay to the Creditor, on demand, the amount of any costs or expenses (including attorneys' fees and expenses) paid or incurred at any time or times in connection with: (i) any attempts to defend, protect or enforce the Security Interest or the priority thereof, including the discharging of any prior or subsequent lien or adverse claim against any Collateral thereof which is not permitted hereunder; (ii) any attempt to collect the Obligations or enforce any rights of the Creditor, whether under this Agreement or other Financing Documents, or otherwise, against the Obligor or any other person under the Financing Documents; (iii) any litigation, dispute or proceeding (whether instituted by the Creditor or any other person) in any way relating to Collateral, this Agreement, the other Financing Documents or the Obligor's affairs; or (iv) any amounts expended by the Creditor under Section 5.5 or Section 6; or (v) the inspection, verification, protection, collection, sale, liquidation or other disposition of Collateral. Additionally, if any taxes or charges shall be payable on account of the execution or delivery of this Agreement, any other Financing Documents or the creation of any of the Obligations by reason of any existing or hereafter enacted federal, state or other regulation or statute (including any foreign country's regulations or statutes), the Obligor will pay all such taxes and charges, including any interest and/or penalty thereon, and will indemnify and hold the Creditor harmless from and against liability in connection therewith. All obligations under this Section 10 shall constitute additional Obligations secured by the Collateral and shall bear interest at the same rate as provided for the largest amount of other Obligations.

11. ASSIGNMENT BY THE CREDITOR. The Obligor agrees that the Creditor may assign or otherwise transfer this Agreement, or any of the other Financing Documents, and may deliver all or any of the Collateral to the transferee(s), who shall thereupon become vested with all the powers and rights in respect thereto given to the Creditor herein or in the Financing Documents transferred, and the Creditor shall thereafter be fully discharged from any liability or responsibility with respect thereto, all without prejudice to the retention by the Creditor of all rights and powers hereby given with respect to any Financing Documents, instruments, rights or property not so transferred.

12. REMEDIES NOT EXCLUSIVE; FORECLOSURES. No right or remedy hereunder is exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and shall be in addition to and without prejudice to every other remedy given hereunder, under any other agreement between the Obligor and the Creditor or now or hereafter existing at law or in equity, and may be exercised from time to time as often as deemed expedient, separately or concurrently. The giving, taking or enforcement of or execution against any other or additional security, collateral, or guaranty for the payment of the Obligations shall not operate to prejudice, waive or affect any rights, powers or remedies hereunder, nor shall the Creditor be required to first look to, enforce, exhaust or execute against such other or additional security, or guarantees prior to so acting against the Collateral. The Creditor may foreclose on or execute against the items of Collateral in such order as the Creditor may, in its sole and unfettered discretion, determine.

13. WAIVERS. The failure or delay of the Creditor to insist in any instances upon the performance of any of the terms, covenants or conditions of this Agreement or other

Financing Documents, or to exercise any right, remedy or privilege herein or therein conferred, shall not impair or be construed as thereafter waiving any such covenants, remedies, conditions or provisions, but every such term, condition and covenant shall continue and remain in full force and effect; nor shall any waiver of an Event of Default suspend, waive or affect any other Event of Default, whether the same is prior or subsequent thereto and whether of the same or of a different type.

14. SEVERABILITY. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective. If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

15. TERMINATION. Upon payment in full and performance of all Obligations owed by the Obligor to the Creditor pursuant to the Financing Documents (including payment in full and performance of all indebtedness, obligations and liabilities of other persons guaranteed by the Obligor) and the termination of all obligations of the Creditor to extend credit under the Financing Documents, this Agreement shall be terminated; otherwise it shall remain in full force and effect.

16. NOTICE. All notices, demands and communications hereunder shall be in writing and shall be deemed to be duly delivered when personally delivered (including by courier or messenger), or two (2) business days after deposit in the United States mail by registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at the addresses set forth on the signature page hereof, or at such other address as any party shall have furnished to the other parties in writing to the addresses listed below:

(a) If to Obligor:

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

Attention: \_\_\_\_\_

with a copy (which shall not constitute notice) to:

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

Attention: \_\_\_\_\_



(b)

If to Creditor:

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

Attention: \_\_\_\_\_

with a copy (which shall not constitute notice) to:

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

Attention: \_\_\_\_\_

Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication which shall be mailed in the manner described above, or which shall be delivered to an overnight delivery company, shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee (with the return receipt or the delivery receipt being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

17. GOVERNING LAW. To the extent applicable, this Agreement shall be governed by the Uniform Commercial Code of the State of California (or, to the extent applicable to the attachment, perfection, priority or enforcement of the Security Interest in any Collateral, the Uniform Commercial Code of any other state). With respect to any matters not so covered by the applicable Uniform Commercial Code, this Agreement shall otherwise be governed by the internal laws of the State of California.

18. ATTORNEYS' FEES AND OTHER COSTS. Should either party hereto institute any action or proceeding to enforce this Agreement or any provisions hereof or for a declaration of rights under this Agreement, or for arbitration of any dispute arising under this Agreement, the prevailing party in any such action, proceeding or arbitration shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such action, proceeding or arbitration.

19. INDEMNIFICATION. The Obligor hereby agrees to indemnify and hold harmless the Creditor and its directors, officers, employees and agents against and from any and all claims, actions, liabilities, costs and expenses of any kind or nature whatsoever (including reasonable fees and disbursements of counsel) that may be imposed on, incurred by, or asserted against any of them, in any way relating to or arising out of this Agreement, any exercise of remedies hereunder or any other action taken or omitted by them hereunder, except to the extent a court holds in final and nonappealable judgment that such claims, actions, liabilities, costs and

expenses directly resulted from the gross negligence or willful misconduct of such indemnified Persons.

20. WAIVERS BY THE OBLIGOR. Except as otherwise expressly provided in this Agreement or the other Financing Documents, the Obligor waives: (i) presentment, demand, and protest and notice of presentment, protest, default, non-payment, maturity, release, compromise, settlement, extension, or renewal of any or all Financing Documents under or pursuant to which the Obligor may in any way be liable and hereby ratifies and confirms whatever the Creditor may do in this regard; (ii) notice prior to taking possession or control of Collateral or any bond or security that might be required by any court prior to allowing the Creditor to exercise any of the Creditor's remedies; (iii) the benefit of all valuation, appraisal, and exemption laws; (iv) any right to require the Creditor to proceed against any other person or collateral held from any other person; (v) any right to require the Creditor to pursue any other remedy in the Creditor's power whatsoever; or (vi) any defense arising out of any election by Creditor to exercise or not exercise any right or remedy it may have against the Obligor, any other person or any security held by it, even though such election operates to impair or extinguish any right of reimbursement to subrogation or other right or remedy of the Obligor against any other person or any such security.

21. MISCELLANEOUS. The Obligor agrees that the following shall govern the interpretation and enforcement of this Agreement:

21.1 Binding on Successors. This Agreement shall be binding upon the Obligor, the heirs, executors, administrators, successors and assigns of the Obligor, and shall inure to the benefit of and be enforceable by the Creditor, its successors, transferees and assigns.

21.2 "Obligor." If this Agreement is executed by two or more parties (other than the Creditor), they shall be jointly and severally liable hereunder, and the word "Obligor" wherever used herein shall be construed to refer to each of the parties separately, all in the same manner, and with the same effect as if each of them had signed separate instruments, and in any such case, this Agreement shall not be revoked or impaired as to any one or more of such parties by the death or dissolution of any of the others or by the revocation or release of any obligations hereunder of any one or more of such parties.

21.3 Partnerships. If any party hereto is a partnership, this Agreement shall remain in force and applicable notwithstanding any change in the individuals comprising the partnership and shall include any altered or successor partnership, but the predecessor partnerships and their partners shall not thereby be released from any liability.

21.4 No Oral Modifications. None of the terms or provisions of this Agreement may be waived, altered, modified, limited or amended except in writing.

21.5 Execution by the Obligor Sufficient. This Agreement shall take effect upon the execution solely by the Obligor but this Agreement may, at the option of the Creditor, be executed by the Creditor if execution by the Creditor is deemed desirable by the Creditor or is required by the laws of any jurisdiction to create, perfect, preserve, validate or otherwise protect any security interest granted pursuant hereto or to enable the Creditor to exercise or enforce its rights hereunder with respect to any such security interest.

21.6 Section Titles. The section titles contained in this Agreement are merely for convenience and shall be without substantive meaning or content.

21.7 Construction. The word "including" shall have the inclusive meaning represented by the phrase "including without limitation." Unless the context of this Agreement clearly otherwise requires, the word "or" shall have the meaning represented by the phrase "and/or," references to the plural include the singular and references to the singular include the plural.

21.8 Survival. It is the express intention and agreement of the parties hereto that all covenants and agreements, statements, representations, warranties and indemnities made by Obligor shall survive the execution and delivery of this Agreement.

21.9 Entire Agreement, Modification; Benefit. This Agreement and the exhibits hereto constitute the entire agreement of the parties hereto with respect to the transactions contemplated herein, and supersede all prior oral and written agreements with respect to the transactions contemplated herein, and may not be modified, deleted or amended in any manner except by agreement in writing executed by the parties; provided that nothing in this Agreement or in any related agreement, however, is intended to disclaim the representations Citadel Panda Express, Inc. made in the franchise disclosure document that furnished to Obligor.

22. **WAIVER OF JURY TRIAL**. The Obligor and the Creditor each irrevocably and unconditionally waive trial by jury in any action or proceeding relating to this Agreement or any other Financing Document and for any counterclaim therein.

23. NON-SUBORDINATION. The rights of Creditor under this Agreement are not subordinated in any way to any other obligation of Obligor or to the rights of others.

24. ARBITRATION.

(a) Arbitration. The parties hereto agree, upon demand by any party, to submit to binding arbitration all claims, disputes and controversies between or among them (and their respective employees, officers, directors, attorneys, and other agents), whether in tort, contract or otherwise in any way arising out of or relating to (i) any credit subject hereto, or any of the Loan Documents, and their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination; or (ii) requests for additional credit.

(b) Governing Rules. Any arbitration proceeding will (i) proceed in a location in California selected by the American Arbitration Association (“AAA”); (ii) be governed by the Federal Arbitration Act (Title 9 of the United State Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the parties shall mutually agree upon, in accordance with the AAA’s commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000 exclusive of claimed interest, arbitration fees and costs in which case the

arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes to be referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute. Nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. §91 or any similar applicable state law.

(c) No Waiver of Provisional Remedies, Self-Help and Foreclosure. The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) Arbitrator Qualifications and Powers. Any arbitration proceeding in which the amount in controversy is \$5,000,000 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000. Any dispute in which the amount in controversy exceeds \$5,000,000 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. The arbitrator will be a neutral attorney licensed in the State of California or a neutral retired judge of the state or federal judiciary of California, in either case with a minimum of ten years' experience in the substantive law applicable to the subject matter of the dispute to be arbitrated. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of California and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the California Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) Discovery. In any arbitration proceeding, discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant

to the dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) Class Proceedings and Consolidations. No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, except parties who have executed any Loan Document, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

(g) Payment Of Arbitration Costs And Fees. The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) Real Property Collateral; Judicial Reference. Notwithstanding anything herein to the contrary, no dispute shall be submitted to arbitration if the dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) all parties to the arbitration waive any rights or benefits that might accrue to them by virtue of the single action rule statute of California, thereby agreeing that all indebtedness and obligations of the parties, and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully valid and enforceable. If any such dispute is not submitted to arbitration, the dispute shall be referred to a referee in accordance with California Code of Civil Procedure Section 638 et seq., and this general reference agreement is intended to be specifically enforceable in accordance with said Section 638. A referee with the qualifications required herein for arbitrators shall be selected pursuant to the AAA's selection procedures. Judgment upon the decision rendered by a referee shall be entered in the court in which such proceeding was commenced in accordance with California Code of Civil Procedure Sections 644 and 645.

(i) Miscellaneous. To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a dispute, the arbitration provision most directly related to the Loan Documents or the subject matter of the dispute shall control. This arbitration provision shall survive termination, amendment or expiration of any of the Loan Documents or any relationship between the parties.

(j) Small Claims Court. Notwithstanding anything herein to the contrary, each party retains the right to pursue in Small Claims Court any dispute within that court's jurisdiction. Further, this arbitration provision shall apply only to disputes in which either party



seeks to recover an amount of money (excluding attorneys' fees and costs) that exceeds the jurisdictional limit of the Small Claims Court.

25. ESTOPPEL CERTIFICATES. Obligor upon the written request therefor from Creditor will furnish to Creditor an estoppel certificate or written statement, duly executed and acknowledged, setting forth the amount advanced under this Agreement, the amount due on the Note, and that no offsets or defenses exist hereunder or under the Note.

26. FILING. A photographic or other copy of this Agreement may be filed in lieu of a financing statement.

IN WITNESS WHEREOF, this Agreement is executed and delivered as of the date first set forth above.

CREDITOR:

\_\_\_\_\_

OBLIGOR:

Name of Entity

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

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

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

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

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

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

## CONTINUING GUARANTY

THIS CONTINUING GUARANTY ("Guaranty") is executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by [Individual's Name], a natural person (hereinafter referred to as "Guarantor"), and delivered to \_\_\_\_\_ ("\_\_\_\_"), with reference to the following facts:

A. \_\_\_\_ has agreed to make a loan in the principal amount of [Loan Amount (\$\_\_\_\_\_)] (the "Loan") to *Name of Entity the Loan is Being Made Out To*, a *Name of State* corporation (the "Company"), subject to satisfaction of each of the conditions set forth in that certain the Promissory Note (the "Note") and the Security Agreement of even date herewith (the "Security Agreement") executed by and among the Company and \_\_\_\_\_. Guarantor is the owner of "\_\_\_\_" % of the issued and outstanding capital stock of the Company. The Loan is evidenced by the Note and Security Agreement, and any and all renewals, substitutions, modifications, rearrangements, extensions and replacements thereof executed by and between the Company, as "Maker," and \_\_\_\_\_, as "Holder".

B. The Note is secured by that certain Security Agreement encumbering certain personal property in \_\_\_\_\_. The Note and the Security Agreement, together with each and every other document or instrument relating to, evidencing or securing the Loan, are collectively referred to hereinafter as the "Loan Documents."

C. In consideration of \_\_\_\_ advancing the indebtedness evidenced by the Note, Guarantor has agreed, at the request of \_\_\_\_\_, to guarantee unconditionally any and all indebtedness of the Company to \_\_\_\_\_ as provided herein.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Guarantor, Guarantor agrees with \_\_\_\_\_ as follows:

### **ARTICLE I. REPRESENTATIONS AND WARRANTIES**

Guarantor makes the following representations and warranties which shall be continuing representations and warranties so long as any indebtedness (as hereinafter defined) shall remain unpaid.

Section 1.01 Guaranty Authorized and Binding. The execution, delivery and performance of this Guaranty are duly authorized and do not require the consent or approval of any governmental body or other regulatory authority; are not in contravention of, or in conflict with, any law or regulation and this Guaranty is a valid and legally binding obligation of Guarantor enforceable in accordance with its terms.

Section 1.02 No Conflict. The execution and delivery of this Guaranty are not, and the performance of this Guaranty will not be, in contravention of, or in conflict with, any agreement, indenture or undertaking to which Guarantor is a party or by which it or any of its property is or may be bound or affected and do not, and will not, cause any security interest, lien or other encumbrance to be created or imposed upon any such property.

Section 1.03 Litigation. There is no litigation or other proceeding pending or, to the knowledge of Guarantor, threatened against, or affecting, him or his properties which, if determined adversely to Guarantor, would have a materially adverse effect on the financial condition, properties, businesses or operations of Guarantor, and Guarantor is not in default with respect to any order, writ, injunction, decree or demand of any court or other governmental or regulatory authority.

Section 1.04 Financial Condition. The balance sheets of Guarantor which have heretofore been submitted in writing by Guarantor to \_\_\_\_ in connection herewith are true and correct and fairly present the financial condition of Guarantor for the period covered thereby. Since the date of said balance sheets there has been no materially adverse change in the financial condition of Guarantor. Guarantor has no knowledge of any liabilities, contingent or otherwise, at the date of said balance sheets which are not reflected in said balance sheets; and, other than in the ordinary course of his business, Guarantor has not entered into any commitments or contracts which are not reflected in said balance sheets or which may have a materially adverse effect upon his financial condition, operations or business as now conducted.

Section 1.05 Financial Benefit. Guarantor hereby acknowledges and warrants that he has derived or expects to derive a financial advantage from each and every loan or other extension of credit and from each and every renewal, extension, release of collateral or other relinquishment of legal rights made or granted or to be made or granted by \_\_\_\_ to the Company in connection with the indebtedness.

Section 1.06 Review of Documents. Guarantor hereby acknowledges that he has copies of and is fully familiar with each and every document executed and delivered to \_\_\_\_ by the Company, and represents and warrants that all necessary action, whether corporate or otherwise, has been taken by the Company to authorize the Company's execution of the said documents and to engage in the transactions thereby contemplated.

## **ARTICLE II. GUARANTY**

Section 2.01 Guaranty. Guarantor unconditionally guarantees and promises to pay to, or to the order of, \_\_\_\_, on demand, in lawful money of the United States of America, any and all indebtedness. The word "indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of the Company to \_\_\_\_ heretofore, now or hereafter made, incurred or created (and all renewals, extensions, modifications and rearrangements thereof), whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, direct or indirect, and whether the Company may be liable individually or jointly with others or whether recovery upon such indebtedness may be or hereafter become barred by any statute of limitations, or whether such indebtedness may be or hereafter become otherwise unenforceable, including, without limitation, any and all amounts accruing or otherwise arising after the commencement of any bankruptcy, reorganization or similar proceeding by or against the Company, whether or not any claim for such amounts is allowed or allowable against the Company under the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code").

Section 2.02 Continuing Guaranty. This is a continuing guaranty of the indebtedness. This guaranty may be terminated as to future transactions only. Any termination shall be ineffective

until written notice thereof is given to \_\_\_\_\_. Any such notice shall be effective as of noon the next day after \_\_\_\_\_ shall receive any such notice. No such notice shall release Guarantor from any liability as to any indebtedness (or commitment therefor by \_\_\_\_\_) existing when any such notice is received, and all renewals and extensions thereof.

**Section 2.03 Nature of Guaranty.** The liability of Guarantor hereunder is independent of the obligation of the Company and a separate action or separate actions may be brought and prosecuted against Guarantor whether or not any action is brought or prosecuted against the Company or whether the Company is joined in any such action or actions. The liability of Guarantor hereunder is independent of and not in consideration of or contingent upon the liability of any other person under any similar instrument and the release of, or cancellation by, any signer of a similar instrument shall not act to release or otherwise affect the liability of Guarantor hereunder. Guarantor waives the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof, including, without limitation, all rights and benefits, if any, arising under Section 359.5 of the California Code of Civil Procedure. Any payment by the Company or other circumstance which operates to toll any statute of limitations applicable to the Company shall also operate to toll the statute of limitations applicable to Guarantor.

**Section 2.04 Authorization.** Guarantor authorizes \_\_\_\_\_, whether before or after revocation or any purported revocation, and without notice or demand and without affecting its liability hereunder, from time to time to:

- (i) create new indebtedness or renew, compromise, extend, increase, accelerate and otherwise change the time for payment of, or otherwise change the terms of, the indebtedness, or any part thereof, including increasing or decreasing the rate of interest thereon;
- (ii) take and hold security for the payment of this Guaranty or the indebtedness, perfect such security or refrain from perfecting such security, whether or not such security is required as a condition to the making of the Loan, and exchange, enforce, waive or release (whether intentionally or unintentionally) any such security or any part thereof, purchase such security at a public or private sale, and apply any such security and direct the order or manner of sale thereof as \_\_\_\_\_ in its discretion may determine; and
- (iii) settle, release, compromise with, or substitute any one or more endorsers, guarantors and/or other obligors of this Guaranty or the indebtedness.

**Section 2.05 Waivers.** (a) Guarantor waives the right to require \_\_\_\_\_ to proceed against the Company or any other person liable on the indebtedness, to proceed against or exhaust any security held from the Company or any other person, or to pursue any other remedy in \_\_\_\_\_'s power whatsoever and Guarantor waives the right to have the property of the Company first applied to the discharge of the indebtedness. \_\_\_\_\_ may, at its election, exercise any right or remedy \_\_\_\_\_ may have against the Company or any security held by \_\_\_\_\_, including, without limitation, the right to foreclose upon any such security by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, without affecting or impairing in any way the liability of Guarantor hereunder, except to the extent the indebtedness has been paid, and Guarantor waives any defense arising out of the absence, impairment or loss of any right of reimbursement, contribution or subrogation or any other right or remedy of Guarantor against the Company or any such security, whether resulting from such

election by \_\_\_\_ or otherwise. Guarantor waives any defense arising by reason of any disability or other defense of the Company or by reason of the cessation from any cause whatsoever (including without limitation, any intervention or omission by \_\_\_\_ ) of the liability, either in whole or in part, of the Company to \_\_\_\_ for the indebtedness. Guarantor understands that if all or any part of the liability of the Company to \_\_\_\_ for the indebtedness is secured by real property Guarantor shall be liable for the full amount of its liability hereunder notwithstanding foreclosure on such real property by trustee sale or any other reason impairing Guarantor's right to proceed against the Company. Guarantor hereby waives, to the fullest extent permitted by law, all rights and benefits under Section 2809 of the California Civil Code purporting to reduce a guarantor's obligations in proportion to the obligation of the principal. Guarantor hereby waives all rights and benefits under Section 580a of the California Code of Civil Procedure purporting to limit the amount of any deficiency judgment which might be recoverable following the occurrence of a trustee's sale under a deed of trust, all rights and benefits under Section 580b of the California Code of Civil Procedure stating that no deficiency may be recovered on a real property purchase money obligation and all rights and benefits under Section 580d of the California Code of Civil Procedure stating that no deficiency may be recovered on a note secured by a deed of trust on real property in case such real property is sold under the power of sale contained in such deed of trust, if such sections, or any of them, have any application hereto or any application to Guarantor. In addition, Guarantor hereby waives, to the fullest extent permitted by law, (i) any defense arising as a result of any election by \_\_\_\_, in any proceeding instituted under the Bankruptcy Code, under Section 1111(b)(2) of the Bankruptcy Code, (ii) any defense based on any borrowing or grant of a security interest under Section 364 of the Bankruptcy Code, (iii) any defense arising as a result of any election made by under Section 9501(4) of the California Uniform Commercial Code, and (iv) without limiting the generality of the foregoing or any other provision hereof, all rights and benefits which might otherwise be available to Guarantor under California Civil Code Sections 2810, 2819, 2839, 2845, 2848, 2849, 2850, 2899, and 3433.

(b) Guarantor expressly acknowledges that he will be and remain fully liable for the indebtedness hereunder even if, as a result of election of remedies by \_\_\_\_ under any of the Loan Documents or for any other reason, any rights of reimbursement, contribution or subrogation on the part of Guarantor against the Company, in respect of the Property or from or against any other Guarantor have been destroyed or impaired. Guarantor further expressly acknowledges that he could, in the absence of the waivers and agreements set forth herein, have one or more defenses to or otherwise be exonerated from the obligations and liabilities arising under Guaranty as a result of any such election of remedies by \_\_\_\_ and Guarantor hereby knowingly, expressly and irrevocably waives each and every such defense to his liability hereunder, and expressly acknowledges the reliance hereon of \_\_\_\_.

\_\_\_\_\_  
Guarantor's initials

Section 2.06 Additional Waivers; No Subrogation. Until all the indebtedness has been indefeasibly paid in full, including such part thereof, if any, as shall exceed the liability of Guarantor hereunder, Guarantor shall have no right of subrogation to, and waives, to the fullest extent permitted by law, any right to enforce any remedy which \_\_\_\_ now has or may hereafter have against the Company in respect of the indebtedness, and Guarantor waives any benefit of, and any right to participate in, any security, whether real or personal property, now or hereafter held by \_\_\_\_ for the indebtedness. Guarantor waives all presentments, demands for performance,

notices of nonperformance, protests, notices of protest, notices of dishonor and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional indebtedness. Guarantor assumes the responsibility for being and keeping himself informed of the financial condition of the Company and of all other circumstances bearing upon the risk of nonpayment of the indebtedness which diligent inquiry would reveal, and agrees that \_\_\_ shall have no duty to advise Guarantor of information known to \_\_\_ regarding such condition or any such circumstances.

**Section 2.07 Waiver of Subrogation.** Guarantor irrevocably and unconditionally waives any and all rights of subrogation, indemnity, contribution or reimbursement, and any and all benefits of and rights to enforce any power, right or remedy that \_\_\_ may now or hereafter have in respect of the indebtedness against the Company, any other obligor or guarantor upon or of the indebtedness, any and all benefits of and rights to participate in any collateral, whether real or personal property, now or hereafter held by \_\_\_, and any and all other rights and claims (as defined in the Bankruptcy Code) Guarantor may have against the Company or any other obligor or Guarantor upon or of the indebtedness, under applicable law or otherwise, at law or in equity, by reason of any payment hereunder, unless and until the indebtedness shall have been indefeasibly paid in full. Without limitation, the Guarantor shall exercise no voting rights, shall file no claim, and shall not participate or appear in any bankruptcy or insolvency case involving the Company with respect to the indebtedness whether or not all the indebtedness shall have been paid in full.

**Section 2.08 The Company.** It is not and shall not be necessary for \_\_\_ to inquire into the powers of the Company or the officers, directors, partners, trustees or agents acting or purporting to act on the Company's behalf and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder. Guarantor agrees that \_\_\_'s books and records showing the account between \_\_\_ and the Company shall be admissible in any proceeding or action and shall be binding upon Guarantor for the purpose of establishing the items therein set forth and shall constitute prima facie proof thereof.

**Section 2.09 Bankruptcy No Discharge.** Notwithstanding anything to the contrary herein contained, this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time, payment, or any part thereof, of any or all of the indebtedness is rescinded or must otherwise be restored or returned by \_\_\_ upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment had not been made. Notwithstanding any modification, discharge or extension of the indebtedness or any amendment, modification, stay or cure of \_\_\_'s rights which may occur in any bankruptcy or reorganization case or proceeding concerning the Company whether permanent or temporary, and whether assented to by \_\_\_, Guarantor hereby agrees that it shall be obligated hereunder to pay the indebtedness and discharge its other obligations in accordance with the terms of the indebtedness and the terms of this Guaranty in effect on the date hereof. Guarantor understands and acknowledges that by virtue of this Guaranty, it has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to the Company. As an example and not in any way of limitation, a subsequent modification of the indebtedness in any reorganization case concerning the Company shall not affect the obligation of Guarantor to pay the indebtedness in accordance with its original terms.

Section 2.10 Subordination. Guarantor hereby absolutely subordinates, both in right of payment and in time of payment, any present or future indebtedness of the Company to Guarantor to the indebtedness of the Company to \_\_\_\_\_. If, whether or not at \_\_\_\_\_'s request, Guarantor shall collect, enforce or receive payment from the Company upon any indebtedness of the Company to Guarantor, any such sums shall be received by Guarantor as trustee for \_\_\_\_\_ and shall be paid over to \_\_\_\_\_ on account of the indebtedness of the Company to \_\_\_\_\_, but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty. Guarantor shall file in any bankruptcy or other proceeding in which the filing of claims is required by law, all claims which Guarantor may have against the Company relating to any indebtedness of the Company to Guarantor and does hereby assign to \_\_\_\_\_ all rights of Guarantor thereunder. If Guarantor does not file any such claim, the \_\_\_\_\_ as attorney-in-fact for Guarantor is hereby authorized to do so in the name of Guarantor or, in \_\_\_\_\_'s discretion, to assign the claim to a nominee and to cause proof of claim to be filed in the name of \_\_\_\_\_'s nominee. The foregoing power of attorney is coupled with an interest and cannot be revoked. \_\_\_\_\_ or its nominee shall have the sole right to accept or reject any plan proposed in any such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay, and Guarantor does hereby authorize such person or persons to pay to \_\_\_\_\_ the amount payable on such claim and, to the full extent necessary for that purpose, Guarantor hereby irrevocably assigns to \_\_\_\_\_ all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled. Any instruments now or hereafter evidencing any indebtedness of the Company to Guarantor shall be marked with a legend that the same are subject to this Guaranty and, if \_\_\_\_\_ so requests, shall be delivered to \_\_\_\_\_.

### **ARTICLE III. MISCELLANEOUS**

Section 3.01 Survival of Warranties. All agreements, representations and warranties made herein shall survive the execution and delivery of this Guaranty.

Section 3.02 Failure or Indulgence Not Waiver. No failure or delay on the part of \_\_\_\_\_ in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any power, right or privilege preclude any other or further exercise of any such power, right or privilege. All powers, rights and privileges hereunder are cumulative to, and not exclusive of, any powers, rights or privileges otherwise available.

Section 3.03 Rights to Setoff. In addition to all liens upon, and rights to setoff against the monies, securities or other property of Guarantor given to \_\_\_\_\_ by law, \_\_\_\_\_ shall have a lien upon and a right of setoff against all monies, securities and other property of Guarantor now or hereafter in the possession of or on deposit with \_\_\_\_\_, whether held in a general or special account or deposit, or for safekeeping or otherwise; and every such lien and right of setoff may be exercised without demand upon or notice to Guarantor. No lien or right of setoff shall be deemed to have been waived by any act or conduct on the part of \_\_\_\_\_, or by any neglect to exercise such right of setoff or to enforce such lien, or by any delay in so doing; and every right of setoff and lien shall continue in full force and effect until specifically waived or released by an instrument in writing executed by \_\_\_\_\_.

Section 3.04 Notices. Except as otherwise provided herein, any notice herein required or permitted to be given shall be in writing and may be personally served or sent by mail and, if

sent by mail, shall be deemed to have been given when deposited in the mail, registered, with postage prepaid and properly addressed. For the purposes hereof, the addresses of Guarantor and \_\_\_\_ (until notice of a change thereof is given as provided in this Section 3.04) shall be as follows:

Guarantor:

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

Attention: \_\_\_\_\_

\_\_\_\_:

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

Attention: \_\_\_\_\_

Section 3.05 Severability. In case any provision of this Guaranty shall be invalid, illegal or unenforceable, such provisions shall be severable from the rest of this Guaranty and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.06 Applicable Law. This Guaranty and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of California.

Section 3.07 Jurisdiction and Venue. Guarantor hereby irrevocably agrees that any legal action or proceedings against Guarantor with respect to this Guaranty may be brought in the courts of the State of California, or in any United States District Court of California, or such other court as the \_\_\_\_ may elect and, by the execution and delivery of this Guaranty, Guarantor hereby irrevocably submits to each such jurisdiction and hereby irrevocably waives any and all objections which Guarantor may have as to venue in any of the above courts.

Section 3.08 Assignability. This Guaranty shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and their respective successors and assigns. The \_\_\_\_ may assign this Guaranty or any of its rights and powers hereunder without notice, with all or any of the indebtedness hereby guaranteed, and in such event the assignee shall have the same rights and remedies as if originally named herein in place of the \_\_\_\_.

Section 3.09 Survival of Guaranties. This Guaranty shall be binding upon the heirs, successors, representatives and assigns of Guarantor.



Section 3.10 Headings. Headings of the Articles and Sections of this Guaranty are inserted for convenience only and shall not be deemed to constitute a part hereof.

Section 3.11 Expenses and Fees. Guarantor hereby agrees to be responsible for and to pay all costs and expenses, including, without limitation, attorneys' fees and foreclosure fees, incurred by the \_\_\_ in connection with the collection of all sums guaranteed hereunder and the defense or enforcement of any of the \_\_\_'s rights hereunder, whether or not suit is filed, and whether such collection be from the Company or from Guarantor.

Section 3.12 Joint and Several Obligations. If there be more than one Guarantor, each Guarantor is executing this instrument, and shall be liable hereon, jointly and severally. \_\_\_ may make demand on or pursue any remedies against either Guarantor, or both, whether or not any demand is made upon or any remedies are perused against the other Guarantor. Each Guarantor expressly agrees that recourse may be had against any and all property of Guarantor, regardless of whether such property constitutes community property or separate property.

WITNESS the due execution as of the date first above written.

"Guarantor"

\_\_\_\_\_  
\_\_\_\_\_  
a natural person,

[If married in a non-community property state, both spouses should execute.]

**EXHIBIT L TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**SAMPLE GIFT CARD PARTICIPATION AGREEMENT**

## GIFT CARD PARTICIPATION AGREEMENT

WHEREAS, \_\_\_\_\_, a \_\_\_\_\_ ("Participant") owns and operates a \_\_\_\_\_ pursuant to a franchise arrangement with \_\_\_\_\_ ("Franchisor").

WHEREAS, Franchisor and \_\_\_\_\_ ("\_\_\_\_") have entered into that certain Services Agreement (the "Services Agreement") dated \_\_\_, 20\_\_\_, for \_\_\_ to provide services in connection with Franchisor's gift card program whereby gift cards are issued to the customers for use as gift certificates, promotional cards and store credit; and

WHEREAS, the Services Agreement provides that Participant may participate in Franchisor's closed-loop prepaid card program (the "gift card program") by executing this Participation Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Franchisee hereby covenants and agrees to \_\_\_ as follows:

1. Participation in Gift Card Program. By entering into this Agreement, Participant elects and agrees to participate in the gift card program and agrees to be bound by the terms and provisions of the Services Agreement applicable to Participant, as the same may be amended from time to time, including without limitation, its obligation to make payment of all amounts owed by Participant in connection with the gift card program.
2. ACH Authorization. Participant understands and agrees that amounts due and owing from Participant to \_\_\_ and to Franchisor in connection with the gift card program will be automatically debited from Participant's designated bank account(s) by ACH. Participant understands and agrees that \_\_\_ is acting as settlement agent for Participant and other participants in the gift card program for the settlement of gift card redemptions between gift card program participants. Accordingly, \_\_\_ will initiate ACH debits from and credits to Participant's designated bank account(s) for amounts due to/from Participant resulting from Participant's participation in the gift card program. Participant also will complete and sign an ACH authorization form, in the form provided by \_\_\_, and will send the original to Participant's bank and a copy to \_\_\_. While the gift card program is in effect, Participant will provide updated information and forms as requested by \_\_\_, including, such information and forms as needed for any new locations opened by Participant.
3. Funding. Participant acknowledges, agrees and understands that proper funding of its designated bank account(s) for the gift card program is necessary to ensure fair and efficient administration of the gift card program. Participant agrees to ensure that its bank accounts are properly funded for the ACH settlement process and for ACH debits of settlement fees owed to \_\_\_.
4. Confidentiality. Participant acknowledges that the Services Agreement is confidential and that Participant may be provided access to other Confidential Information of \_\_\_. Participant agrees to maintain the confidentiality of all \_\_\_ Confidential Information in accordance with the confidentiality provisions in the Services Agreement.
5. No Assignment. This Participation Agreement is not assignable, in whole or in part, without the prior written approval of Franchisor and \_\_\_.
6. Miscellaneous. All capitalized terms not defined herein shall have the meaning attributable thereto in the Services Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Participation Agreement as of the \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

PARTICIPANT: \_\_\_\_\_

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

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

\_\_\_\_\_

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

\_\_\_\_\_

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

**EXHIBIT M TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**STATE EFFECTIVE DATES**

## State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, 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:

STATE	EFFECTIVE DATE
CALIFORNIA	(EXEMPT)
HAWAII	<del>APRIL 26, 2024</del> <a href="#">PENDING</a>
ILLINOIS	(EXEMPT)
INDIANA	(EXEMPT)
MARYLAND	(EXEMPT)
MINNESOTA	<del>MAY 20, 2024</del> <a href="#">PENDING</a>
NEW YORK	(EXEMPT)
NORTH DAKOTA	<del>APRIL 19, 2024</del> <a href="#">PENDING</a>
RHODE ISLAND	(EXEMPT)
SOUTH DAKOTA	<del>APRIL 19, 2024</del> <a href="#">PENDING</a>
VIRGINIA	(EXEMPT)
WASHINGTON	<del>MAY 3, 2024</del> <a href="#">PENDING</a>
WISCONSIN	<del>APRIL 19, 2024</del> <a href="#">PENDING</a>

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 N TO THE  
CITADEL PANDA EXPRESS, INC.  
DISCLOSURE DOCUMENT**

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**RECEIPT OF DISCLOSURE DOCUMENT**

**ITEM 23**  
**RECEIPT**  
**(KEEP THIS COPY FOR YOUR RECORDS)**

This Disclosure Document summarizes certain provisions of the license agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Citadel Panda Express, Inc. offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires that Citadel Panda Express, Inc. give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or make any consideration that relates to the franchise relationship. Connecticut and Michigan requires that Citadel Panda Express, Inc. give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. Iowa and Maine require that Citadel Panda Express, Inc. give you the disclosure document at the earlier of the first personal meeting or 14 days before you sign a binding agreement with, or make a payment to, us in connection with the proposed franchise sale.

If Citadel Panda Express, Inc. does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state authority listed in Exhibit E.

The franchisor is Citadel Panda Express, Inc., located at 1683 Walnut Grove Avenue, Rosemead, California 91770-3711. Its telephone number is 626-799-9898.

| Date of Issuance: April 18, 2024<sup>45</sup>.

Franchise Seller Information: David Landsberg, James Ku, Douglas Stalgren, Andrew Chan, Hector Coronel, Brian Jarvis, Gavin O'Connor, Yan Wen, Regan Jeric, and Brandon Evans, at Panda Restaurant Group, Inc., 1683 Walnut Grove Ave., Rosemead, CA 91770; (626) 799-9898.

Citadel Panda Express, Inc. authorizes the respective state agencies identified in Exhibit E to receive service of process for it in the particular state.

| I received a Franchise Disclosure Document dated April 18, 2024<sup>45</sup>\* that included the following Exhibits:

Exhibit A.	License Agreement
Exhibit B.	Financial Statements
Exhibit C.	Statement of Prospective Licensee
Exhibit D.	Table of Contents of Manual
Exhibit E.	List of State Administrators and Agents for Service of Process
Exhibit F.	Sample Asset Purchase Agreement
Exhibit G.	List of Current and Former Licensees
Exhibit H.	Prospective Licensee Confidentiality and Non-Disclosure Agreement
Exhibit I.	Sample Affiliate Joint Venture Limited Liability Company Operating Agreement
Exhibit J.	State Addenda
Exhibit K.	Sample Loan Agreements
Exhibit L.	Sample Gift Card Participation Agreement



~~Exhibit M.~~  
Exhibit N.

State Effective Dates  
Receipt of Disclosure Document

\_\_\_\_\_  
Prospective Franchisee Name

\_\_\_\_\_  
Prospective Franchisee Signature

\_\_\_\_\_  
Date

\*The effective date of this Disclosure Document may be different in your state. Please refer to Exhibit M of this Disclosure Document for a list of effective dates.

**RECEIPT  
(RETURN THIS COPY TO US)**

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If Citadel Panda Express, Inc. does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state authority listed in Exhibit E.

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Exhibit K.	Sample Loan Agreements
Exhibit L.	Sample Gift Card Participation Agreement
Exhibit M.	State Effective Dates

Exhibit N.      Receipt of Disclosure Document

\_\_\_\_\_  
Prospective Franchisee Name

\_\_\_\_\_  
Prospective Franchisee Signature

\_\_\_\_\_  
Date

Please return this copy to:

Donna Wanser
Vice President, Real Estate Legal
Citadel Panda Express
1683 Walnut Grove Ave.
Rosemead, CA 91770
(626) 799-9898

\*The effective date of this Disclosure Document may be different in your state. Please refer to Exhibit M of this Disclosure Document for a list of effective dates.